
STATUTORY INSTRUMENTS

1997 No. 420

**TOWN AND COUNTRY PLANNING,
ENGLAND AND WALES**

**The Town and Country Planning (Determination of Appeals
by Appointed Persons) (Prescribed Classes) Regulations 1997**

Made - - - - 24th February 1997
Laid before Parliament 3rd March 1997
Coming into force - - 24th March 1997

The Secretary of State, in exercise of the powers conferred on him by section 333 of and paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990⁽¹⁾ and section 93 of and paragraph 1 of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990⁽²⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997 and shall come into force on 24th March 1997.

(2) These Regulations apply to appeals within the classes prescribed in regulation 3 in respect of which notice is given on or after the coming into force of these Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“the principal Act” means the Town and Country Planning Act 1990;

“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“statutory undertakers” means statutory undertakers within the meaning of section 262 of the principal Act and other persons who, by virtue of subsection (3) or (6) of that section⁽³⁾, are deemed to be statutory undertakers for the purposes of section 266 of that Act.

(1) 1990 c. 8; paragraph 1 of Schedule 6 was amended by the Environment Act 1995 (c. 25), Schedule 22, paragraph 44.

(2) 1990 c. 9.

(3) Section 262(3) was amended by the Gas Act 1995, Schedule 4, paragraph 18.

Classes of appeal for determination by appointed persons

3.—(1) Except as provided by regulation 4 below, the following classes of appeal are prescribed for the purposes of paragraph 1(1) of Schedule 6 to the principal Act as appeals to be determined by a person appointed by the Secretary of State instead of by the Secretary of State—

- (a) appeals under section 78 of the principal Act (appeals against planning decisions and failure to take such decisions), including appeals under that section as applied by regulation 15 of the Town and Country Planning (Control of Advertisements) Regulations 1992⁽⁴⁾ (appeals against refusal of or failure to take decision on an application for express consent to display an advertisement);
- (b) appeals under section 174 of the principal Act (appeals against enforcement notices);
- (c) appeals under section 195 of the principal Act (appeals against refusal of or failure to give decision on an application for a certificate of lawfulness of existing or proposed use or development).

(2) Except as provided by regulation 4 below, the following classes of appeal are prescribed for the purposes of paragraph 1(1) of Schedule 3 to the Listed Buildings Act as appeals to be determined by a person appointed by the Secretary of State instead of by the Secretary of State—

- (a) appeals under section 20 of the Listed Buildings Act (listed building consent), including appeals under that section as having effect by virtue of section 74 of that Act (conservation areas);
- (b) appeals under section 39 of the Listed Buildings Act (listed building enforcement notices), including appeals under that section as having effect by virtue of section 74 of that Act.

Classes of appeal reserved for determination by the Secretary of State

4. Regulation 3 above shall not apply in the following classes of case—

- (a) appeals under section 78 of the principal Act by statutory undertakers where the relevant application related to land to which section 266 of that Act applies;
- (b) appeals under section 174 of the principal Act by statutory undertakers where the breach of planning control alleged in the enforcement notice consists in the carrying out of development on land to which section 266 of that Act applies, or failure to comply with a condition or limitation on a grant of planning permission for development of any such land;
- (c) appeals under section 174 of the principal Act relating to development in respect of which an environmental statement is required for the purposes of the Town and Country Planning (Environmental Assessment and Unauthorised Development) Regulations 1995⁽⁵⁾;
- (d) appeals under section 20 of the Listed Buildings Act (listed building consent) concerned with Grade I and II* listed buildings;
- (e) appeals under section 39 of the Listed Buildings Act (listed building enforcement notices) concerned with Grade I and II* listed buildings;
- (f) appeals relating to buildings for which grants have been made under section 3A or 4 of the Historic Buildings and Ancient Monuments Act 1953⁽⁶⁾.

⁽⁴⁾ S.I. 1992/666, to which there are amendments not relevant to these Regulations.

⁽⁵⁾ S.I. 1995/2258.

⁽⁶⁾ 1953 c. 49; section 3A was inserted by the National Heritage Act 1983 (c. 47), section 33 and Schedule 4, paragraph 3.

Publicity for directions under paragraph 1(2) of Schedule 6 to the principal Act and Schedule 3 to the Listed Buildings Act

5.—(1) On the giving by the Secretary of State of a direction under paragraph 1(2) of Schedule 6 to the principal Act or under paragraph 1(2) of Schedule 3 to the Listed Buildings Act he may by notice in writing enclosing a copy of the direction require the local planning authority for every area in respect of which the direction has effect to publish as soon as may be a notice in at least one newspaper circulating in the area; and such notice shall contain a concise statement of the direction and shall specify the place or places where a copy of the direction may be seen at all reasonable hours.

(2) In paragraph (1) above “local planning authority” means, as respects any class of appeal, a local planning authority against whose decision (or failure to take a decision) an appeal of that class may be made.

Revocation and saving

6. The regulations mentioned in the Schedule to these Regulations are hereby revoked to the extent specified in the third column of that Schedule but without prejudice to the validity of anything done under the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1981(7), and any appeal to which those Regulations applied and notice of which had been given before these Regulations come into force shall be determined as if these Regulations had not been made.

Signed by authority of the Secretary of State

24th February 1997

Paul Beresford
Parliamentary Under-Secretary of State,
Department of the Environment

(7) S.I. 1981/804, amended by the instruments mentioned in the Schedule to these Regulations and S.I. 1986/1356, 1996/252.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 6

REVOCATIONS

(1) <i>Regulations revoked</i>	(2) <i>References</i>	(3) <i>Extent of revocation</i>
The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1981.	S.I. 1981/804 .	The whole Regulations.
The Town and Country Planning (Local Government Reorganisation) (Miscellaneous Amendments) Regulations 1986.	S.I. 1986/443 .	Paragraph 7 of Schedule 1.
The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1986.	S.I. 1986/623 .	The whole Regulations.
The Town and Country Planning (Determination of Appeals by Appointed Persons) (Amendment) Regulations 1989.	S.I. 1989/1087 .	The whole Regulations.
The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Amendment) Regulations 1995.	S.I. 1995/2259 .	The whole Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact with amendments the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1981. The Regulations prescribe the classes of appeal which are to be determined by persons appointed by the Secretary of State (in accordance with the provisions of Schedule 6 to the Town and Country Planning Act 1990 and Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990) instead of being determined by the Secretary of State, prescribe certain classes of case within those prescribed classes of appeal which are to continue to be determined by the Secretary of State,

and provide for publication by local planning authorities of any direction made by the Secretary of State under paragraph 1(2) of either of those Schedules (directions specifying classes of case within the prescribed classes of appeal which are to be determined by the Secretary of State).

Apart from drafting amendments, the principal change is that the following classes of appeals are now prescribed as appeals to be determined by an appointed person instead of by the Secretary of State—

- (a) appeals concerned with express consent for the display of an advertisement under the Town and Country Planning (Control of Advertisements) Regulations 1992;
- (b) appeals concerned with certificates of lawfulness of existing or proposed use or development under sections 191 and 192 of the Town and Country Planning Act 1990; and
- (c) appeals under sections 20 and 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 concerning listed buildings in Wales, other than Grade I or II* listed buildings.