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W E L S H   S T A T U T O R Y  
I N S T R U M E N T S

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**2017 No. 544 (W. 121)**

**TOWN AND COUNTRY  
PLANNING, WALES**

**The Town and Country Planning  
(Referred Applications and Appeals  
Procedure) (Wales) Regulations  
2017**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are one of a number of statutory instruments made at the same time which establish a new procedure for referred applications and appeals in Wales.

These Regulations provide for the procedure in relation to:

- applications for planning permission, listed building consent, conservation area consent and hazardous substances consent referred to the Welsh Ministers for determination (“referred applications”).
- appeals to the Welsh Ministers in relation to planning permission, listed building consent, conservation area consent, hazardous substances consent, advertisement consent, certificates of lawfulness of existing or proposed use or development and consents under tree preservation orders.
- appeals to the Welsh Ministers in relation to enforcement notices, listed buildings enforcement notices, conservation area enforcement notices, hazardous substances contravention notices, advertisement discontinuance notices, tree replacement notices and notices concerning the maintenance of land (“enforcement appeals”).

These Regulations shorten the timescales for the appeal process. The main changes are as follows:

- the statutory instruments made at the same time as these Regulations require the

appellant to submit a full statement of case with a notice of appeal. These Regulations provide that the local planning authority must submit a full statement of case in relation to enforcement appeals and may elect to do so in relation to other appeals. The local planning authority's full statement of case must be received by the Welsh Ministers within 4 weeks of the Welsh Ministers' notification of receipt of appeal.

- the date of the hearing must be no later than 10 weeks, and the date of the inquiry must be no later than 18 weeks, after the Welsh Ministers notification of receipt of appeal. Where the Welsh Ministers consider this to be impracticable the date for the hearing or inquiry must be the earliest date which the Welsh Ministers consider is practicable.

These Regulations also provide for referred applications and appeals to the Welsh Ministers to be dealt with by a combination of procedures, rather than by means of only written representations, hearings or inquiries, where the Welsh Ministers consider it appropriate. The Welsh Ministers must make a determination as to the procedure by which proceedings are to be considered within 6 weeks of the Welsh Ministers' notification of receipt of appeal.

These Regulations revoke the instruments or parts of the instruments set out in Schedule 4 which they replace and make a consequential amendment to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (S.I. 2012/801 (W. 110)).

There are transitional and savings provisions for appeals in relation to applications made before the Regulations come into force and for enforcement appeals in relation to enforcement notices and discontinuance notices issued before the Regulations come into force (regulation 53).

A regulatory impact assessment has been prepared in relation to this instrument. Copies are available from the Welsh Government, Cathays Park, Cardiff CF10 3NQ and on the Welsh Government's website at [www.gov.wales](http://www.gov.wales).

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**The Town and Country Planning  
(Referred Applications and Appeals  
Procedure) (Wales) Regulations  
2017**

*Made* 5 April 2017

*Laid before the National Assembly  
for Wales* 11 April 2017

*Coming into force* 5 May 2017

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The Welsh Ministers, in exercise of the powers  
conferred on them by sections 217, 319B and 323A of  
the Town and Country Planning Act 1990<sup>(1)</sup>, section  
88E of the Planning (Listed Buildings and

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(1) 1990 c. 8. Section 217 was amended by section 48(1) to (6) of the Planning (Wales) Act 2015 (anaw 4) ("the 2015 Act"). Section 319B was inserted by the Town and Country Planning (Determination of Procedure) (Wales) Order 2014 (S.I. 2014/2773 (W.280)). Section 323A was inserted by section 50 of the 2015 Act. Section 323A was applied to the Planning (Listed Buildings and Conservation Areas) Act 1990 by paragraph 21 of Schedule 5 to the 2015 Act and to the Planning (Hazardous Substances) Act 1990 by paragraph 25 of Schedule 5 to the 2015 Act.

Conservation Areas) Act 1990<sup>(1)</sup> and section 21B of the Planning (Hazardous Substances) Act 1990<sup>(2)</sup>, make the following Regulations:

## PART 1

### General

#### **Title and commencement**

**1.** The title of these Regulations is the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 and they come into force on the 5 May 2017.

#### **Application**

**2.—**(1) These Regulations apply in Wales in relation to—

- (a) the applications listed in paragraph (2) made on or after the date on which these Regulations come into force; and
- (b) the appeals listed in paragraph (2) where—
  - (i) the application which is the subject of the appeal is made on or after the date on which these Regulations come into force; or
  - (ii) the enforcement notice which is the subject of the appeal was issued on or after the date on which these Regulations come into force.

(2) The applications and appeals referred to in paragraph (1) are—

- (a) an application for planning permission referred to the Welsh Ministers under section 77 of the Planning Act (reference of applications to the Secretary of State);
- (b) an appeal under section 78 of the Planning Act (right to appeal against planning decisions and failure to take such decisions) or under that section—
  - (i) as applied by section 198(3)(c) and (4) of that Act (tree preservation orders); and
  - (ii) as applied by regulations made under section 220 of the Planning Act (regulations controlling display of advertisements);

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(1) 1990 c. 9. Section 88E was inserted by S.I. 2014/2773 (W. 280).

(2) 1990 c. 10. Section 21B was inserted by S.I. 2014/2773 (W. 280).

- (c) an appeal under section 174 of the Planning Act (appeal against enforcement notice) or under that section as applied by regulation 16 of, and Part 1 of Schedule 4 to, the 2015 Regulations<sup>(1)</sup> (appeals against hazardous substances contravention notices);
- (d) an appeal under section 195 of the Planning Act (appeals against refusal or failure to give decision on application for a certificate of lawfulness of existing or proposed use or development);
- (e) an appeal under section 208 of the Planning Act (appeals against tree replacement notices);
- (f) an appeal under section 217 of the Planning Act (appeal against a notice requiring the maintenance of land);
- (g) an application for listed building consent referred to the Welsh Ministers under section 12, or for variation or discharge of conditions referred to them under that section as applied by section 19, or an appeal to them under section 20, of the Listed Buildings Act;
- (h) an application for conservation area consent referred to the Welsh Ministers under section 12 (including an application to which that section is applied by section 19), or an appeal to them under section 20, of the Listed Buildings Act as those sections are applied by section 74(3) of that Act;
- (i) an appeal under section 39 of the Listed Buildings Act (appeal against listed buildings enforcement notice) or under that section as applied by section 74(3) of that Act (appeal against conservation area enforcement notice);
- (j) an application for hazardous substances consent referred to the Welsh Ministers under section 20 of the Hazardous Substances Act (reference of applications to Secretary of State);
- (k) an appeal under section 21 of the Hazardous Substances Act (appeals against decisions or failure to take decisions relating to hazardous substances).

### **Interpretation**

#### **3.—(1) In these Regulations—**

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(1) S.I. 2015/1597 (W. 196).

“the Hazardous Substances Act” (“*y Ddeddf Sylweddau Peryglus*”) means the Planning (Hazardous Substances) Act 1990;

“the Listed Buildings Act” (“*y Ddeddf Adeiladau Rhestredig*”) means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“the Planning Act” (“*y Ddeddf Gynllunio*”) means the Town and Country Planning Act 1990;

“the 2015 Act” (“*Deddf 2015*”) means the Planning (Wales) Act 2015<sup>(1)</sup>;

“the 2012 Order” (“*Gorchymyn 2012*”) means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012<sup>(2)</sup>;

“the 2012 Regulations” (“*Rheoliadau 2012*”) means the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012<sup>(3)</sup>;

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the Planning (Hazardous Substances) (Wales) Regulations 2015<sup>(4)</sup>;

“appointed person” (“*person penodedig*”) means a person appointed by the Welsh Ministers to determine an appeal or to report to the Welsh Ministers<sup>(5)</sup>;

“advertisement application” (“*cais i arddangos hysbyseb*”) means an application for express consent to display an advertisement made under Part 3 of the Town and Country Planning (Control of Advertisements) Regulations 1992<sup>(6)</sup>;

“advertisement consent appeal” (“*apêl ynghylch caniatâd i arddangos hysbyseb*”) means an appeal under section 78(1) of the Planning Act (as applied by regulations made under section 220 of the Planning Act) in relation to an advertisement application, except an appeal against the grant of any consent which is granted subject to conditions;

“appeal” (“*apêl*”) means—

- (a) the determination of a referred application; and
- (b) an appeal made under sections 78, 174, 195, 208 or 217 of the Planning Act, sections 20 or 39 of the Listed Buildings Act or section 21 of the Hazardous Substances Act;

“appellant” (“*apelydd*”) means, in the case of—

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(1) 2015 anaw 4.  
 (2) S.I. 2012/801 (W. 110).  
 (3) S.I. 2012/793 (W. 108).  
 (4) S.I. 2015/1597 (W. 196).  
 (5) See the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Wales) Regulations 2015 (S.I. 2015/1822 (W. 264)).  
 (6) S.I. 1992/666.



- (a) an application referred to the Welsh Ministers under section 77 of the Planning Act, section 12 or 19 of the Listed Buildings Act or section 20 of the Hazardous Substances Act, the person who made that application to the local planning authority;
- (b) an appeal under section 78 of the Planning Act, section 20 of the Listed Buildings Act or section 21 of the Hazardous Substances Act, the person whose application was refused, granted subject to conditions (other than advertisement consent appeals, householder appeals and minor commercial appeals) or not determined, by the local planning authority;
- (c) an appeal under section 174 of the Planning Act, the person who has given notice of appeal to the Welsh Ministers under that section;
- (d) an appeal under section 195 of the Planning Act, the person whose application under section 191 of that Act was refused;
- (e) an appeal under section 208 of the Planning Act, the person who has given notice of appeal to the Welsh Ministers under that section;
- (f) an appeal under section 217 of the Planning Act, the person who has given notice of appeal to the Welsh Ministers under that section;
- (g) an appeal under section 39 of the Listed Buildings Act, the person who has given notice of appeal to the Welsh Ministers under that section;

“combined proceedings” (*“achosion cyfunol”*) means proceedings which combine two or more of the following—

- (a) written representations;
- (b) a hearing;
- (c) an inquiry.

“discontinuance notice” (*“hysbysiad peidio â pharhau”*) means a notice under regulation 8 of the Town and Country Planning (Control of Advertisements) Regulations 1992;

“document” (*“dogfen”*) includes a photograph, map or plan;

“dwellinghouse” (*“tŷ aneddf”*) does not include a building containing one or more flats, or a flat contained within such a building;

“electronic communication” (*“cyfathrebiad electronig”*) has the meaning given in section 15(1) of the Electronic Communications Act 2000<sup>(1)</sup>;

“enforcement appeal” (*“apêl gorfodi”*) means an appeal against an enforcement notice;

“enforcement notice” (*“hysbysiad gorfodi”*) means a notice under—

- (a) section 172(1) of the Planning Act;
- (b) section 182(1) of the Planning Act;
- (c) section 38(1) of the Listed Buildings Act or under that section as applied by section 74(3) of that Act;
- (d) section 46(1) of the Listed Buildings Act;
- (e) section 24(1) of the Hazardous Substances Act;
- (f) section 207(1) of the Planning Act;
- (g) section 215(1) of the Planning Act;

“full statement of case” (*“datganiad achos llawn”*)—

- (a) in relation to appeals other than enforcement appeals, has the meaning given in—
  - (i) article 2 of the 2012 Order;
  - (ii) regulation 2 of the 2012 Regulations;
  - (iii) regulation 2 of the 2015 Regulations;
  - (iv) section 78 of the Planning Act as modified by regulation 15 of, and Part III of Schedule 4 to, the Town and Country Planning (Control of Advertisements) Regulations 1992;
  - (v) section 78 of the Planning Act as modified by regulation 15 of, and Part V of Schedule 4 to, the Town and Country Planning (Control of Advertisements) Regulations 1992;
  - (vi) section 78 of the Planning Act as modified by article 7 of, and Part I of Schedule 2 to, the Schedule (Form of Tree Preservation Order) to the Town and Country Planning (Trees) Regulations 1999<sup>(2)</sup>;
- (b) in relation to enforcement appeals—
  - (i) in the case of an appeal against a notice under section 24(1) of the Hazardous Substances Act, has the meaning given in section 174 of the Planning Act as

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(1) 2000 c. 7. Section 15(1) was amended by section 406(1) of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).

(2) S.I. 1999/1892.

- modified by regulation 16 of, and Part 1 of Schedule 4 to, the 2015 Regulations;
- (ii) in all other cases, means the full statement of case submitted by the appellant under regulations 8, 9 or 10 of the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2017<sup>(1)</sup>;
  - (c) means and is comprised of, in relation to appeals other than enforcement appeals—
    - (i) a written statement by the local planning authority containing full particulars of the case the local planning authority proposes to put forward in relation to the appeal; and
    - (ii) copies of any documents the local planning authority proposes to refer to or put in evidence;
  - (d) means and is comprised of, in relation to enforcement appeals—
    - (i) a written statement by the local planning authority containing—
      - (aa) a response to each ground of appeal pleaded by the appellant;
      - (bb) an indication of whether the local planning authority would be prepared to grant—
        - (bba) planning permission for the matters alleged in the enforcement notice to constitute a breach of planning control;
        - (bbb) listed building consent or conservation area consent for the works to which the listed building enforcement notice or conservation area enforcement notice relates, as the case may be;
        - (bbc) hazardous substances consent for the presence on, over or under the land of any quantity of hazardous substances to which the hazardous substances contravention notice relates;
    - (cc) particulars of the conditions, if any, they would wish to impose on any permission or consent they would be prepared to grant;
    - (dd) full particulars of the case the local planning authority proposes

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<sup>(1)</sup> S.I. 2017/530 (W. 113) .

to put forward in relation to the appeal; and

- (ii) copies of any documents the local planning authority proposes to refer to or put in evidence;

“householder appeal” (*“apêl deiliad tŷ”*) means an appeal under section 78(1)(a) of the Planning Act in relation to a householder application but does not include—

- (a) an appeal against the grant of any planning permission which is granted subject to conditions; or
- (b) an appeal which is accompanied by an appeal under section 174 of the Planning Act or under section 20 of the Listed Buildings Act;

“householder application” (*“cais deiliad tŷ”*) means an application for—

- (a) planning permission for the enlargement, improvement or other alteration of a dwellinghouse, or development within the curtilage of such a dwellinghouse, or
- (b) change of use to enlarge the curtilage of a dwellinghouse,

for any purpose incidental to the enjoyment of the dwellinghouse but does not include—

- (i) any other application for change of use,
- (ii) an application for erection of a dwellinghouse, or
- (iii) an application to change the number of dwellings in a building;

“interested persons” (*“personau â buddiant”*) means—

- (a) in relation to appeals other than enforcement appeals—
  - (i) any person notified or consulted in accordance with the Planning Act, Listed Buildings Act, Hazardous Substances Act, a development order or regulations, as the case may be, about the application; and
  - (ii) any other person who made representations to the local planning authority about that application;
- (b) in relation to enforcement appeals and discontinuance notices, occupiers of properties in the locality of the site to which the enforcement notice or discontinuance notice relates; and
- (c) in relation to enforcement appeals other than appeals against tree replacement notices, any person (other than the recipient of the

enforcement notice) who, in the opinion of the local planning authority or hazardous substances authority, is affected by the matters alleged in the enforcement notice.

“by local advertisement” (*“drwy hysbyseb lleol”*) means by publication of the notice in a newspaper circulating in the locality in which the land to which the appeal relates is situated;

“local planning authority” (*“awdurdod cynllunio lleol”*) means in relation to—

- (a) a referred application, the body which would have dealt with the application had it not been referred to the Welsh Ministers;
- (b) an appeal under section 78 or section 195 of the Planning Act, section 20 of the Listed Buildings Act or section 21 of the Hazardous Substances Act, the body which was responsible for determining the application occasioning the appeal;
- (c) an appeal under section 174, section 208 or section 217 of the Planning Act or section 39 of the Listed Buildings Act, the body which issued the notice occasioning the appeal;

“minor commercial appeal” (*“apêl fasnachol fach”*) means an appeal under section 78(1)(a) of the Planning Act in relation to a minor commercial application but does not include—

- (a) an appeal against the grant of any planning permission which is granted subject to conditions; or
- (b) an appeal which is accompanied by an appeal under section 174 of the Planning Act or under section 20 of the Listed Buildings Act;

“minor commercial application” (*“cais masnachol bach”*) means an application for planning permission for the enlargement, improvement or other alteration of an existing building of no more than 250 square metres gross external floor space at ground floor level, or part of that building, currently in use for any of the purposes set out in Schedule 1 to these Regulations which is an application for—

- (a) the change of use from any of the purposes set out at paragraph 1 in Schedule 1 to these Regulations to any of the purposes set out in either paragraph 2 or paragraph 3 of that Schedule;
- (b) the change of use from any of the purposes set out at paragraph 2 in Schedule 1 to these Regulations to any of the purposes set out in paragraph 3 of that Schedule; or

(c) the carrying out of building or other operations to a shop front;

“questionnaire” (“*holiadur*”) means a document in the form supplied by the Welsh Ministers to a local planning authority for the purpose of any proceedings under these Regulations, and for this purpose a form is taken to be supplied where the Welsh Ministers have published it on a website and have notified the local planning authority of—

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) the place on the website where the form may be accessed and how it may be accessed;

“referred application” (“*cais atgyfeiriedig*”) means in relation to section 77 of the Planning Act, section 12 or 19 of the Listed Buildings Act and section 20 of the Hazardous Substances Act, the application which has been referred to the Welsh Ministers but does not include an application which is deemed to have been referred to the Welsh Ministers by virtue of regulation 9(3) of the 2012 Regulations<sup>(1)</sup>;

“relevant time limits” (“*terfynau amser perthnasol*”) means the time limits prescribed by these Regulations, or where the Welsh Ministers have exercised the power under regulation 7, any later time limit;

“representation” (“*sylw*”) includes evidence, explanation, information and comments;

the “representation period” (“*cyfnod sylwadau*”) is the period of 6 weeks beginning with the starting date;

the “starting date” (“*dyddiad dechrau*”) means the date specified in the notice given by the Welsh Ministers under regulation 15 (notification of receipt of appeal);

“working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday in Wales; and

“written representations” (“*sylwadau ysgrifenedig*”) includes supporting documents.

(2) In relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically—

- (a) the expression “address” (“*cyfeiriad*”) includes any number or address used for the purposes of electronic communications;
- (b) references to notices, representations or other documents, or to copies of such documents,

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(1) S.I. 2012/793 (W. 108).

include references to such documents or copies of them in electronic form.

#### **Use of electronic communications**

4.—(1) Paragraphs (2) to (7) of this regulation apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any notice or other document to any other person (“the recipient”).

(2) The requirement will be taken to be fulfilled where the notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(3) In paragraph (2) “legible in all material respects” (*“darllenadwy ym mhob modd perthnasol”*) means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(4) Where the electronic communication is received by the recipient outside the recipient’s business hours, it will be taken to have been received on the next working day.

(5) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (2), and “written” (*“ysgrifenedig”*) and cognate expressions are to be construed accordingly.

(6) Where an appellant, local planning authority or an interested party send any notice or other document to the Welsh Ministers using electronic communications, they will be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically;
- (b) that their address for the purposes of such communications is the address incorporated into, or otherwise logically associated with, the notice or document;
- (c) that the deemed agreement of the appellant, local planning authority or an interested party under this paragraph will subsist until the appellant, local planning authority or interested party, as the case may be, gives notice in accordance with regulation 6 of a wish to revoke the agreement.

(7) Where an appellant, local planning authority or an interested party are taken to have agreed to the use of electronic communications under paragraph (6) they

will also be taken to have agreed to the provision of a direct link to the notice or document on a website.

(8) A requirement in these Regulations to send more than one copy of a statement or other document is complied with by sending one copy only of the statement or other document in electronic form.

### **Transmission of documents**

**5.** Notices or documents required to be sent or supplied under these Regulations may be sent or supplied by—

- (a) post;
- (b) using electronic communications to transmit the notice or document to a person at such address as may for the time being be specified by that person for such purpose; or
- (c) providing a direct link to the notice or document to a person at such address as may for the time being be specified by that person for such purpose.

### **Withdrawal of consent to use of electronic communications**

**6.—**(1) Where a person is no longer willing to accept the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically, the person must give notice in writing—

- (a) withdrawing any address notified to the Welsh Ministers or to a local planning authority for that purpose; or
- (b) revoking any agreement entered into with the Welsh Ministers or with a local planning authority for that purpose.

(2) Withdrawal or revocation under paragraph (1) is final and takes effect on the later of—

- (a) the date specified by the person in the notice but that date must not be less than 1 week after the date on which the notice is given; or
- (b) the expiry of the period of 1 week beginning with the date on which the notice is given.

### **Allowing further time**

**7.** The Welsh Ministers may in any particular case give directions which extend the time limits prescribed by these Regulations.

### **Site inspections**

**8.—**(1) The Welsh Ministers may inspect the land to which the appeal relates.



(2) Where the Welsh Ministers intend to make an inspection under paragraph (1), they may notify the appellant and any other person as to the date and time of the inspection.

(3) The Welsh Ministers are not required to defer an inspection where any person (including the appellant) is not present at the time appointed.

#### **Further information**

**9.**—(1) The Welsh Ministers may request further representations from—

- (a) the appellant;
- (b) the local planning authority;
- (c) any interested person who made representations in relation to the appeal within 4 weeks of the starting date.

(2) In particular, the Welsh Ministers may in writing request—

- (a) from the person making any representation, a specified number of additional copies of that representation;
- (b) responses to questions posed by the Welsh Ministers about the matters contained in any representation.

(3) Each representation on any particular matter submitted following a request must not exceed 3,000 words and must be submitted in the time and manner specified by the Welsh Ministers.

(4) The Welsh Ministers may disregard any representation which—

- (a) is received out of time or in a manner other than that specified;
- (b) exceeds 3,000 words;
- (c) they regard as vexatious or frivolous; or
- (d) relates to the merits of policy set out in a development plan or any relevant policy statement made or published by the Welsh Ministers.

(5) In the event that a written representation exceeds 3,000 words, the Welsh Ministers may return the representation to the person submitting it with a request that the representation is re-submitted so that it does not exceed 3,000 words and within such time as the Welsh Ministers may specify when returning the representation.

(6) The Welsh Ministers may increase the number of words in paragraph (3) in any particular case and accordingly references to a maximum number of words are to such increased number.

(7) Where the Welsh Ministers exercise their discretion under paragraph (6) the written

representation must be accompanied by a written summary containing no more than 1,500 words.

(8) The Welsh Ministers must make all written representations, and written responses to questions, received by them available in such manner as the Welsh Ministers think appropriate as soon as reasonably practicable.

### **Inspection of documents**

**10.**—(1) The local planning authority must give any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any document sent to or by it in accordance with these Regulations.

(2) For the purposes of paragraph (1), an opportunity will be taken to have been given to a person where the person is notified of—

- (a) publication on a website of the documents mentioned in that paragraph;
- (b) the address of the website;
- (c) the place on the website where the documents may be accessed and how they may be accessed.

### **Matters which may be raised in an appeal against decisions**

**11.**—(1) The appellant may not raise any matter which was not before the local planning authority at the time specified in paragraph (2) unless the appellant can demonstrate—

- (a) that the matter could not have been raised before that time, or
- (b) that its not being raised before that time was a consequence of exceptional circumstances.

(2) The time specified for the purposes of paragraph (1) is—

- (a) when the decision appealed against was made; or
- (b) when notice of appeal was given in relation to the local planning authority's failure to—
  - (i) give notice to the appellant of their decision on the application;
  - (ii) give notice to the appellant that they have exercised their power under section 70A or 70C of the Planning Act to decline to determine the application; or
  - (iii) give notice that the application has been referred to the Welsh Ministers under section 77 of the Planning Act, section 12 of the Listed Buildings Act or section 20 of the Hazardous Substances Act.

(3) Nothing in paragraph (1) affects any requirement or entitlement to have regard to—

- (a) the provisions of the development plan, or
- (b) any other material circumstances.

### **Representations to be taken into account**

**12.** In deciding an appeal the Welsh Ministers or the appointed person as the case may be, may disregard any representations, documents, evidence or information received after the relevant time limits.

### **Prescribed period**

**13.** For the purposes of section 319B of the Planning Act, section 88E of the Listed Buildings Act and section 21B of the Hazardous Substances Act the prescribed period is 6 weeks from the starting date.

### **Determination of procedure**

**14.—**(1) The Welsh Ministers must in making their determination of procedure under section 319B(1) or section 217(7)(c) of the Planning Act, section 88E(1) of the Listed Buildings Act or section 21B(1) of the Hazardous Substances Act, identify which, if any, matters are to be considered at a hearing or an inquiry.

(2) Notice under section 319B(5), section 88E(5) or section 21B(5) must—

- (a) identify the matters if any to be determined at a hearing or an inquiry;
- (b) identify matters on which the Welsh Ministers require further representations;
- (c) state whether such further representations are to be given in writing or at a hearing or inquiry; or
- (d) contain a statement that the Welsh Ministers intend to determine the application on the basis of written representations.

(3) The Welsh Ministers must notify the appellant and the local planning authority within 6 weeks of the starting date of their determination of procedure under section 217(7)(c) which must set out the information specified in paragraph (2)(a) to (d).

(4) The provisions of regulation 9 apply if any further representations are requested by the Welsh Ministers.

## PART 2

### Initial Procedure

#### Notification of receipt of appeal

**15.**—(1) Paragraph (2) applies where—

- (a) the Welsh Ministers have received all the documents they require to enable them to consider an appeal;
- (b) the requisite fee (where applicable) has been paid in respect of the appeal; and
- (c) in the case of a referred application, either the full statement of case and the application file have been received, or the period of 4 weeks beginning with the date on which the notice of reference is served<sup>(1)</sup> has expired.

(2) The Welsh Ministers must, as soon as reasonably practicable advise the appellant and the local planning authority in writing—

- (a) of the starting date;
- (b) of the reference number allocated to the appeal;
- (c) of the address to which written communications to the Welsh Ministers about the appeal are to be sent; and
- (d) in the case of enforcement appeals, the grounds on which the appeal is being made.

(3) In the case of an appeal under section 208 of the Planning Act the Welsh Ministers must, as soon as reasonably practicable after receipt, send to the local planning authority a copy of the notice of appeal and full statement of case.

#### Questionnaire

**16.**—(1) The local planning authority must send to the Welsh Ministers, and copy to the appellant, so as to be received within 5 working days of the starting date—

- (a) a completed questionnaire;
- (b) a copy of each of the documents referred to in it; and
- (c) in the case of enforcement appeals, a copy of the enforcement notice.

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<sup>(1)</sup> See article 13 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (S.I. 2012/801 (W. 110)); regulation 11A of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (S.I. 2012/793 (W. 108)) and regulation 12 of the Planning (Hazardous Substances) Regulations 2015 (S.I. 2015/1597 (W. 196)).

(2) Paragraph (1) does not apply to referred applications.

#### **Notice to interested persons**

**17.**—(1) The local planning authority must give written notice of the appeal, so as to be received within 5 working days of the starting date, to interested persons.

(2) A notice under paragraph (1) must—

- (a) state the name of the appellant and the address of the site to which the appeal relates;
- (b) describe the subject matter of the appeal;
- (c) set out the matters notified to the appellant and the local planning authority under regulation 15(2);
- (d) state that copies of any representations made by interested persons to the local planning authority will be sent to the Welsh Ministers and the appellant;
- (e) state that any such representations will be considered by the Welsh Ministers when determining the appeal unless they are withdrawn within 4 weeks of the starting date;
- (f) state that in relation to appeals other than householder, advertisement consent and minor commercial appeals further representations may be sent to the Welsh Ministers so as to be received within 4 weeks of the starting date and that any representations must be accompanied by two copies.

## **PART 3**

### **Procedure for Householder, Advertisement Consent and Minor Commercial Appeals**

#### **Application of Part 3**

**18.** This Part only applies where—

- (a) a householder, advertisement consent or minor commercial appeal is made in relation to an application; and
- (b) the Welsh Ministers determine that it is a matter which is to be considered on the basis of written representations only.

### **Representations**

**19.**—(1) The appellant's representations in relation to the appeal (other than a referred application) will be deemed to comprise the notice of appeal and the documents accompanying it.

(2) The appellant's representations in relation to a referred application will be deemed to comprise the application and its supporting documents.

(3) The local planning authority's representations in relation to the appeal will be deemed to comprise the completed questionnaire and the documents accompanying it.

(4) The Welsh Ministers must as soon as reasonably practicable after receipt, send a copy of the representations made by the local planning authority to the appellant and must send a copy of the representations made by the appellant to the local planning authority.

### **Transfer of appeal from Part 3**

**20.**—(1) At any time before an appeal is determined, the Welsh Ministers may determine that the procedures set out in this Part are no longer suitable for that appeal.

(2) Where such a determination is made the Welsh Ministers must notify the appellant and the local planning authority in writing that—

- (a) the appeal is to be transferred from the procedures in this Part of these Regulations; and
- (b) the appeal will proceed in accordance with Part 4 of these Regulations or by means of a hearing, inquiry or combined proceedings to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to those proceedings.

## **PART 4**

### **Written Representations**

#### **Application of Part 4**

**21.**—(1) This Part applies where—

- (a) notice of appeal has been received; and
- (b) the Welsh Ministers determine that the appeal is to be considered on the basis of written representations, a hearing, an inquiry or combined proceedings; or
- (c) the appeal has been transferred from Part 3.

(2) This Part also applies where—

- (a) the Welsh Ministers have made a determination that all or part of the appeal is to be considered on the basis of a hearing or inquiry, and
- (b) they subsequently vary that determination such that the appeal or parts of the appeal is or are to be considered on the basis of written representations,

to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to the appeal.

### **Representations**

**22.**—(1) The appellant's representations in relation to the appeal (other than a referred application) will be deemed to comprise the notice of appeal, its accompanying documents (where applicable) and the full statement of case.

(2) The appellant's representations in relation to a referred application will be deemed to comprise the application, its supporting documents and, if the appellant so elects, a full statement of case.

(3) In relation to appeals, other than referred applications and enforcement appeals, the local planning authority may—

- (a) elect to treat the questionnaire, and the documents accompanying it, as their representations in relation to the appeal, and where they do so, they must notify the Welsh Ministers and the appellant accordingly when they send to the Welsh Ministers, and copy to the appellant, the questionnaire in accordance with regulation 16; or
- (b) submit a full statement of case to the Welsh Ministers which, together with the questionnaire and its accompanying documents, will be deemed to comprise the local planning authority's representations in relation to the appeal.

(4) In relation to a referred application, the local planning authority may elect to submit a full statement of case to the Welsh Ministers.

(5) In relation to enforcement appeals and discontinuance notices, the local planning authority must submit a full statement of case to the Welsh Ministers which, together with the questionnaire and its accompanying documents (where applicable), will be deemed to comprise the local planning authority's representations in relation to the appeal.

(6) The local planning authority must send two copies of their full statement of case under paragraphs (3)(b), (4) and (5) to the Welsh Ministers so as to be received within 4 weeks of the starting date.

(7) The Welsh Ministers must send a copy of the local planning authority's full statement of case—

- (a) to the appellant; and
- (b) in the case of an enforcement appeal, to any person on whom a copy of the enforcement notice has been served.

### **Interested persons' representations**

**23.**—(1) A person who has been notified under regulation 17 may send representations to the Welsh Ministers so as to be received by the Welsh Ministers within 4 weeks of the starting date.

(2) Interested persons must send three copies of any representations they make to the Welsh Ministers so as to be received within 4 weeks of the starting date.

(3) The Welsh Ministers must send a copy of any representations received from interested persons to the appellant and the local planning authority.

### **Further representations**

**24.**—(1) The appellant, the local planning authority, and interested persons may send written comments on each other's representations to the Welsh Ministers so as to be received within the representation period.

(2) The appellant and the local planning authority must send two copies of any representations they make to the Welsh Ministers so as to be received within the representation period.

(3) Interested persons must send three copies of the any representations they make to the Welsh Ministers so as to be received within the representation period.

(4) The Welsh Ministers must send a copy of the written comments of each party to the other parties.

### **Written representations inappropriate**

**25.**—(1) At any time before an appeal is determined, the Welsh Ministers may determine that the procedures set out in this Part are no longer suitable for that appeal.

(2) Where such a determination is made the Welsh Ministers must notify the appellant and the local planning authority in writing that the appeal will proceed in accordance with Part 5 of these Regulations or by means of combined proceedings, to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to those proceedings.



## PART 5

### Hearings

#### Application of Part 5

**26.**—(1) This Part applies where—

- (a) notice of appeal has been received; and
- (b) the Welsh Ministers determine that the appeal is to be considered in whole or in part on the basis of a hearing.

(2) This Part also applies where—

- (a) the Welsh Ministers have made a determination that all or part of the appeal is to be considered on the basis of written representations or inquiry; and
- (b) they subsequently vary that determination such that the appeal or parts of the appeal is or are to be considered on the basis of a hearing;

to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to the appeal.

#### Notification of name of appointed person

**27.**—(1) The Welsh Ministers must notify the name of the appointed person to every person invited to take part in the hearing.

(2) Where the Welsh Ministers appoint another person instead of the person previously appointed and it is not practicable to notify the appointment before the hearing is held, the appointed person holding the hearing must, at its commencement, announce their name and the fact of their appointment.

#### Appointment of assessor

**28.** Where the Welsh Ministers appoint an assessor under paragraph 6 of Schedule 6 to the Planning Act, paragraph 6 of Schedule 3 to the Listed Buildings Act or paragraph 6 of the Schedule to the Hazardous Substances Act, they must notify the appellant, the local planning authority and any person invited to take part in the hearing of the name of the assessor and of the matters on which the assessor is to advise the appointed person.

#### Date, place and notification of hearing

**29.**—(1) The Welsh Ministers must fix the date for the hearing which must be no later than 4 weeks after the end of the representation period.

(2) Where the Welsh Ministers consider it impracticable for the hearing to be held on a date fixed

in accordance with paragraph (1), the date for the hearing must be the earliest date which the Welsh Ministers consider is practicable.

(3) Where the Welsh Ministers are satisfied, having regard to the nature of the appeal, that it is reasonable to do so, the Welsh Ministers may direct that different parts of a hearing are held at different locations.

(4) The Welsh Ministers must give at least 4 weeks' written notice of the date, time and place fixed for the hearing to—

- (a) the appellant;
- (b) the local planning authority; and
- (c) any person invited to take part in the hearing.

(5) The written notice under paragraph (4) must identify the matters to be determined at the hearing and name the appointed person.

(6) The Welsh Ministers may vary the date fixed for the hearing, whether or not the date as varied is within the period of 4 weeks mentioned in paragraph (1), and paragraph (4) applies to a variation of a date as it applies to the date originally fixed.

(7) The Welsh Ministers may vary the time or place for the hearing and must give such notice of any variation as appears to them to be reasonable.

(8) Where an appeal is withdrawn after notice of the hearing has been given, the Welsh Ministers must give such notice of the cancellation of the hearing as appears to them to be reasonable.

### **Public notice of hearing**

**30.**—(1) The Welsh Ministers may require the local planning authority to take one or more of the following steps—

- (a) not less than 2 weeks before the date fixed for the hearing, post and maintain a notice of the hearing—
  - (i) in a conspicuous place, or as close as is reasonably practicable to the land to which the appeal relates;
  - (ii) in one or more places where public notices are usually posted in the area in which the land to which the appeal relates is situated;
- (b) not less than 2 weeks before the date fixed for the hearing, publish a notice of the hearing by local advertisement in the area in which the land to which the appeal relates is situated;
- (c) send a notice of the hearing to such persons or classes of persons as they may specify, within such period as they may specify.

(2) Where a direction has been given under regulation 29(3), paragraph (1) has effect with the substitution—

- (a) for references to the hearing, with references to the part of the hearing which is to be held at a place specified in the direction; and
- (b) for references to the appeal, with references to that part of the appeal which is to be the subject of that part of the hearing.

(3) Any notice posted under paragraph (1)(a) must be readily visible to, and legible by, members of the public.

(4) Where, without any fault or intention of the local planning authority, the notice is removed, obscured or defaced before the commencement of the hearing, the local planning authority is not for that reason to be treated as having failed to comply with the requirements of paragraph (3) if the local planning authority has taken reasonable steps for the protection of the notice and, if need be, its replacement.

(5) A notice of a hearing posted, published or sent under paragraph (1) must contain—

- (a) a statement of the date, time and place of the hearing and of the powers enabling the Welsh Ministers to determine the appeal;
- (b) a written description of the land sufficient to identify approximately its location;
- (c) a brief description of the subject matter of the appeal; and
- (d) details of the place where and when copies of the application which is the subject of the appeal, the local planning authority's completed questionnaire and all other documents sent by and copied to the authority under these Regulations can be inspected.

### **Participation in a hearing**

**31.**—(1) The persons who may take part in a hearing are—

- (a) the appellant;
- (b) the local planning authority;
- (c) any person invited to take part by the Welsh Ministers.

(2) Nothing in paragraph (1) precludes the Welsh Ministers from permitting any other person to take part in a hearing.

(3) Any person who takes part may do so on their own behalf or be represented by any other person.

**Absence, adjournment etc.**

**32.**—(1) The Welsh Ministers may proceed with a hearing in the absence of the appellant, the local planning authority and any person invited to take part.

(2) The Welsh Ministers may from time to time adjourn a hearing and, if the date, time and place of the adjourned hearing are announced at the hearing before the adjournment, no further notice is required.

**Procedure at hearing**

**33.**—(1) The appointed person presides at any hearing and must determine the procedure at the hearing, subject to these Regulations.

(2) A hearing is to take the form of a discussion led by the appointed person and cross-examination is not to be permitted.

(3) Where the appointed person considers that cross-examination is required the appointed person must consider (after consulting the appellant) whether the hearing should be closed and an inquiry held instead.

(4) At the start of the hearing the appointed person must identify the matters on which the appointed person requires representations at the hearing.

(5) The appellant, the local planning authority and any person invited to take part in a hearing may call evidence.

(6) The appointed person may permit any other person to call evidence.

(7) The appointed person may refuse to permit the giving or production of evidence or presentation of any other matter which the appointed person considers to be irrelevant or repetitious.

(8) Where the appointed person refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to the appointed person representations in writing before the close of the hearing.

(9) The appointed person may—

- (a) require any person taking part in, or present at, a hearing who, in the appointed person's opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return; or
- (c) permit that person to return only on such conditions as the appointed person may specify.

(10) Any person required to leave a hearing may submit to the appointed person representations in writing before the close of the hearing.

(11) The appointed person may take into account any written representation or any other document

received by the appointed person from any person before a hearing opens or during the hearing provided the appointed person discloses it at the hearing.

(12) The appointed person may invite any person taking part in the hearing to make closing submissions and any person doing so must before the close of the hearing provide the appointed person with a copy of their closing submissions in writing.

(13) The appointed person may permit any person to make oral representations at the hearing.

(14) Any person entitled or permitted to make oral representations at a hearing may do so on their own behalf or be represented by another person.

### **Hearing inappropriate**

**34.**—(1) At any time before an appeal is determined, the Welsh Ministers may determine that the procedures set out in this Part are no longer suitable for that appeal.

(2) Where such a determination is made the Welsh Ministers must notify the appellant and the local planning authority in writing that—

- (a) the appeal is to be transferred from the procedures in this Part of these Regulations; and
- (b) the appeal will proceed in accordance with Part 6 of these Regulations or by means of combined proceedings to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to those proceedings.

## **PART 6**

### **Inquiries**

#### **Application of Part 6**

**35.**—(1) This Part applies where—

- (a) notice of appeal has been received; and
- (b) the Welsh Ministers determine that the appeal is to be considered in whole or in part on the basis of an inquiry.

(2) This Part also applies where—

- (a) the Welsh Ministers have made a determination that all or part of the appeal is to be considered on the basis of written representations or a hearing; and
- (b) they subsequently vary that determination such that the appeal or parts of the appeal is or are to be considered on the basis of an inquiry,

to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to the appeal.

#### **Notification of name of appointed person**

**36.**—(1) The Welsh Ministers must notify the name of the appointed person to every person invited to take part in the inquiry.

(2) Where the Welsh Ministers appoint another person instead of the person previously appointed and it is not practicable to notify the appointment before the inquiry is held, the appointed person holding the inquiry must, at its commencement, announce their name and the fact of their appointment.

#### **Appointment of assessor**

**37.** Where the Welsh Ministers appoint an assessor under paragraph 6 of Schedule 6 to the Planning Act, paragraph 6 of Schedule 3 to the Listed Buildings Act or paragraph 6 of the Schedule to the Hazardous Substances Act, they must notify the appellant, the local planning authority and any person invited to take part in the inquiry of the name of the assessor and of the matters on which the assessor is to advise the appointed person.

#### **Participation in an inquiry**

**38.**—(1) The persons who may take part in an inquiry are—

- (a) the appellant;
- (b) the local planning authority;
- (c) any person invited to take part by the Welsh Ministers.

(2) Nothing in paragraph (1) precludes the Welsh Ministers from permitting any other person to take part in an inquiry.

(3) Any person who takes part may do so on their own behalf or be represented by any other person.

#### **Absence, adjournment etc.**

**39.**—(1) The Welsh Ministers may proceed with an inquiry in the absence of the appellant, the local planning authority and any persons invited to take part.

(2) The Welsh Ministers may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice is required.

### **Pre-inquiry meetings**

**40.**—(1) The appointed person may hold a pre-inquiry meeting prior to an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously.

(2) An appointed person must give not less than 2 weeks' written notice of a pre-inquiry meeting which the appointed person proposes to hold under paragraph (1) to—

- (a) the appellant;
- (b) the local planning authority;
- (c) any person invited to take part at the pre-inquiry meeting.

(3) Where a pre-inquiry meeting has been held under paragraph (1), the appointed person may hold a further pre-inquiry meeting and must arrange for such notice to be given of a further pre-inquiry meeting as appears necessary.

(4) The appointed person—

- (a) is to preside at any pre-inquiry meeting;
- (b) is to determine the matters to be discussed and the procedure to be followed;
- (c) may require any person present at the pre-inquiry meeting who, in the appointed person's opinion, is behaving in a disruptive manner to leave;
- (d) may refuse to permit that person to return or to attend any further pre-inquiry meeting, or
- (e) may permit that person to return or attend only on such conditions as the appointed person may specify.

### **Inquiry timetable**

**41.**—(1) The appointed person may prepare a timetable for the proceedings in respect of inquiries and may do so at, or at part of, an inquiry.

(2) The appointed person may, at any time, vary the timetable arranged under paragraph (1).

(3) The appointed person may specify in a timetable arranged under this regulation a date by which any written statement of evidence and summary sent in accordance with regulation 44 must be sent to the Welsh Ministers.

### **Date, place and notification of inquiry**

**42.**—(1) The Welsh Ministers must fix the date for the inquiry which must be no later than—

- (a) 12 weeks after the end of the representation period; or

- (b) (if later) in a case where a pre-inquiry meeting is held under regulation 40(1), 4 weeks after the conclusion of that meeting (or such shorter period after the conclusion of that meeting as the appellant, the local planning authority and the appointed person may agree).

(2) Where the Welsh Ministers consider it impracticable for the inquiry to be held on a date fixed in accordance with paragraph (1), the date for the inquiry must be the earliest date which the Welsh Ministers consider is practicable.

(3) Where the Welsh Ministers are satisfied, having regard to the nature of the application, that it is reasonable to do so, the Welsh Ministers may direct that different parts of an inquiry are held at different locations.

(4) The Welsh Ministers must give at least 4 weeks' written notice of the date, time and place fixed by them for the inquiry to—

- (a) the appellant;
- (b) the local planning authority; and
- (c) any person invited to take part in the inquiry.

(5) The written notice under paragraph (4) must identify the matters to be determined at the inquiry and name the appointed person.

(6) The Welsh Ministers may vary the date fixed for the inquiry, whether or not the date as varied is within the period of 12 weeks mentioned in paragraph (1), and paragraph (4) applies to a variation of a date as it applies to the date originally fixed.

(7) The Welsh Ministers may vary the time or place for the inquiry and must give such notice of any variation as appears to them to be reasonable.

(8) Where an appeal is withdrawn after notice of the inquiry has been given, the Welsh Ministers must give such notice of the cancellation of the inquiry as appears to them to be reasonable.

### **Public notice of inquiry**

**43.**—(1) The Welsh Ministers may require the local planning authority to take one or more of the following steps—

- (a) not less than 2 weeks before the date fixed for the inquiry, post and maintain a notice of the inquiry—
  - (i) in a conspicuous place, or as close as is reasonably practicable to the land to which the appeal relates;
  - (ii) in one or more places where public notices are usually posted in the area in



which the land to which the appeal relates is situated;

- (b) not less than 2 weeks before the date fixed for the inquiry, publish a notice of the inquiry by local advertisement in the area in which the land to which the appeal relates is situated;
- (c) send a notice of the hearing to such persons or classes of persons as they may specify, within such period as they may specify.

(2) Where a direction has been given under regulation 42(3), paragraph (1) has effect with the substitution—

- (a) for references to the inquiry, with references to the part of the inquiry which is to be held at a place specified in the direction; and
- (b) for references to the appeal, with references to that part of the appeal which is to be the subject of that part of the inquiry.

(3) Any notice posted under paragraph (1)(a) must be readily visible to, and legible by, members of the public.

(4) Where, without any fault or intention of the local planning authority, the notice is removed, obscured or defaced before the commencement of the inquiry, the local planning authority is not for that reason to be treated as having failed to comply with the requirements of paragraph (3) if the local planning authority has taken reasonable steps for the protection of the notice and, if need be, its replacement.

(5) A notice of an inquiry posted, published or sent under paragraph (1) must contain—

- (a) a statement of the date, time and place of the inquiry and of the powers enabling the Welsh Ministers to determine the appeal;
- (b) a written description of the land sufficient to identify approximately its location;
- (c) a brief description of the subject matter of the appeal; and
- (d) details of the place where and when copies of the application which is the subject of the appeal, the local planning authority's completed questionnaire and all other documents sent by and copied to the authority under these Regulations can be inspected.

### **Written statements of evidence**

**44.**—(1) If the appellant, the local planning authority or any person invited to take part in the inquiry propose to give, or to call another person to give,

evidence at the inquiry by reading a written statement—

- (a) the appellant must send one copy of the statement, together with a written summary, to the local planning authority;
- (b) the local planning authority must send one copy of the statement, together with a written summary, to the appellant;
- (c) the appellant and local planning authority must simultaneously send one copy of their statement, together with a written summary, to the Welsh Ministers;
- (d) each person invited to take part in the inquiry must send one copy of their statement, together with a written summary, to the Welsh Ministers.

(2) The Welsh Ministers must, as soon as reasonably practicable after receipt—

- (a) send a copy of the written statement of evidence, together with any summary, of each person invited to take part in the inquiry to the local planning authority; and
- (b) send a copy of each written statement of evidence, together with any summary, to each person invited to take part in the inquiry.

(3) No written summary is required where the statement of evidence proposed to be read contains no more than 1,500 words.

(4) The statement of evidence and any summary must be received by the Welsh Ministers no later than—

- (a) 4 weeks before the date fixed for the inquiry; or
- (b) where a timetable has been arranged under regulation 41, the date specified in that timetable.

(5) The Welsh Ministers must send to the appointed person, as soon as reasonably practicable after receipt, any statement of evidence together with any summary sent to them in accordance with this regulation and received by them within the relevant period, if any, specified in this regulation.

(6) Where a written summary is provided in accordance with paragraph (1), only that summary is to be read at the inquiry unless the appointed person permits or requires otherwise.

(7) Any person required by this regulation to send copies of a statement of evidence to the Welsh Ministers, must send with them the same number of copies of the whole, or the relevant part, of any document referred to in the statement, unless a copy of the document or relevant part of the document in

question is already available for inspection under regulation 10.

### **Procedure at inquiry**

**45.**—(1) The appointed person presides at the inquiry and must determine the procedure at the inquiry, subject to these Regulations.

(2) At the start of the inquiry the appointed person must identify the matters on which the appointed person requires representations at the inquiry.

(3) The appellant, the local planning authority and any person invited to take part in an inquiry may call evidence.

(4) The appointed person may permit any other person to call evidence.

(5) The appellant, local planning authority and any persons invited to take part in the inquiry are to be heard in such order as the appointed person may determine.

(6) The appellant, local planning authority and any person invited to take part in an inquiry may cross examine persons giving evidence but, subject to the foregoing and paragraphs (7) and (8), the calling of evidence and the cross examination of persons giving evidence are otherwise at the discretion of the appointed person.

(7) The appointed person may refuse to permit—

- (a) the giving or production of evidence;
- (b) the cross-examination of persons giving evidence; or
- (c) the presentation of any matter,

which the appointed person considers to be irrelevant or repetitious.

(8) Where a person gives evidence at an inquiry by reading a summary of their written statement of evidence in accordance with regulation 44(6)—

- (a) the written statement referred to in regulation 44(1) is to be treated as tendered in evidence unless the person required to provide the summary notifies the appointed person of a wish to rely on the contents of that summary alone; and
- (b) the person whose evidence the written statement contains is to be open to cross examination on it to the same extent as if it were evidence that had been given orally.

(9) Where the appointed person refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit the evidence in writing to the appointed person before the close of the inquiry.

(10) The appointed person may—

- (a) require any person taking part in, or present at, an inquiry who, in the appointed person's opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return; or
- (c) permit that person to return only on such conditions as the appointed person may specify.

(11) Any person required to leave an inquiry may submit to the appointed person representations in writing before the close of the inquiry.

(12) The appointed person may direct that facilities are afforded to any person taking part in an inquiry to take or obtain copies of documents that are open to public inspection.

(13) The appointed person may take into account any written representation or any other document received by the appointed person from any person before an inquiry opens or during the inquiry provided that the appointed person discloses it at the inquiry.

(14) The appointed person may invite any person taking part in the inquiry to make closing submissions.

(15) Any person who makes closing submissions must by the close of the inquiry provide the appointed person with a copy of those closing submissions in writing.

### **Inquiry inappropriate**

**46.**—(1) At any time before an appeal is determined, the Welsh Ministers may determine that the procedures set out in this Part are no longer suitable for that appeal.

(2) Where such a determination is made the Welsh Ministers must notify the appellant and the local planning authority in writing that—

- (a) the appeal is to be transferred from the procedures in this Part of these Regulations; and
- (b) the appeal will proceed in accordance with Part 5 of these Regulations or by means of combined proceedings to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to those proceedings.

## PART 7

### Procedure after written representations, hearings, inquiries or combined proceedings

#### CHAPTER 1

Appeals determined by appointed persons following  
written representations, hearings, inquiries or  
combined proceedings

#### **Procedure after proceedings**

**47.**—(1) The appointed person must make a report in writing (“the appointed person’s decision report”)—

- (a) in relation to an appeal dealt with by means of written representations, when the appointed person has considered the written representations; or
- (b) after the close of the hearing, inquiry or combined proceedings.

(2) The appointed person’s decision report must include the appointed person’s conclusions and decision on the appeal.

(3) Where an assessor has been appointed, the assessor must, after the close of the hearing, inquiry or combined proceedings make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to advise.

(4) Where an assessor makes a report in accordance with paragraph (3), the appointed person’s decision report must state how far the appointed person agrees or disagrees with the assessor’s report and, where the appointed person disagrees with the assessor, the reasons for that disagreement.

(5) When making the decision, the appointed person may disregard—

- (a) in relation to an appeal, or part of an appeal dealt with by means of written representations, any written representations received outside the relevant time limits;
- (b) any written representations, evidence or any other document received after the close of the hearing or inquiry.

(6) In relation to an appeal or part of an appeal dealt with by means of written representations, if after the relevant time limits, an appointed person proposes to take into consideration any new evidence or any new matter of fact (not being a matter of Welsh Ministers’ policy) which was not included in the written representations and which the appointed person considers to be material to the decision, the appointed person must not come to a decision without first—

- (a) notifying the appellant, the local planning authority and interested persons who made written representations; and
- (b) affording those notified under subparagraph (a) an opportunity of making written representations upon the new evidence or new matter of fact.

(7) If, after the close of the hearing or inquiry, an appointed person proposes to take into consideration any new evidence or any new matter of fact (not being a matter of Welsh Ministers' policy) which was not raised at the hearing or inquiry and which the appointed person considers to be material to the decision, the appointed person must not come to a decision without first—

- (a) notifying the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry; and
- (b) affording those notified under subparagraph (a) an opportunity of making written representations upon the new evidence or new matter of fact or of asking for the re-opening of the hearing or inquiry.

(8) The appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry must ensure that written representations or requests to re-open the hearing or inquiry made under paragraphs (6) and (7) are received by the Welsh Ministers within the period specified in the Welsh Ministers' notification under those paragraphs.

(9) An appointed person may, as the appointed person thinks fit, cause a hearing or inquiry to be re-opened, and must do so if asked by the appellant or the local planning authority in the circumstances mentioned in paragraph (7) and within the period specified in the Welsh Ministers notification under paragraph (7).

(10) Where a hearing or inquiry is re-opened—

- (a) the appointed person must send to the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry a written statement of the matters in respect of which further evidence is invited;
- (b) further evidence submitted following a request must not exceed 3,000 words and must be submitted in the time and manner specified by the appointed person; and
- (c) paragraphs (3) to (8) of regulation 29, regulation 30, paragraphs (3) to (8) of regulation 42 and regulation 43 apply as if

the references to a hearing or an inquiry were  
references to a re-opened hearing or inquiry.

## CHAPTER 2

Appeals determined by the Welsh Ministers following  
written representations, hearings, inquiries or  
combined proceedings

### **Procedure after proceedings**

**48.**—(1) The appointed person must make a report in writing to the Welsh Ministers—

- (a) in relation to an appeal dealt with by means of written representations, when the appointed person has considered the written representations; or
- (b) after the close of the hearing, inquiry or combined proceedings.

(2) The report must include the appointed person's conclusions and recommendations (or the appointed person's reasons for not making any recommendations).

(3) Where an assessor has been appointed, the assessor must, after the close of the proceedings, make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to advise.

(4) Where an assessor makes a report in accordance with paragraph (3), the appointed person must append it to the appointed person's own report and must state in that report how far the appointed person agrees or disagrees with the assessor's report and, where the appointed person disagrees with the assessor, the reasons for that disagreement.

(5) When making their decision the Welsh Ministers may disregard—

- (a) in relation to an appeal or part of an appeal dealt with by means of written representations, any written representations received outside the relevant time limits;
- (b) any written representations, evidence or any other document received after the close of the hearing or inquiry.

(6) Paragraph (7) applies in relation to an appeal or part of an appeal dealt with by means of written representations, if the Welsh Ministers are disposed to disagree with a recommendation made by the appointed person because they—

- (a) differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person; or

- (b) propose to take into consideration any new evidence or any new matter of fact (not being a matter of Welsh Ministers' policy).

(7) The Welsh Ministers must not come to a decision which is at variance with the recommendation made by the appointed person without first—

- (a) notifying the appellant, the local planning authority and the interested persons who made written representations; and
- (b) affording those notified under subparagraph (a) an opportunity of making written representations upon the new evidence or new matter of fact.

(8) Paragraph (9) applies if, after the close of the hearing or inquiry, the Welsh Ministers are disposed to disagree with a recommendation made by the appointed person because they—

- (a) differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person; or
- (b) propose to take into consideration any new evidence or new matter of fact (not being a matter of Welsh Ministers' policy).

(9) The Welsh Ministers must not come to a decision which is at variance with the recommendation made by the appointed person without first—

- (a) notifying the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry of their disagreement and the reasons for it; and
- (b) affording them an opportunity of making written representations upon the new evidence or new matter of fact to the Welsh Ministers or of asking for the re-opening of the hearing or inquiry.

(10) The appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry must ensure that written representations or requests to re-open the hearing or inquiry made under paragraphs (7) and (9) are received by the Welsh Ministers within the period specified in the Welsh Ministers' notification under those paragraphs.

(11) The Welsh Ministers may, as they think fit, cause a hearing or inquiry to be re-opened, and they must do so if asked by the appellant or the local planning authority in the circumstances mentioned in paragraph (9) and within the period specified in the Welsh Ministers' notification under paragraph (9).



(12) Where a hearing or inquiry is re-opened (whether by the same or a different appointed person)—

- (a) the Welsh Ministers must send to the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry a written statement of the matters in respect of which further evidence is invited;
- (b) further evidence submitted following a request must not exceed 3,000 words and must be submitted in the time and manner specified by the Welsh Ministers; and
- (c) paragraphs (3) to (8) of regulation 29, regulation 30, paragraphs (3) to (8) of regulation 42 and regulation 43 apply as if references to a hearing or an inquiry were references to a re-opened hearing or inquiry.

### CHAPTER 3

#### Notice of decision

**49.**—(1) The Welsh Ministers, or the appointed person as the case may be, must send the decision on an appeal, and their reasons for it in writing to—

- (a) the appellant;
- (b) the local planning authority;
- (c) the persons who took part in the proceedings;
- (d) any other person who asked to be notified of the decision and whom the Welsh Ministers consider it reasonable to notify.

(2) Where a copy of the appointed person’s report is not sent with the notification of the decision, the notification must be accompanied by a statement of the appointed person’s conclusions and of any recommendations made by the appointed person, and if a person entitled to be notified of the decision has not received a copy of that report, that person must be supplied with a copy of it on written application to the Welsh Ministers.

(3) In this regulation “report” (“*adroddiad*”) does not include any documents appended to it; but any person who has received a copy of the report may apply to the Welsh Ministers in writing, within 6 weeks of the date of the Welsh Ministers decision, for an opportunity to inspect any such documents and the Welsh Ministers must afford that person that opportunity.

(4) Any person applying to the Welsh Ministers under paragraph (2) must ensure that the application is received by the Welsh Ministers within 4 weeks of the Welsh Ministers’ determination.

## PART 8

### Quashed decisions

#### **Procedure following quashing of decision**

**50.**—(1) Where a decision of the Welsh Ministers or an appointed person on an appeal is quashed in proceedings before any court, the Welsh Ministers—

- (a) must send to the persons who submitted written representations or who took part in the hearing or inquiry, a written statement of the matters in respect of which further representations are invited for the purposes of their further consideration of the appeal;
- (b) must afford to those persons the opportunity of making written representations to them in respect of those matters; and
- (c) may, as they think fit—
  - (i) cause the hearing or inquiry to be re-opened;
  - (ii) in the case of a hearing, cause an inquiry to be held instead (whether by the same or a different appointed person);
  - (iii) in the case of an inquiry, cause a hearing to be held instead (whether by the same or a different appointed person);
  - (iv) cause a hearing or inquiry to be held (where none was held previously); or
  - (v) determine the matter on the basis of written representations.

(2) If the Welsh Ministers re-open the hearing or inquiry regulation 29 and regulation 42 apply as if the references to a hearing or inquiry are to a re-opened hearing or inquiry.

(3) Those persons making representations must ensure that such representations are received by the Welsh Ministers within the period specified in the Welsh Ministers' statement under paragraph (1)(a).

## PART 9

### National Security Directions

#### **Modifications where national security direction given**

**51.** The modifications set out in Schedule 2 have effect where a direction is given by the Welsh Ministers under—

- (a) section 321(3)(1) of the Planning Act (planning inquiries to be held in public subject to certain exceptions);
- (b) paragraph 6(6) of Schedule 3(2) to the Listed Buildings Act (local inquiries and hearings); or
- (c) paragraph 6(6) of the Schedule(3) to the Hazardous Substances Act (local inquiries and hearings).

## PART 10

### Enforcement Notices issued by the Welsh Ministers

#### **Application of Regulations to enforcement notices issued by the Welsh Ministers**

**52.** These Regulations apply to appeals against enforcement notices issued by the Welsh Ministers under section 182 of the Planning Act and to appeals against listed building enforcement notices issued by the Welsh Ministers under section 46 of the Listed Buildings Act, subject to the modifications set out in Schedule 3.

## PART 11

### Revocation and consequential amendment

#### **Revocation, transitional and saving provisions**

**53.—**(1) The instruments listed in column (1) of Schedule 4 are revoked in so far as they apply in relation to Wales to the extent indicated in column (3), subject to paragraphs (2) and (3).

(2) The instruments listed in column (1) of Schedule 4 continue to apply to appeals, other than enforcement appeals, where the appeal is made in relation to an application made before these Regulations come into force.

(3) The instruments listed in column (1) of Schedule 4 continue to apply to enforcement appeals where the appeal is made in relation to an enforcement notice issued before these Regulations come into force.

- 
- (1) Section 321 subsections (5) to (12) were inserted by section 80(1) of the Planning and Compulsory Purchase Act 2004 (c. 5) ("the 2004 Act").
  - (2) Paragraph 6A of Schedule 3 was inserted by section 80(3) the 2004 Act.
  - (3) Paragraph 6A of the Schedule was inserted by section 80(3) of the 2004 Act.

**Consequential amendment**

**54.**—(1) The 2012 Order is amended as follows.

(2) In Schedule 2, in the Notice Under Article 10 of Application for Planning Permission, for “Part 1 of the Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2015” substitute “Part 3 of the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017”.

*Jane Hutt*

One of the Welsh Ministers

5 April 2017

## **SCHEDULE 1** Regulation 3

### **Minor commercial development uses**

#### **Shops**

##### **1.**

Use for all or any of the following purposes—

- (a) for the retail sale of goods other than hot food,
- (b) as a post office,
- (c) for the sale of tickets or as a travel agency,
- (d) for the sale of sandwiches or other cold food for consumption off the premises,
- (e) for hairdressing,
- (f) for the direction of funerals,
- (g) for the display of goods for sale,
- (h) for the hiring out of domestic or personal goods or articles,
- (i) for the washing or cleaning of clothes or fabrics on the premises,
- (j) for the reception of goods to be washed, cleaned or repaired,

where the sale, display or service is to visiting members of the public.

#### **Financial and professional services**

##### **2.**

Use for the provision of—

- (a) financial services,
- (b) professional services (other than health or medical services), or
- (c) any other services (including use as a betting office) which it is appropriate to provide in a shopping area,

where the services are provided principally to visiting members of the public.

#### **Food and drink**

##### **3.**

Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises.

## SCHEDULE 2 Regulation 51

### Modifications where national security direction given

#### Interpretation

1. Regulation 3 is read as if in the appropriate places there is inserted—

““appointed representative” (*“cynrychiolydd penodedig”*) means a person appointed under section 321(5) or (6) of the Planning Act, sections 22 and 40 of, and paragraph 6A of Schedule 3 to, the Listed Buildings Act and section 21 of, and paragraph 6A of the Schedule to, the Hazardous Substances Act;”;

““closed evidence” (*“tystiolaeth gaeedig”*) means evidence which is subject to a security direction;”;

““security direction” (*“cyfarwyddyd diogelwch”*) means a direction given by the Welsh Ministers or the Secretary of State under section 321(3) of the Planning Act, paragraph 6(6) of Schedule 3 to the Listed Buildings Act or paragraph 6(6) of the Schedule to the Hazardous Substances Act;”.

#### Site inspections

2. Regulation 8 is read as if—

- (a) at the end of paragraph (2) there is inserted “and they must so notify any appointed representative”;
- (b) after paragraph (2) there is inserted—

“(2A) Where an inspection of a site involves the inspection of closed evidence, the Welsh Ministers may inspect the land in the company of the appellant and any appointed representative.”

#### Further information

3. Regulation 9 is read as if after paragraph (8) there is inserted—

“(8A) Paragraph (8) does not apply where the representations and written responses received by the Welsh Ministers (“further representations”) include or refer to closed evidence.

(7B) Where further representations include or refer to closed evidence the Welsh Ministers must—

- (a) as soon as reasonably practicable after receipt, send the further representations to the appellant and any appointed representative; and
- (b) make the further representations (other than the closed evidence) available in such manner as the Welsh Ministers think appropriate as soon as reasonably practicable.”

### **Representations**

**4.** Regulation 22 is read as if after paragraph (7) there is inserted—

“(7A) Paragraph (7) does not apply where the full statement of case received by the Welsh Ministers (“the full statement of case”) includes or refers to closed evidence.

(7B) Where the full statement of case received includes or refers to closed evidence the Welsh Ministers must—

- (a) as soon as reasonably practicable after receipt, send the full statement of case to the appellant and any appointed representative; and
- (b) make the full statement of case (other than the closed evidence) available in such manner as the Welsh Ministers think appropriate as soon as reasonably practicable.”

### **Interested persons’ representations**

**5.** Regulation 23 is read as if after paragraph (3) there is inserted—

“(3A) Paragraph (3) does not apply where the representations received by the Welsh Ministers from interested persons (“interested persons’ representations”) include or refer to closed evidence.

(3B) Where the interested persons’ representations include or refer to closed evidence the Welsh Ministers must—

- (a) as soon as reasonably practicable after receipt, send the interested persons’ representations to the appellant and any appointed representative; and
- (b) make the interested persons’ representations (other than the closed evidence) available in such manner as the Welsh Ministers think appropriate as soon as reasonably practicable.”

### **Further representations**

6. Regulation 24 is read as if after paragraph (4) there is inserted—

“(4A) Paragraph (4) does not apply where the written comments received by the Welsh Ministers (“written comments”) include or refer to closed evidence.

(4B) Where the written comments include or refer to closed evidence the Welsh Ministers must—

- (a) as soon as reasonably practicable after receipt, send the written comments to the appellant and any appointed representative; and
- (b) make the written comments (other than the closed evidence) available in such manner as the Welsh Ministers think appropriate as soon as reasonably practicable.”

### **Appointment of assessor**

7. Regulations 28 and 37 are read as if after “the local planning authority” there is inserted “, any appointed representative”.

### **Date, place and notification of hearing and inquiry**

8. Regulations 29 and 42 are read as if after paragraph (4)(b) there is inserted—

“(ba) any appointed representative;”.

### **Participation in a hearing, participation in an inquiry**

9. Regulations 31(1) and 38(1) are read as if after subparagraph (b) there is inserted—

“(ba) any appointed representative;”.

### **Absence, adjournment etc.**

10. Regulations 32(1) and 39(1) are read as if after “local planning authority” there is inserted “, any appointed representative”.

### **Procedure at hearing**

11. Regulation 33(5) is read as if after “local planning authority” there is inserted “, any appointed representative”.

### **Pre-inquiry meetings**

12. Regulation 40(2) is read as if after subparagraph (b) there is inserted—



“(ba) any appointed representative;”.

**Written statements of evidence**

**13. Regulation 44 is read as if—**

(a) after paragraph (1) there is inserted—

“(1A) Paragraph (1) does not apply where the written statement of evidence includes or refers to closed evidence.

(1B) Where the written statement of evidence includes or refers to closed evidence—

(a) the appellant, the local planning authority and each person invited to take part in the inquiry who propose to give or call another person to give evidence at the inquiry by reading a written statement, must send to the Welsh Ministers—

(i) one copy of the written statement including closed evidence, together with a written summary;

(ii) one copy of the written statement excluding closed evidence (“the open statement”), together with a written summary;

(b) the appellant must send one copy of the open statement, together with a written summary, to the local planning authority;

(c) the local planning authority must send one copy of the open statement, together with a written summary, to the appellant.”;

(b) after paragraph (2) there is inserted—

“(2A) Paragraph (2) does not apply where the written statement of evidence includes or refers to closed evidence.

(2B) Where the written statement of evidence includes or refers to closed evidence the Welsh Ministers must, as soon as reasonably practicable after receipt—

(a) send a copy of the open statement, together with any summary, of each person invited to take part in the inquiry to the local planning authority; and

(b) send a copy of each open statement, together with any summary, to each person invited to take part in the inquiry.”

### **Procedure at inquiry**

#### **14. Regulation 45 is read as if—**

- (a) in paragraphs (3), (5) and (6) after “local planning authority” there is inserted “; any appointed representative”;

- (b) after paragraph (12) there is inserted—

“(12A) Paragraph (12) does not apply if any written representation or any other document received by the appointed person (“further information”) includes or refers to closed evidence.

(12B) Where the further information includes or refers to closed evidence, the appointed person must—

- (a) disclose the further information to the appellant and any appointed representative;
- (b) disclose the further information (other than the closed evidence) to the local planning authority and every person who takes part in the inquiry.”

### **Procedure after written representations, hearings, inquiries or combined proceedings.**

#### **15. Regulation 47 is read as if after paragraph (4) there is inserted—**

“(4A) Paragraph (4) does not apply where closed evidence was considered.

(4B) Where closed evidence was considered—

- (a) the appointed person and assessor, where one has been appointed, must set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
- (b) where an assessor has been appointed, the appointed person must append the closed part of the assessor’s report to the closed part of the appointed person’s report and must state in the closed part of that report how far the appointed person agrees or disagrees with the closed part of the assessor’s report and, where there is disagreement with the assessor, the reasons for that disagreement.”

#### **16. Regulation 48 is read as if—**

- (a) after paragraph (4) there is inserted—

“(4A) Paragraph (4) does not apply where closed evidence was considered.

(4B) Where closed evidence was considered—

- (a) the appointed person and assessor, where one has been appointed, must set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or recommendations in relation to that evidence; and
- (b) where an assessor has been appointed, the appointed person must append the closed part of the assessor’s report to the closed part of the appointed person’s report and must state in the closed part of that report how far the appointed person agrees or disagrees with the closed part of the assessor’s report and, where there is disagreement with the assessor, the reasons for that disagreement.”;

(b) after paragraph (9) there is inserted—

“(9A) Paragraph (9) does not apply where the Welsh Ministers differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person in relation to a matter in respect of which closed evidence has been given.

(9B) Where the Welsh Ministers differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person in relation to a matter in respect of which closed evidence has been given, they must include the reasons for the Welsh Ministers disagreement unless—

- (a) the notification is addressed to a person who is neither the appointed representative nor any person specified, or of a description specified, in the security direction; and
- (b) the inclusion of the reasons would disclose any part of the closed evidence.”

## **Notification of decision**

**17.** Regulation 49 is read as if—

- (a) in paragraph (1), before “The Welsh Ministers,” there is inserted “Subject to paragraph (1A);
- (b) after paragraph (1), there is inserted—  
“(1A) Where the Welsh Ministers reasons for a decision relate to matters in respect of which

closed evidence has been given, nothing in paragraph (1) requires the Welsh Ministers to notify those reasons to any person other than—

- (a) the appointed representative; or
- (b) a person specified, or of any description specified, in the security direction.”;
- (c) in paragraph (2), before “Where a copy” there is inserted “Subject to paragraph (3A)”;
- (d) after paragraph (3) there is inserted—

“(3A) Nothing in paragraphs (2) or (3) require the disclosure or inspection of the closed part of the appointed person’s report, or of any documents comprising or containing closed evidence appended to the appointed person’s report, to any person other than—

- (a) the appointed representative; or
- (b) a person specified, or of any description specified, in the security direction.”

#### **Procedure following quashing of decision**

**18.** Regulation 50(1) is read as if after subparagraph (a) there is inserted—

- “(aa) subparagraph (a) does not apply where the matters referred to in subparagraph (a) will involve consideration of closed evidence;
- (ab) where the matters referred to in subparagraph (a) will involve consideration of closed evidence, the Welsh Ministers will only send the written statement to—
  - (i) the appointed representative; or
  - (ii) a person specified, or of any description specified, in the security direction;”.

#### **Closed evidence not to be disclosed**

**19.** After regulation 51 there is inserted—

“**51A.** Nothing in these Regulations is to be taken so as to require or permit closed evidence to be disclosed to any person other than—

- (a) the Welsh Ministers;
- (b) the appointed person; or
- (c) a person specified, or of any description specified, in the security direction.”

## SCHEDULE 3 Regulation 52

### Modifications where enforcement notices issued by Welsh Ministers

#### Interpretation

1. Regulation 3 is read as if in the definition of “full statement of case”, paragraph (d) provided—

“(d) means and is comprised of in relation to enforcement appeals—

(i) a written statement by the Welsh Ministers containing—

(aa) a response to each ground of appeal pleaded by the appellant; and

(bb) full particulars of the case the Welsh Ministers propose to put forward in relation to the appeal; and

(ii) copies of any supporting documents the Welsh Ministers propose to refer to or put in evidence.”

#### Further information

2. Regulation 9 is read as if paragraph (1)(b) were omitted.

#### Inspection of documents

3. Regulation 10 does not apply.

#### Determination of procedure

4. Regulation 14(3) is read as if “and the local planning authority” were omitted.

#### Notification of receipt of appeal

5. Regulation 15(2) is read as if, “and the local planning authority” were omitted.

#### Questionnaire

6. Regulation 16 does not apply.

#### Notice to interested persons

7. Regulation 17 is read as if—

(a) in paragraph (1), “local planning authority” read “Welsh Ministers”;

- (b) in paragraph (2)(c), “and the local planning authority” were omitted.

### **Representations**

**8.** Regulation 22 is read as if—

- (a) paragraph (5) read as if it provided—

“(5) In relation to appeals against enforcement notices, the Welsh Ministers must send a full statement of case to the appellant and any person on whom a copy of the enforcement notice has been served, so as to be received within 4 weeks of the starting date.”;

- (b) paragraphs (6) and (7) were omitted.

### **Interested persons’ representations**

**9.** Regulation 23(3) is read as if “and the local planning authority” were omitted.

### **Further representations**

**10.** Regulation 24 is read as if—

- (a) in paragraph (1), “, the local planning authority,” were omitted;
- (b) in paragraph (2), “and the local planning authority” were omitted.

### **Written representations inappropriate**

**11.** Regulation 25(2) is read as if “and the local planning authority” were omitted.

### **Appointment of assessor**

**12.** Regulations 28 and 37 are read as if “, the local planning authority” were omitted.

### **Date, place and notification of hearing or inquiry**

**13.** Regulations 29(4) and 42(4) are read as if subparagraphs (b) were omitted.

### **Public notice of hearing or inquiry**

**14.** Regulations 30(5) and 43(5) are read as if subparagraphs (d) were omitted.

### **Participation in a hearing or inquiry**

**15.** Regulations 31(1) and 38(1) are read as if subparagraphs (b) were omitted.

### **Absence and adjournment**

16. Regulations 32(1) and 39(1) are read as if “, the local planning authority” were omitted.

### **Procedure at hearing**

17. Regulation 33(5) is read as if “, the local planning authority” were omitted.

### **Hearing inappropriate**

18. Regulation 34(2) is read as if “and the local planning authority” were omitted.

### **Pre-inquiry meetings**

19. Regulation 40(2) is read as if subparagraph (b) were omitted.

### **Written statements of evidence**

20. Regulation 44 is read as if—

- (a) in paragraph (1), “, the local planning authority” were omitted;
- (b) paragraphs (1)(a) and (b) were omitted;
- (c) paragraph (1)(c) read as if it provided—
  - “(c) the appellant must send one copy of the appellant’s statement, together with a written summary, to the Welsh Ministers;”;
- (d) paragraph (2)(a) were omitted.

### **Procedure at inquiry**

21. Regulation 45 is read as if in paragraphs (3), (5) and (6) “, the local planning authority” were omitted.

### **Inquiry inappropriate**

22. Regulation 46(2) is read as if “and the local planning authority” were omitted.

### **Procedure after proceedings**

23. Regulation 47 is read as if—

- (a) in paragraphs (6)(a), (7)(a) and (8), “, the local planning authority” were omitted;
- (b) in paragraph (9), “or the local planning authority” were omitted.

24. Regulation 48 is read as if—

- (a) in paragraphs (7)(a), (9)(a) and (10) “, the local planning authority” were omitted;

- (b) in paragraph (11), “or the local planning authority” were omitted.

**Notice of decision**

**25.** Regulation 49(1) is read as if subparagraph (b) were omitted.



## SCHEDULE 4 Regulation 53

### Statutory Instruments Revoked so far as they apply to Wales

<i>Statutory Instruments revoked</i>	<i>References</i>	<i>Extent of revocation</i>
Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003	S.I. 2003/395 (W. 54)	The whole instrument
Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003	S.I. 2003/1266	The whole instrument
Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003	S.I. 2003/1267	The whole instrument
Town and Country Planning (Enforcement) (Hearings Procedure) (Wales) Rules 2003	S.I. 2003/1268	The whole instrument
Town and Country Planning (Enforcement) (Inquiries Procedure) (Wales) Rules 2003	S.I. 2003/1269	The whole instrument
Town and Country Planning	S.I. 2003/1270	The whole instrument

(Enforcement) (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003			
Town and Country Planning (Hearings Procedure) (Wales) Rules 2003	S.I. 2003/1271		The whole instrument
Town and Country Planning (Electronic Communication s) (Wales) (No. 2) Order 2004	S.I. 2004/3157 (W. 274)		Article 2 and Schedule 1  Paragraph (2) of article 3 and Schedule 3
Town and Country Planning (Electronic Communication s) (Wales) (No. 3) Order 2004	S.I. 2004/3172		The whole instrument
Town and Country Planning (Application of Subordinate Legislation to the Crown) Order 2006	S.I. 2006/1282		Articles 35 and 37 to 43
Town and Country Planning (Amendment of Appeals Procedures) (Wales) Rules 2007	S.I. 2007/2285		The whole instrument
Town and Country Planning (Determination of Procedure) (Prescribed Period) (Wales) Regulations 2014	S.I. 2014/2775 (W. 281)		The whole instrument
The Planning (Listed Buildings and Conservation	S.I. 2014/2776 (W. 282)		The whole instrument

Areas) (Determination of Procedure) (Prescribed Period) (Wales) Regulations 2014		
Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2015	S.I. 2015/1331 (W. 124)	The whole instrument
Planning (Hazardous Substances) (Wales) Regulations 2015	S.I. 2015/1597 (W. 196)	Regulations 14, 17(2) and (3)