

Statutory Instruments with Clear Reports

8 May 2017

SL(5)088 – The Cancellation of Student Loans for Living Costs Liability (Wales) Regulations 2017

Procedure: Negative

These Regulations govern the student loan liability of students who receive loans for living costs from the Welsh Ministers in respect of the academic year 2017/2018.

These Regulations provide for up to £1,500 of each borrower's living costs loan liability to be cancelled in certain circumstances, with effect from the day after the date on which their first loan repayment is considered to have been received.

Parent Act: Teaching and Higher Education Act 1998

Date Made: 28 March 2017

Date Laid: 30 March 2017

Coming into force date: 1 August 2017

SL(5)089 – The Local Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2017

Procedure: Negative

These Regulations apply where the Welsh Ministers are authorised to recover costs borne by them in connection with—

- (a) inquiries in relation to which the Welsh Ministers are entitled to recover their costs under or by virtue of section 250(4) of the Local Government Act 1972 (including compulsory purchase order inquiries to which that section is applied by section 5 of the Acquisition of Land Act 1981) or section 69(5) of the Land Drainage Act 1991 (“local inquiries”); and
- (b) qualifying procedures as defined by section 303A(1A) of the Town and Country Planning Act 1990 (independent examinations held in relation to local



development plans and inquiries in relation to consideration of objections to simplified planning zone schemes) (“qualifying procedures”).

These Regulations prescribe the standard daily amount which may be recovered by the Welsh Ministers for each day, or part of a day, on which—

- (a) a local inquiry sits or the person appointed to hold the local inquiry is otherwise engaged in work connected with it; or
- (b) the person appointed to hold a qualifying procedure is engaged in the holding of, or otherwise engaged on work connected with, the qualifying procedure.

Parent Act: Housing and Planning Act 1986

Date Made: 24 March 2017

Date Laid: 31 March 2017

Coming into force date: 5 May 2017

SL(5)091 – The Planning (Listed Buildings and Conservation Areas) (Wales) (Amendment) Regulations 2017

Procedure: Negative

These Regulations amend the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (“the 2012 Regulations”).

The main changes are—

- (1) amendments to the procedure in relation to applications referred to the Welsh Ministers under section 12 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Act”) and under that section as applied by sections 19 and 74(3) of the Act, including provision for an applicant to submit a full statement of case within a specified timescale if the applicant so chooses (regulation 4 which inserts a new regulation 11A into the 2012 Regulations);
- (2) amendments to the procedure in relation to appeals under section 20 of the Act to require:
 - (a) a notice of appeal to be accompanied by a full statement of case; and



- (b) the appellant to send a copy of the full statement of case to the local planning authority (regulation 5 which amends regulation 12 of the 2012 Regulations);
- (3) provision under section 21(4A) and (4B) of the Act (which were inserted by section 47(3) of the Planning (Wales) Act 2015) to—
 - (a) prescribe a circumstance under section 21(4A) in which an application may be varied once notice of appeal has been served; and
 - (b) provide for an application which is so varied to be subject to such further consultation as the Welsh Ministers consider appropriate (regulation 6 which inserts a new regulation 12B into the 2012 Regulations).

Parent Act: Planning (Listed Building and Conservation Areas) Act 1990

Date Made: 5 April 2017

Date Laid: 11 April 2017

Coming into force date: 5 May 2017

SL(5)092 – The Planning (Hazardous Substances) (Wales) (Amendment) Regulations 2017

Procedure: Negative

These Regulations amend the Planning (Hazardous Substances) (Wales) Regulations 2015 (“the 2015 Regulations”).

The main changes are—

- (1) amendments to the procedure in relation to applications referred to the Welsh Ministers pursuant to a direction under section 20 of the Planning (Hazardous Substances) Act 1990 (“the PHSA”), including provision for an applicant to submit a full statement of case within a specified timescale if the applicant so chooses (regulation 4 which substitutes regulation 12 of the 2015 Regulations);
- (2) amendments to the procedure in relation to appeals under section 21 of the PHSA to require—
 - (a) a notice of appeal to be accompanied by a full statement of case; and



- (b) the appellant to send a copy of the full statement of case to the hazardous substances authority (regulation 5 which amends regulation 13 of the 2015 Regulations);.
- (3) provision under section 21(3E) and (3F) of the PHSA (which were inserted by section 47(4) of the Planning (Wales) Act 2015) to—
- (a) prescribe a circumstance under section 21(3E) in which an application may be varied once notice of appeal has been served; and
 - (b) provide for an application which is so varied to be subject to such further consultation as the Welsh Ministers consider appropriate (regulation 6 which inserts regulation 13A into the 2015 Regulations);
- (4) amendments to the procedure for appeals against hazardous substances contravention notices to require—
- (a) a full statement of case to be sent to the Welsh Ministers within a specified period; and
 - (b) the appellant to send a copy of the notice of appeal and full statement of case to the hazardous substances authority (regulation 7 which amends regulation 17 of, and Part 1 of Schedule 4 to, the 2015 Regulations).

Parent Act: Planning (Hazardous Substances) Act 1990

Date Made: 5 April 2017

Date Laid: 11 April 2017

Coming into force date: 5 May 2017



SL(5)093 – The Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2017

Procedure: Negative

These Regulations amend the Town and Country Planning (Trees) Regulations 1999 (“the 1999 Regulations”).

Regulation 2 of the 1999 Regulations provides that a Tree Preservation Order must be in the form set out in the Schedule to those Regulations, or in a form substantially to the same effect.

Article 7 of the form of Tree Preservation Order set out in the Schedule to the 1999 Regulations (“the Order”) applies provisions of the Town and Country Planning Act 1990, including sections 78 and 79 of that Act, to consents under the Order and applications for such consent, subject to the adaptations and modifications mentioned in Part 1 of Schedule 2 to the Order. The provisions as so adapted and modified are set out in Part 2 of Schedule 2 to the Order.

These Regulations amend provisions in Part 1 and remove Part 2 of Schedule 2 to the Order. The effect of the amendments is to require—

- (a) a notice of appeal to be accompanied by a full statement of case comprised of a written statement containing full particulars of the appellant’s case and copies of supporting documents; and
- (b) the appellant to send a copy of both the notice of appeal and full statement of case to the authority which made the tree preservation order as soon as reasonably practicable.

Parent Act: Town and Country Planning Act 1990

Date Made: 5 April 2017

Date Laid: 11 April 2017

Coming into force date: 5 May 2017



SL(5)094 – The Town and Country Planning (Control of Advertisements) (Amendment) (Wales) Regulations 2017

Procedure: Negative

These Regulations amend the Town and Country Planning (Control of Advertisements) Regulations 1992 (“the 1992 Regulations”).

They amend the provisions in regulation 15 and Parts 3 to 5 of Schedule 4. Those provisions in the 1992 Regulations apply sections 78 and 79 of the Town and Country Planning Act 1990 (“the Planning Act”), as modified, to appeals in relation to applications for express consent and where a discontinuance notice is served under regulation 8 of the 1992 Regulations.

The effect of the amendments is to require—

- (a) a notice of appeal to be accompanied by a full statement of case comprised of a written statement containing full particulars of the appellant’s case and copies of supporting documents in the case of appeals—
 - (i) against the grant of express consent which is granted subject to conditions;
 - (ii) where a local planning authority has failed to determine an application for express consent; and
 - (iii) in relation to discontinuance notices; and
- (b) the appellant to serve on the local planning authority, as soon as reasonably practicable, a copy of the notice of appeal and, in the case of the appeals mentioned in paragraph (a) above, to also serve a copy of the full statement of case.

These Regulations also remove Part 4 of Schedule 4 which sets out sections 78 and 79 of the Planning Act as modified by the 1992 Regulations in relation to applications for express consent.

Parent Act: Town and Country Planning Act 1990

Date Made: 5 April 2017

Date Laid: 11 April 2017



Coming into force date: 5 May 2017

SL(5)095 – The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2017

Procedure: Negative

These Regulations revoke and replace with some changes the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003 (“the 2003 Regulations”).

The main changes made by these Regulations are—

- (1) the information to be included in an explanatory note to accompany every enforcement notice served by a local planning authority under section 172(2) of the Town and Country Planning Act 1990 (“the Planning Act”) is amended in light of the changes referred to in paragraph (2)(a) and (b) (regulation 7);
- (2) in relation to appeals to the Welsh Ministers under section 174(3) of the Planning Act or section 39(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”)—
 - (a) the appellant must provide a full statement of case;
 - (b) the time prescribed under section 174(4) of the Planning Act and section 39(4) of the Listed Buildings Act for submitting a statement in writing to the Welsh Ministers is amended;
 - (c) the appellant must as soon as reasonably practicable send a copy of the notice of appeal and full statement of case to the local planning authority (regulation 8);
- (3) in relation to appeals under section 208(2) of the Planning Act, a written notice of appeal indicating the grounds of appeal and stating the facts on which the appeal is based must be accompanied by a full statement of case (regulation 9);
- (4) provision is made in relation to the steps to be taken in connection with the bringing of an appeal to the Welsh Ministers under section 217 of the Planning Act (regulation 10). Broadly the steps to be taken are the same as in relation to an



appeal under section 174(3) of the Planning Act or section 39(2) of the Listed Buildings Act.

Parent Act: Town and Country Planning Act 1990

Date Made: 5 April 2017

Date Laid: 11 April 2017

Coming into force date: 5 May 2017

SL(5)096 – The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017

Procedure: Negative

These Regulations establish a new procedure for referred applications and appeals in Wales.

These Regulations provide for the procedure in relation to:

- (1) applications for planning permission, listed building consent, conservation area consent and hazardous substances consent referred to the Welsh Ministers for determination (“referred applications”).
- (2) 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.
- (3) 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:

- (1) 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.

- (2) 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

Parent Act: Town and Country Planning Act 1990

Date Made: 5 April 2017

Date Laid: 11 April 2017

Coming into force date: 5 May 2017

SL(5)097 – The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2017

Procedure: Negative

This Order amends the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (“the 2012 Order”).

The main changes are—

- (1) amendments to the procedure in relation to applications referred to the Welsh Ministers pursuant to a direction under section 77 of the Town and Country Planning Act 1990 (“the 1990 Act”), including provision for an applicant to submit a



full statement of case within a specified timescale if the applicant so chooses (article 4 which substitutes article 13 of the 2012 Order).

- (2) amendments to the procedure in relation to appeals under section 78 of the 1990 Act to require—
 - (a) a notice of appeal to be accompanied by a full statement of case; and
 - (b) the appellant to send a copy of the full statement of case to the local planning authority (article 5 which amends article 26 of the 2012 Order).
- (3) provision for the procedure for appeals under section 195 of the 1990 Act (appeals against refusal or failure to give decision on application for a certificate of lawfulness of existing or proposed use or development) to—
 - (a) require a notice of appeal to be accompanied by a full statement of case;
 - (b) require the appellant to send a copy of the full statement of case to the local planning authority; and
 - (c) provide that an applicant who wishes to appeal to the Welsh Ministers against a refusal or failure to give a decision on an application for a certificate of lawfulness of existing use or development must do so within six months from the date of the notice of the decision or determination giving rise to the appeal (article 6 which inserts article 26B into the 2012 Order).
- (4) provision under section 78(4BA) and (4BB) and section 195(1DA) and (1DB) of the 1990 Act (which were inserted by section 47(1) and (2) of the Planning (Wales) Act 2015) to—
 - (a) prescribe a circumstance under sections 78(4BA) and 195(1DA) in which an application may be varied once notice of appeal has been served; and
 - (b) provide for an application which is so varied to be subject to such further consultation as the Welsh Ministers consider appropriate (article 7 which inserts article 26C into the 2012 Order).

Parent Act: Town and Country Planning Act 1990

Date Made: 5 April 2017



Date Laid: 11 April 2017

Coming into force date: 5 May 2017

SL(5)099 – The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Procedure: Negative

These Regulations prescribe the procedure for applications and proposals under sections 19 of, and Schedule 2 to, the Commons Act 2006.

They include provisions about:

- (a) the making, management and determination of applications and proposals to amend the registers;
- (b) fees that may be charged in relation to an application;
- (c) the registration authority's duties in connection with the publication of applications and proposals;
- (d) the holding of public inquiries and hearings and the cases where applications and proposals must be referred to an appointed person for determination (these include cases where the registration authority has an interest in the outcome of the application or proposal);
- (e) the award of costs in relation to certain applications.

They enable the Welsh Ministers to appoint persons as eligible to administer and determine applications made to, or proposals made by, a commons registration authority for the amendment of its registers.

Parent Act: Commons Act 2006

Date Made: 9 April 2017

Date Laid: 13 April 2017

Coming into force date: 5 May 2017



SL(5)101 – The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2017

Procedure: Negative

These Regulations implement Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effect of certain public and private projects on the environment. They also implement Council Directive 1992/43/EEC on the conservation of natural habitats and of wild flora and fauna insofar as those projects affect sites protected by that Directive.

In addition, these Regulations also revoke The Environmental Impact Assessment (Agriculture) (Wales) Regulations 2007 (SI 2007/2933) and regulation 36 makes transitional provision in respect of remediation and stop notices services served under the revoked regulations.

Parent Act: European Communities Act 1972

Date Made: 20 April 2017

Date Laid: 24 April 2017

Coming into force date: 16 May 2017

SL(5)103 – The Seed Potatoes (Wales) (Amendment) Regulations 2017

Procedure: Negative

These Regulations amend the Seed Potatoes (Wales) Regulations 2016 (“the 2016 Regulations”).

These Regulations implement Commission Implementing Directive (EU) 2016/317, by amending the requirements for the official label on basic and certified seed potatoes in the 2016 Regulations.

Parent Act: Plant Varieties and Seeds Act 1964

Date Made: 21 April 2017

Date Laid: 26 April 2017



Coming into force date: 18 May 2017

