
STATUTORY INSTRUMENTS

1991 No. 2804

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

**The Town and Country Planning (Enforcement
Notices and Appeals) Regulations 1991**

Made - - - - *11th December 1991*
Laid before Parliament *12th December 1991*
Coming into force - - *2nd January 1992*

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 173(10), 174(4), 175(1), 178(3) and (5), and 336(1)(1) of the Town and Country Planning Act 1990(2), sections 39(4), 40(1), 42(3) and (5), and 91(1)(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990(3) and of all other powers enabling them in that behalf, hereby make the following Regulations:—

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. These Regulations may be cited as the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991 and shall come into force on 2nd January 1992.

Interpretation

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

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

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

(1) See the definition of “prescribed”.

(2) 1990 c. 8; section 173(10) is substituted by section 5(1) of the Planning and Compensation Act 1991 (c. 34).

(1) See the definition of “prescribed”.

(3) 1990 c. 9.

“enforcement notice” means a notice issued under section 172(1)(4) of the principal Act or section 38(1) of the Listed Buildings Act;

“local planning authority” means the local authority or other body who issue the relevant enforcement notice.

PART II

ENFORCEMENT NOTICES UNDER SECTION 172

Additional matters to be specified in enforcement notice

3. An enforcement notice issued under section 172 of the principal Act shall specify—
 - (a) the reasons why the local planning authority consider it expedient to issue the notice; and
 - (b) the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.

Explanatory note to accompany copy enforcement notices

4. Every copy of an enforcement notice served by a local planning authority under section 172(2) of the principal Act shall be accompanied by an explanatory note which shall include the following—
 - (a) a copy of sections 171A to 177(5) of the principal Act, or a summary of those sections including the following information—
 - (i) that there is a right of appeal to the Secretary of State against the enforcement notice;
 - (ii) that an appeal must be made by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect or by sending such notice to him in a properly addressed, pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date;
 - (iii) the grounds on which an appeal may be brought under section 174 of the principal Act;
 - (b) notification that an appellant must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, a statement in writing specifying the grounds on which he is appealing against the enforcement notice and stating briefly the facts on which he proposes to rely in support of each of those grounds.

(4) Section 172 is substituted by section 5(1) of the Planning and Compensation Act 1991 (c. 34).
(5) Sections 171A to 171D and section 177(5A) are inserted by sections 1, 4(1) and 6(3) of the Planning and Compensation Act 1991 (c. 34). Sections 172 and 173 are substituted and 173A is inserted by section 5 of that Act. Sections 174 to 177 are amended by sections 6(1) and (2) and 32 of and paragraphs 22, 23, 24(1)(a), (2) and (3) of Schedule 7 to that Act.

PART III

APPEALS

Statement by appellant

5. A person who makes an appeal to the Secretary of State under section 174(3) of the principal Act or section 39(2)(6) of the Listed Buildings Act against an enforcement notice and who does not include with it a statement in writing specifying the grounds on which he is appealing against the notice and stating briefly the facts on which he proposes to rely in support of each of those grounds, shall deliver such a statement to the Secretary of State not later than 14 days from the date on which the Secretary of State sends him a notice so requiring him.

Local planning authority to send copy of notice to Secretary of State

6. Where an appeal has been made to the Secretary of State against an enforcement notice the local planning authority who issued the notice shall if so required by the Secretary of State send to him, not later than 14 days from the date on which the Secretary of State gives them notice that the appeal has been made, a copy of the enforcement notice and a list of the names and addresses of the persons on whom a copy of the notice was served under section 172(2) of the principal Act or section 38(4) of the Listed Buildings Act, as the case may be.

Statement by local planning authority

7.—(1) Where an appeal has been made to the Secretary of State against an enforcement notice issued by a local planning authority, the authority shall submit to the Secretary of State and serve on the appellant a statement indicating the submissions which they propose to put forward on the appeal, including the following matters—

- (a) a summary of the authority's response to each ground of appeal pleaded by the appellant;
- (b) a statement whether the authority would be prepared to grant planning permission for the matters alleged in the enforcement notice to constitute the breach of planning control, or to grant 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, and, if so, particulars of the conditions, if any, which they would wish to impose on such permission or consent.

(2) Any statement which is required to be served by paragraph (1) of this regulation shall be served—

- (a) where a local inquiry is to be held, not later than 28 days before the date of the inquiry, or such later date as may be agreed in writing by the Secretary of State, the appellant and the local planning authority,
- (b) in any other case, not later than 28 days from the date on which the Secretary of State sends to the authority a notice requesting the statement.

Public notice of appeal

8.—(1) Where an appeal has been made to the Secretary of State against an enforcement notice issued by a local planning authority and he proposes not to hold a local inquiry, the authority shall give notice of the appeal to occupiers of properties in the locality of the site to which the enforcement notice relates and to any other persons who in the opinion of the authority are affected by the breach

(6) Section 39(2) is substituted by paragraph 3(3) of Schedule 3 to the Planning and Compensation Act 1991 (c. 34).

of planning control or contravention of listed building or conservation area control which is alleged in the enforcement notice.

- (2) Any notice given under paragraph (1) of this regulation shall include—
- (a) a description of the alleged breach of control;
 - (b) in the case of an appeal against an enforcement notice issued under section 172 of the principal Act, a statement of the reasons specified in the notice under regulation 3(a) of these Regulations;
 - (c) the grounds on which the appellant appealed against the enforcement notice; and
 - (d) a statement inviting interested persons to submit comments in writing to the local planning authority within such time as may be specified in the notice.

PART IV

NOTICES ISSUED BY THE SECRETARY OF STATE

Application of Regulations

9. These Regulations, except regulation 6, shall apply with respect to enforcement notices issued by the Secretary of State under section 182 of the principal Act, to appeals made to the Secretary of State against such notices, and to appeals against notices issued by him under section 46 of the Listed Buildings Act as they apply with respect to such notices issued by local planning authorities and to appeals made against them as if—

- (a) for references to a local planning authority there were substituted references to the Secretary of State;
- (b) in regulation 3, for “section 172” there were substituted “section 182”;
- (c) in regulation 4—
 - (i) for “section 172(2)” there were substituted “section 182(1)”; and
 - (ii) in paragraph (a), after “sections 171A to 177” there were inserted “and section 182”; and
- (d) for regulation 7 the following were substituted—

“7.—(1) Where an appeal has been made to the Secretary of State against an enforcement notice which he has issued, the Secretary of State shall serve on the appellant a statement indicating the submissions which he proposes to put forward on the appeal including a summary of his response to each ground of appeal pleaded by the appellant.

(2) Any statement which is required to be served by paragraph (1) of this regulation shall, where a local inquiry is to be held, be served not later than 28 days before the date of the inquiry.”.

PART V

RECOVERY OF LOCAL AUTHORITY EXPENSES

Charge on land

10.—(1) Regulation 16 of the Town and Country Planning General Regulations 1976(7) shall be amended as follows—

- (a) regulation 16 shall be renumbered 16(1); and
- (b) after sub-paragraph (d) there shall be inserted “(2) The expenses recoverable by a local planning authority under section 178(1) of the Town and Country Planning Act 1990 are, until recovered, a charge that is binding on successive owners of the land to which the enforcement notice related and the charge shall take effect as from the date of the completion by the local planning authority of the steps required to be taken by the enforcement notice.”.

(2) Regulation 11 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990(8) shall be amended as follows—

- (a) regulation 11 shall be renumbered 11(1); and
- (b) after sub-paragraph (d) there shall be inserted “(2) The expenses recoverable by a local planning authority under section 42(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are, until recovered, a charge that is binding on successive owners of the land to which the listed building enforcement notice related and the charge shall take effect as from the date of the completion by the local planning authority of the steps required to be taken by the listed building enforcement notice.”.

PART VI

REVOCATION

11. The Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981(9) are hereby revoked.

11th December 1991

Michael Heseltine
Secretary of State for the Environment

11th December 1991

David Hunt
Secretary of State for Wales

(7) S.I.1976/1419.
(8) S.I. 1990/1519.
(9) S.I. 1981/1742.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations re-enact with amendments the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1981.

They contain provisions relating to—

- (i) the contents of enforcement notices issued under section 172 of the Town and Country Planning Act 1990 and the information to be provided by planning authorities when serving copies of such notices (Part II);
- (ii) the procedure to be followed in relation to appeals against such notices and against listed building and conservation area enforcement notices issued under section 38(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Part III); and
- (iii) the application of the Regulations to such notices issued by the Secretary of State (Part IV).

The Regulations provide for the expenses incurred by a local planning authority, in carrying out steps required to be taken by an enforcement notice, to be a charge on the land (Part V).