



# Planning (Wales) Act 2015

2015 anaw 4

## PART 7

### ENFORCEMENT, APPEALS ETC

#### *Appeals*

#### **45 Restrictions on right to appeal against planning decisions**

In section 78 of TCPA 1990 (right to appeal against planning decisions and failure to take such decisions), after subsection (4A) insert—

“(4AA) An appeal under this section may not be brought or continued against the refusal of an application for planning permission if—

- (a) the land to which the application relates is in Wales,
- (b) granting the application would involve granting planning permission in respect of matters specified in an enforcement notice as constituting a breach of planning control, and
- (c) on the determination of an appeal against that notice under section 174, planning permission for those matters was not granted under section 177.

(4AB) An appeal under this section may not be brought or continued against the grant of an application for planning permission subject to a condition, if—

- (a) the land to which the application relates is in Wales,
- (b) an appeal against an enforcement notice has been brought under section 174 on the ground that the condition ought to be discharged, and
- (c) on the determination of that appeal, the condition was not discharged under section 177.”

#### **Commencement Information**

**II** S. 45 partly in force; s. 45 in force for specified purposes at 6.9.2015, see s. 58(2)(b)(4)(b)

*Changes to legislation: There are currently no known outstanding effects for the Planning (Wales) Act 2015, Cross Heading: Appeals. (See end of Document for details)*

**I2** S. 45 in force at 16.3.2016 in so far as not already in force by S.I. 2016/52, art. 5(c) (with art. 15)

#### **46 Restrictions on right to appeal against enforcement notice**

In section 174 of TCPA 1990 (appeal against enforcement notice), after subsection (2C) insert—

“(2D) An appeal against an enforcement notice may not be brought on the ground that planning permission ought to be granted in respect of a breach of planning control constituted by a matter stated in the notice, as specified in subsection (2) (a), if—

- (a) the land to which the enforcement notice relates is in Wales, and
- (b) the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 (and for this purpose development is “related” if granting planning permission for it would involve granting planning permission in respect of the matter concerned).

(2E) An appeal may not be brought on the ground that a condition or limitation ought to be discharged, as specified in subsection (2)(a), if—

- (a) the land to which the enforcement notice relates is in Wales, and
- (b) the enforcement notice was issued after a decision to grant planning permission subject to the condition or limitation was upheld on an appeal under section 78.

(2F) For the purposes of subsections (2D) and (2E), references to a decision that has been upheld on an appeal include references to a decision in respect of which—

- (a) the Welsh Ministers have, under section 79(6), declined to determine an appeal or to proceed with the determination of an appeal;
- (b) an appeal has been dismissed under section 79(6A).”

#### **Commencement Information**

**I3** S. 46 partly in force; s. 46 in force for specified purposes at 6.9.2015, see s. 58(2)(b)(4)(b)

**I4** S. 46 in force at 16.3.2016 in so far as not already in force by S.I. 2016/52, art. 5(c) (with art. 14)

#### **47 No variation of application after service of notice of appeal against planning decision etc**

(1) In section 78 of TCPA 1990 (right to appeal against planning decisions and failure to take such decisions), after subsection (4B) insert—

“(4BA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed by a development order.

(4BB) A development order which makes provision under subsection (4BA) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

(2) In section 195 of TCPA 1990 (appeals against refusal or failure to give decision on application for certificate of lawfulness), after subsection (1D) insert—

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- “(1DA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed by a development order.
- (1DB) A development order which makes provision under subsection (1DA) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”
- (3) In section 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) (appeals against listed buildings decisions or failure to take such decisions), after subsection (4) insert—
- “(4A) Once notice of an appeal under section 20 to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed.
- (4B) Regulations which make provision under subsection (4A) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”
- (4) In section 21 of the Planning (Hazardous Substances) Act 1990 (c. 10) (appeals against decisions or failure to take decisions relating to hazardous substances), after subsection (3D) insert—
- “(3E) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed.
- (3F) Regulations which make provision under subsection (3E) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

#### Commencement Information

- I5** S. 47 partly in force; s. 47 in force for specified purposes at 6.9.2015, see s. 58(2)(b)(4)(b)
- I6** S. 47 in force at 5.5.2017 in so far as not already in force by S.I. 2017/546, art. 3(b)

#### 48 Appeal against notice in respect of land adversely affecting amenity

- (1) Section 217 of TCPA 1990 (the title of which becomes “ Appeal against a section 215 notice ”) is amended as follows.
- (2) In subsection (2), after “made” insert “—
- (a) in the case of a notice relating to land in Wales, to the Welsh Ministers;
- (b) in the case of a notice relating to land in England.”.
- (3) In subsection (4), after “appeal” insert “ the Welsh Ministers or (as the case may be) ”.
- (4) In subsection (5) after “appeal” insert “ the Welsh Ministers or (as the case may be) ”.
- (5) In subsection (6), omit “to a magistrates' court”.
- (6) After subsection (6) insert—

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“(7) The Welsh Ministers may by regulations make provision, in respect of appeals made to them under this section—

- (a) as to steps to be taken in connection with bringing an appeal (including as to the form and content of any notice required to be given, and persons to whom copies of it are to be provided);
- (b) about information to be provided to the Welsh Ministers in connection with an appeal;
- (c) as to the procedure by which an appeal under this section is to be considered (including provision about circumstances in which the appellant or the local planning authority must be given the opportunity of appearing before and being heard by a person appointed by the Welsh Ministers for the purpose).”

(7) In section 218 of TCPA 1990 (the title of which becomes “ Further appeal to the Crown Court: England ”), after “been brought” insert “to a magistrates' court”.

(8) In section 289 of TCPA 1990 (the title of which becomes “ Appeals to High Court relating to enforcement notices and notices under sections 207 and 215 ”)—

(a) after subsection (2) insert—

“(2A) Where the Welsh Ministers give a decision in proceedings on an appeal under Part 8 against a notice under section 215, the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Welsh Ministers to sign and state a case for the opinion of the High Court.”;

(b) in subsection (4B), after “207” insert “ or 215 ”;

(c) in subsection (5), after “the Secretary of State”, in each place where those words occur, insert “ or the Welsh Ministers ”.

#### Commencement Information

**I7** S. 48 partly in force; s. 48 in force for specified purposes at 6.9.2015, see s. 58(2)(b)(4)(b)

**I8** S. 48 in force at 5.5.2017 in so far as not already in force by S.I. 2017/546, art. 3(b)

**Changes to legislation:**

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