
WELSH STATUTORY INSTRUMENTS

2017 No. 545 (W. 122)

TOWN AND COUNTRY PLANNING, WALES

The Planning (Listed Buildings and Conservation Areas) (Wales) (Amendment) Regulations 2017

<i>Made</i>	- - - -	<i>5 April 2017</i>
<i>Laid before before the National Assembly for Wales</i>	- -	<i>11 April 2017</i>
<i>Coming into force</i>	- -	<i>5 May 2017</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred on the Secretary of State by sections 20 and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990⁽¹⁾ and now exercisable by them⁽²⁾ and the powers conferred on them by section 21 of that Act⁽³⁾ and by section 323A of the Town and Country Planning Act 1990⁽⁴⁾:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Planning (Listed Buildings and Conservation Areas) (Wales) (Amendment) Regulations 2017 and they come into force on 5 May 2017.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations, “the 2012 Regulations” (“*Rheoliadau 2012*”) means the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012⁽⁵⁾.

Amendments to the 2012 Regulations

2. The 2012 Regulations are amended in accordance with the following provisions.

-
- (1) 1990 c. 9. See section 91 for the meaning of “prescribed”. Section 20 was amended by article 3 of, and paragraphs 14 and 16 of Schedule 1 to, [S.I. 2014/2773 \(W. 280\)](#). Section 93 was amended by section 118(1) of, and paragraphs 19 and 26 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5), section 78 of, and paragraph 33(4) of Schedule 10 to, the Environment Act 1995 (c. 25) and section 40(3) to (8) of the [Historic Environment \(Wales\) Act 2016 \(anaw 4\)](#) (“the 2016 Act”).
- (2) The functions of the Secretary of State under those sections were, so far as exercisable in Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)). The functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
- (3) Section 21 was amended by section 197 of, and paragraph 5 of Schedule 11 to the Planning Act 2008 (c. 29), section 47(3) of the [Planning \(Wales\) Act 2015 \(anaw 4\)](#) (“the 2015 Act”) and section 40(9) of the 2016 Act.
- (4) 1990 c. 8. Section 323A was inserted by section 50 of the 2015 Act. Section 323A is applied to the Planning (Listed Buildings and Conservation Areas) Act 1990 by section 89 of that Act. Section 89 was amended by section 51 of, and paragraphs 19 and 21 of Schedule 5 to, the 2015 Act.
- (5) [S.I. 2012/793 \(W. 108\)](#), amended by [S.I. 2015/1332 \(W. 125\)](#).

Interpretation

3. In regulation 2(1) at the appropriate place insert—
- ““full statement of case” (“*datganiad achos llawn*”) means and is comprised of—
- (a) a statement in writing containing full particulars of the case—
 - (i) the applicant proposes to put forward in relation to the application referred to the Welsh Ministers under section 12 of the Act⁽⁶⁾ or under that section as applied by sections 19 or 74(3) of the Act; or
 - (ii) the appellant proposes to put forward in relation to the appeal under section 20 of the Act; and
 - (b) copies of any supporting documents the applicant or the appellant proposes to refer to or put forward in evidence;”.

Reference of applications to the Welsh Ministers

- 4.—(1) In regulation 3(6) (applications for listed building consent or for conservation area consent) omit “or reference to the Welsh Ministers”.
- (2) In regulation 8(5) (use of electronic communications) after subparagraph (d) insert—
- “(da) sending or serving a notice of reference, application file or full statement of case under regulation 11A;”.
- (3) In regulation 8(6)—
- (a) for “giving or serving the notice” substitute “, giving, serving or sending the notice, application file or full statement of case”;
 - (b) in subparagraphs (a) and (b), for “or notice” substitute “, notice or other document”;
 - (c) in subparagraph (c), each time it occurs for “the applicant” substitute “the person”.
- (4) After regulation 11 (advertisement of applications for urgent works relating to Crown development) insert—

“Reference of applications to the Welsh Ministers

11A.—(1) Where an application is referred to the Welsh Ministers under section 12 of the Act or under that section as applied by sections 19 or section 74(3) of the Act, a local planning authority must as soon as reasonably practicable—

- (a) serve on the applicant a notice of reference; and
- (b) send to the Welsh Ministers a copy of the application file.

(2) The local planning authority must send a copy of the notice of reference to the Welsh Ministers at the same time as the notice is sent to the applicant.

(3) An applicant upon whom a notice of reference is served may choose to submit a full statement of case to the Welsh Ministers.

(4) An applicant who so chooses must send—

- (a) the full statement of case so that it is received by the Welsh Ministers within 4 weeks beginning with the day on which the notice of reference is served;
- (b) a copy of the full statement of case to the local planning authority at the same time as it is sent to the Welsh Ministers.

(6) Section 12 was amended by section 17 of the Transport and Works Act 1992 (c. 42) and article 3 of, and paragraphs 14 and 15 of Schedule 1, to S.I. 2014/2773.

(5) In this regulation—

- (a) “application file” (“*ffeil y cais*”) means the application together with accompanying documents and all correspondence with the local planning authority relating to the application; and
- (b) “notice of reference” (“*hysbysiad o gyfeirio*”) means a notice—
 - (i) informing the applicant that the application has been referred to the Welsh Ministers;
 - (ii) in the case of an application referred to the Welsh Ministers pursuant to a direction under section 12(1) of the Act, setting out the reasons given by the Welsh Ministers for issuing the direction; and
 - (iii) notifying the applicant that—
 - (aa) if the applicant so chooses, the applicant may submit a full statement of case to the Welsh Ministers;
 - (bb) if the applicant so chooses, the full statement of case must be received by the Welsh Ministers within 4 weeks beginning with the day on which the notice of reference is served; and
 - (cc) a copy of the full statement of case (if applicable) must be sent to the local planning authority at the same time as it is sent to the Welsh Ministers.”

Appeals

5.—(1) After regulation 12(1) insert—

“(1A) An applicant who wishes to appeal following the failure of a local planning authority to give notice of their decision or of the reference of the application to the Welsh Ministers must give notice of appeal on a form obtained from the Welsh Ministers.”

(2) In regulation 12(2) for the words from “An applicant who wishes” to “must furnish the Welsh Ministers with” substitute “The notice of appeal mentioned in paragraphs (1) and (1A) must be accompanied by a full statement of case and”.

(3) After regulation 12(2) insert—

“(3) An applicant who wishes to appeal against a decision of a local planning authority mentioned in paragraph (1) or following the failure of a local planning authority to give notice of their decision or of the reference of the application to the Welsh Ministers must send to the local planning authority as soon as reasonably practicable a copy of the notice of appeal mentioned in paragraphs (1) or (1A) and the full statement of case.”

Variation of applications after notice of appeal

6. After regulation 12A insert—

“Variation of applications after notice of appeal

12B.—(1) For the purposes of section 21(4A) of the Act⁽⁷⁾ the prescribed circumstance is the application to which the appeal relates contains a correctable error.

(2) An application which is varied in the circumstance prescribed in paragraph (1) is subject to such further consultation as the Welsh Ministers consider appropriate.

(3) In this regulation “correctable error” (“*gwall cywiradwy*”) means an error which—

(7) Section 21(4A) was inserted by section 47(3) of the 2015 Act.

- (a) is corrected in order to ensure consistency in the information contained in the application and the accompanying documents; and
- (b) does not alter the substance of the application.”

Transitional and saving provisions

7.—(1) Paragraph (2) applies where any of the following occurs in relation to an application made before these Regulations come into force—

- (a) the application is referred to the Welsh Ministers under section 12 of the Planning (Listed Buildings or Conservation Areas) Act 1990 or under that section as applied by sections 19 or 74(3) of that Act, or
- (b) an appeal is made.

(2) The 2012 Regulations apply to that application or appeal as though the amendments made by regulations 2 to 6 had not been made.

5 April 2017

Jane Hutt
One of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

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).

Regulation 7 contains transitional and saving provisions.

The Regulatory Impact Assessment applicable to these Regulations is obtainable from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government website at www.gov.wales.