

1990 No. 1562

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

**The Town and Country Planning (Control of
Advertisements) (Amendment) (No. 2) Regulations 1990**

<i>Made</i> - - - -	<i>26th July 1990</i>
<i>Laid before Parliament</i>	<i>3rd August 1990</i>
<i>Coming into force</i>	<i>24th August 1990</i>

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 220, 221(6), 223, 224(1) and (3) and 333(1) of the Town and Country Planning Act 1990(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

1.—(1) These Regulations may be cited as the Town and Country Planning (Control of Advertisements) (Amendment) (No. 2) Regulations 1990 and shall come into force on 24th August 1990.

(2) In these Regulations “the principal Regulations” means the Town and Country Planning (Control of Advertisements) Regulations 1989(b).

2. In regulation 2 of the principal Regulations (interpretation)—

(a) in paragraph (1)—

(i) for the definition of the Act, substitute “ “the Act” means the Town and Country Planning Act 1990”;

(ii) in the definition of statutory undertaker, for “section 290(1)” substitute “section 336(1)”;

(b) in paragraph (2), for “sections 63 and 109” substitute “sections 220 and 224”.

3. In regulation 15 of the principal Regulations (appeals to the Secretary of State)—

(a) in paragraph (1), for “sections 36 and 37” substitute “sections 78 and 79”, and in paragraph (2), for “sections 36 and 37” substitute “those sections”;

(b) in paragraph (3), for “section 36” substitute “section 78”.

4. In regulation 20 of the principal Regulations (compensation under section 176 of the Act)—

(a) for the heading, substitute “Compensation under section 223 of the Act”;

(b) in paragraph (1), for “section 176” substitute “section 223”.

5. In regulation 26 of the principal Regulations (contravention of Regulations), for “section 109(2)” substitute “section 224(3)”.

(a) 1990 c.8.

(b) S.I. 1989/670, amended by S.I. 1990/881.

6. For Schedule 4 to the principal Regulations, substitute-

“SCHEDULE 4

Regulation 15

APPEALS TO THE SECRETARY OF STATE

PART I

MODIFICATIONS OF THE ACT (APPLICATIONS FOR EXPRESS CONSENT)

1. In section 78 of the Act-

(a) in subsection (1), for paragraphs (a), (b) and (c) substitute the words “refuse an application for express consent under the Town and Country Planning (Control of Advertisements) Regulations 1989 or grant it subject to conditions.”;

(b) for subsection (2) substitute-

“(2) A person who has made such an application for express consent may also appeal to the Secretary of State if within the period of 8 weeks from the date when the application was received by the local planning authority, that authority have not given him notice of their decision on it.”;

(c) for subsection (3) substitute the following subsections-

“(3) Any appeal under subsection (1) or (2) shall be made by notice served within 8 weeks from the date of receipt of the local planning authority’s decision, or, as the case may be, within 8 weeks from the expiry of the period mentioned in subsection (2), or within such longer period as the Secretary of State may in either case at any time allow.

(3A) The notice mentioned in subsection (3) shall be accompanied by a copy of each of the following documents-

(a) the application made to the local planning authority;

(b) all relevant plans and particulars submitted to them;

(c) any notice of decision; and

(d) any other relevant correspondence with the authority.”;

(d) for subsection (4) substitute-

“(4) Where an appeal is made to the Secretary of State as mentioned in subsection (3), he may require the appellant or the local planning authority to submit to him, within such period as he may specify, a statement in writing in respect of such matters relating to the application as he may specify, and if, after considering the grounds of appeal and any such statement, the Secretary of State is satisfied that he has sufficient information to enable him to determine the appeal he may, with the agreement in writing of both the appellant and the local planning authority, determine the appeal without complying with section 79(2).”;

(e) in subsection (5), references to sections 253(2)(c) and 266(1)(b) shall be omitted.

2. In section 79 of the Act-

(a) after subsection (1) insert-

“(1A) The Secretary of State may, in granting an express consent, specify that the term thereof shall run for such longer or shorter period than 5 years as he considers expedient, having regard to regulation 4 of the Town and Country Planning (Control of Advertisements) Regulations 1989 and to any period specified in the application for consent.”;

(b) subsection (4) shall be omitted;

(c) in subsection (5), for “such an appeal shall be final”, substitute “an appeal under section 78 shall be final, and shall otherwise have effect as if it were a decision of the local planning authority.”;

(d) in subsection (6), for the words from “in respect of an application for planning permission” to “planning permission for that development”, substitute the words “in respect of an application for express consent under the Regulations, the Secretary of State forms the opinion that, having regard to the Regulations and to any direction given under them, consent”.

PART II
SECTIONS 78 AND 79 OF THE ACT AS MODIFIED
(APPLICATIONS FOR EXPRESS CONSENT)

78.—(1) Where a local planning authority refuse an application for express consent under the Town and Country Planning (Control of Advertisements) Regulations 1989 or grant it subject to conditions, the applicant may by notice appeal to the Secretary of State.

(2) A person who has made such an application for express consent may also appeal to the Secretary of State if within the period of 8 weeks from the date when the application was received by the local planning authority, that authority have not given him notice of their decision on it.

(3) Any appeal under subsection (1) or (2) shall be made by notice served within 8 weeks from the date of receipt of the local planning authority's decision, or, as the case may be, within 8 weeks from the expiry of the period mentioned in subsection (2), or within such longer period as the Secretary of State may in either case at any time allow.

(3A) The notice mentioned in subsection (3) shall be accompanied by a copy of each of the following documents—

- (a) the application made to the local planning authority;
- (b) all relevant plans and particulars submitted to them;
- (c) any notice of decision; and
- (d) any other relevant correspondence with the authority.

(4) Where an appeal is made to the Secretary of State as mentioned in subsection (3), he may require the appellant or the local planning authority to submit to him, within such period as he may specify, a statement in writing in respect of such matters relating to the application as he may specify, and if, after considering the grounds of appeal and any such statement, the Secretary of State is satisfied that he has sufficient information to enable him to determine the appeal he may, with the agreement in writing of both the appellant and the local planning authority, determine the appeal without complying with section 79(2).

(5) For the purposes of the application of sections 79(1) and 288(10)(b) in relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

79.—(1) On an appeal under section 78 the Secretary of State may—

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(1A) The Secretary of State may, in granting an express consent, specify that the term thereof shall run for such longer or shorter period than 5 years as he considers expedient, having regard to regulation 4 of the Town and Country Planning (Control of Advertisements) Regulations 1989 and to any period specified in the application for consent.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the local planning authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) Subsection (2) does not apply to an appeal referred to a Planning Inquiry Commission under section 101.

(5) The decision of the Secretary of State on an appeal under section 78 shall be final, and shall otherwise have effect as if it were a decision of the local planning authority.

(6) If, before or during the determination of such an appeal in respect of an application for express consent under the Regulations, the Secretary of State forms the opinion that, having regard to the Regulations and to any direction given under them, consent—

- (a) could not have been granted by the local planning authority; or
 - (b) could not have been granted otherwise than subject to the conditions imposed,
- he may decline to determine the appeal or to proceed with the determination.

(7) Schedule 6 applies to appeals under section 78, including appeals under that section as applied by or under any other provision of this Act.

PART III
MODIFICATIONS OF THE ACT (DISCONTINUANCE
NOTICES)

1. In section 78 for subsections (1) to (5) substitute—

“(1) Where a discontinuance notice has been served on any person by a local planning authority under regulation 8 of the Town and Country Planning (Control of Advertisements) Regulations 1989 that person may, if he is aggrieved by the notice, appeal by notice under this section to the Secretary of State.

(2) Notice of appeal shall be given in writing to the Secretary of State at any time before the date on which the discontinuance notice is due to take effect under regulation 8(3), taking account where appropriate of any extension of time under regulation 8(5), of those Regulations, or such longer period as the Secretary of State may allow, and the notice shall be accompanied by a copy of each of the following documents—

- (a) the discontinuance notice;
- (b) any notice of variation thereof; and
- (c) any relevant correspondence with the authority.

(3) Where an appeal is brought under this section, the Secretary of State may require the appellant or the local planning authority to submit to him, within such period as he may specify, a statement in writing in respect of such matters relating to the discontinuance notice as he may specify and if, after considering the grounds of appeal and any such statement, the Secretary of State is satisfied that he has sufficient information to enable him to determine the appeal, he may, with the agreement in writing of both the appellant and the local planning authority, determine the appeal without complying with section 79(2).”.

2. In section 79 for subsection (1) substitute—

“(1) Where an appeal is brought in respect of a discontinuance notice the Secretary of State may—

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the discontinuance notice (whether the appeal relates to that part of it or not),

and may deal with the matter as if an application for express consent had been made and refused for the reasons stated for the taking of discontinuance action.”.

3. In section 79 for subsection (4) substitute—

“(4) On the determination of an appeal under section 78 the Secretary of State shall give such directions as may be necessary for giving effect to his determination, including, where appropriate, directions for quashing the discontinuance notice or for varying its terms in favour of the appellant.”.

4. Subsection (6) of section 79 shall be omitted.”.

7. In Part II of Schedule 5 to the principal Regulations, in the heading of each of the forms of notice, for—

“TOWN AND COUNTRY PLANNING ACT 1971”

substitute—

“TOWN AND COUNTRY PLANNING ACT 1990”.

26th July 1990

Chris Patten
Secretary of State for the Environment

26th July 1990

David Hunt
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Town and Country Planning (Control of Advertisements) Regulations 1989 in consequence of the Town and Country Planning Act 1990. That Act, together with other enactments, consolidates and replaces the Town and Country Planning Act 1971 (c.78) and certain related legislation, with effect from 24th August 1990.

Schedule 4 to the 1989 Regulations specifies modifications to certain provisions of the 1971 Act. These Regulations substitute a new Schedule 4, re-framing those modifications in terms of the 1990 Act. The opportunity is also taken to update references to provisions of the 1971 Act throughout the 1989 Regulations.