
STATUTORY INSTRUMENTS

2000 No. 1628

TOWN AND COUNTRY PLANNING, ENGLAND

The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000

<i>Made</i>	- - - -	<i>20th June 2000</i>
<i>Laid before Parliament</i>		<i>27th June 2000</i>
<i>Coming into force</i>	- -	<i>1st August 2000</i>

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred on him by section 323 of the Town and Country Planning Act 1990(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000 and shall come into force on 1st August 2000.

(2) These Regulations extend to England only.

Interpretation

2. In these Regulations—

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

“appellant” means a person giving notice of appeal to the Secretary of State;

“document” includes a photograph, map or plan;

“local planning authority” means the body who were responsible for dealing with the application occasioning the appeal;

“notice of appeal” means a notice of appeal under section 78 of the Act;

“questionnaire” means a document in the form supplied by the Secretary of State to local planning authorities for the purpose of proceedings under these Regulations;

(1) 1990 c. 8: the functions of the Secretary of State under section 323 were, so far as exercisable in relation to 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, SI 1999/672; see entry in Schedule 1 for the Town and Country Planning Act 1990 (c. 8). Section 323 was amended by paragraph 26 of Schedule 3 to the Tribunals Inquiries Act 1992.

“starting date” means the date of the

- (a) Secretary of State’s written notice to the appellant and the local planning authority that he has received all the documents required to enable him to entertain the appeal; or
 - (b) the date of his written notice under regulation 4 below, whichever is later; and
- “written representations” includes supporting documents.

Application

3.—(1) These Regulations apply where, after they come into force, an appellant informs the Secretary of State in the notice of appeal that he wishes the appeal to be disposed of on the basis of written representations.

(2) Where an appeal under section 78 of the Act is not being disposed of on the basis of written representations and the appellant and the local planning authority inform the Secretary of State that they wish it to be disposed of on that basis, these Regulations apply to the proceedings to such extent as the Secretary of State may specify having regard to any steps already taken in relation to those proceedings.

(3) These Regulations cease to apply to proceedings if the Secretary of State informs the appellant and the local planning authority that he will afford to them an opportunity of appearing before and being heard by a person appointed by him for the purpose.

Notification of receipt of appeal

4. The Secretary of State shall, as soon as practicable after receipt of the notice of appeal, advise the appellant and the local planning authority in writing of—

- (a) the starting date;
- (b) the reference number allocated to the appeal; and
- (c) the address to which written communications to the Secretary of State about the appeal are to be sent.

Notice to interested persons

5.—(1) The local planning authority shall give written notice of the appeal within 2 weeks of the starting date to—

- (a) any person notified or consulted in accordance with the Act or a development order about the application which has given rise to the appeal; and
- (b) any other person who made representations to the local planning authority about that application.

(2) A notice under paragraph (1) shall—

- (a) state the name of the appellant and the address of the site to which the appeal relates;
- (b) describe the application;
- (c) set out the matters notified to the appellant and local planning authority under regulation 4;
- (d) state that copies of any representations made by any person mentioned in paragraph (1), will be sent to the Secretary of State and the appellant;
- (e) state that any such representations will be considered by the Secretary of State when determining the appeal unless any person mentioned in (1) withdraws them within 6 weeks of the starting date; and

- (f) state that further written representations may be submitted to the Secretary of State within 6 weeks of the starting date.

Questionnaire

6.—(1) The local planning authority shall within 2 weeks of the starting date submit to the Secretary of State, and copy to the appellant—

- (a) a completed questionnaire;
 - (b) a copy of each of the documents referred to in it.
- (2) The questionnaire shall state the date on which it is submitted to the Secretary of State.

Representations

7.—(1) The notice of appeal and the documents accompanying it shall comprise the appellant's representations in relation to the appeal.

(2) The local planning authority may elect to treat the questionnaire and the documents submitted with it as their representations in relation to the appeal; and, where they do so, they shall notify the Secretary of State and the appellant accordingly when submitting the questionnaire or sending the copy in accordance with regulation 6.

(3) Where the local planning authority do not elect as described in paragraph (2), they shall submit 2 copies of their written representations to the Secretary of State within 6 weeks of the starting date.

(4) If the appellant wishes to make any further representations to those in paragraph (1), he shall submit 2 copies of those further representations to the Secretary of State within 6 weeks of the starting date.

(5) Any representations made to the Secretary of State under paragraphs (3) and (4) should be dated and submitted to the Secretary of State on the date they bear.

(6) The Secretary of State shall, as soon as practicable after receipt, send a copy of any representations made to him by the local planning authority to the appellant and shall send a copy of any representations made to him by the appellant to the local planning authority.

(7) The appellant and the local planning authority shall submit 2 copies of any comments they have on each other's representations to the Secretary of State within 9 weeks of the starting date; and the Secretary of State shall, as soon as practicable after receipt, send a copy of these further comments to the other party.

(8) The Secretary of State may disregard further information from the appellant and the local planning authority which was not submitted within 9 weeks of the starting date unless that further information has been requested by him.

Third party representations

8.—(1) If an interested person notified under regulation 5(1) wishes to submit representations to the Secretary of State, he shall do so within 6 weeks of the starting date.

- (2) The Secretary of State shall—
- (a) send to the appellant and the local planning authority, as soon as practicable after receipt, a copy each of all of the representations received from interested parties; and
 - (b) specify a period of not less than 2 weeks within which any comments on the representations must be submitted.

(3) The Secretary of State may disregard comments made by the local planning authority under paragraph (2)(b), where they have failed to notify interested persons in accordance with regulation 5.

Allowing further time

9. The Secretary of State may in a particular case give directions setting later time limits than those prescribed by the Regulations.

Decision on appeal

10.—(1) The Secretary of State may proceed to a decision on an appeal taking into account only such written representations as have been submitted within the relevant time limits.

(2) The Secretary of State may, after giving the appellant and the local planning authority written notice of his intention to do so, proceed to a decision on an appeal notwithstanding that no written representations have been made within the relevant time limits if it appears to him that he has sufficient material before him to enable him to reach a decision on the merits of the case.

(3) In this regulation “relevant time limits” means the time limits prescribed by these Regulations or, where the Secretary of State has exercised his power under regulation 9, any later time limit.

Mayor of London

11.—(1) In this regulation “the Mayor” means the Mayor of London.

(2) Where an appeal arises from an application in respect of which the Mayor has directed the local planning authority to refuse the application and where the written representations procedure is adopted in accordance with regulation 3, these Regulations shall apply subject to the following modifications—

- (a) in regulation 2, in sub-paragraph (a) of the definition of “starting date”, after “the appellant” insert “, the Mayor”;
- (b) in regulation 4, after “advise the appellant” insert “, the Mayor”;
- (c) in regulation 6, after “and copy to the appellant” insert “and the Mayor”;
- (d) in regulation 7—
 - (i) for “2 copies” substitute “3 copies” where ever it occurs;
 - (ii) in paragraph (2), after “the Secretary of State” insert “, the Mayor”;
 - (iii) after paragraph (4) insert—

“(4A) If the Mayor wishes to make any representations in relation to the appeal, he shall submit 3 copies of those representations to the Secretary of State within 6 weeks of the starting date.”
 - (iv) in paragraph (5), for “paragraphs (3) and (4)” substitute “paragraphs (3), (4) and (4A)”;
 - (v) in paragraph (6), after the first reference to “the appellant”, insert “and the Mayor” and after the second reference to “the local planning authority”, insert “and the Mayor, and shall send a copy of any representations made to him by the Mayor to the appellant and to the local planning authority.”;
 - (vi) in paragraph (7), after “the appellant” insert “the Mayor” and for “other party” substitute “other parties”;
 - (vii) in paragraph (8) after “from the appellant” insert “, the Mayor”.
- (e) in regulation 8, in paragraph (2)(a), after “send to the appellant” insert “, the Mayor”;
- (f) in regulation 10, in paragraph (2), after “giving the appellant” insert “, the Mayor”.

Revocation and transitional provisions

12.—(1) Subject to paragraph (2), the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987(2) (“the 1987 Regulations”) are hereby revoked, so far as they extend to England.

(2) Subject to paragraph (3), any appeal to which the 1987 Regulations applied which has not been determined on the date when these Regulations come into force shall be continued under the 1987 Regulations.

(3) Where a decision of the Secretary of State on an appeal to which the 1987 Regulations applied is subsequently quashed in proceedings before any court, the decision shall be re-determined in accordance with these Regulations.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Nick Raynsford
Minister of State,
Department of the Environment, Transport and
the Regions

20th June 2000

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 78 of the Town and Country Planning Act 1990 confers a right of appeal against certain planning decisions of the local planning authority and against cases where the local planning authority fails to notify such a planning decision within the prescribed periods.

An appellant and local planning authority are entitled in any appeal proceedings to appear before and be heard by a person appointed by the Secretary of State but they may agree to the appeal being determined on the basis of written representations and supporting documents.

These Regulations lay down the procedure and time limits in connection with appeals to be disposed of on the basis of written representations. They revoke and replace, with amendments, the Town and Country Planning (Appeals) (Written Representations Procedure) Regulations 1987, which are revoked in relation to England only subject to the transitional provisions in regulation 12.

The main changes made by the Regulations are—

- (a) the local planning authority must notify statutory consultees and interested persons of the appeal within 2 weeks of the starting date and the power to make confidential representations has been removed (regulation 5);
- (b) strict time limits for the submission of representations and further comments on representations have been imposed. The Secretary of State is required to forward copies of representations and comments to the other parties as soon as practicable after receipt (regulation);
- (c) time limits are extended for notified interested parties to submit representations to the Secretary of State and the Secretary of State has the power to disregard comments made by the local planning authority on interested persons representations where the local planning authority has not notified interested persons correctly (regulation 8);
- (d) the Secretary of State is given power to disregard written representations not submitted within the relevant time limits (regulation 10);
- (e) where an appeal has resulted from a direction of the Mayor of London to refuse an application the Mayor is to be given opportunity to make representations and comment on representations within the relevant time limits, in the same way as the local planning authority and appellant (regulation 11).

A Regulatory Impact Appraisal has been prepared in relation to the Regulations. It has been placed in the Library of each House of Parliament and copies may be obtained from PD3B, Department of the Environment, Transport and the Regions, Eland House, Bressenden Place, London SW1E 5DU (Telephone 020-7944-3945).