# New Regulations 2017 – Quick Guide

**The Town and Country Planning (referred applications and Appeals Procedure)(Wales) Regulations 2017**

**Applies to:**

- Applications made on or after 5 May 2017
- Enforcement notices issued on or after 5 May 2017

1. Planning Appeals – S.78 Town and Country Planning Act
2. Enforcement Notice Appeals – S.174 Town and Country Planning Act
3. Householder appeals - S.78 (1)(a) Town and Country Planning Act
4. Minor Commercial appeals - S.78(1)(a) Town and Country Planning Act
5. Advertisement Appeals – S.220 Town and Country Planning Act
7. Listed building and Conservation area enforcement notice appeals - S.39 Listed Buildings Act
9. Call-ins – S.77 of Town and Country Planning Act
10. Listed building or Conservation Area Consent Call-in – S.12 Listed Buildings Act
11. Tree Preservation Order appeals – S198 Town and Country Planning Act
12. Tree Replacement Appeals - S.208 Town and Country Planning Act
13. Hazardous Substances Consent application – s.20 Hazardous Substances act
15. Hazardous Substances Contravention notice appeals – S174 of Town and Country Planning Act as applied by reg.16 of and part 1 of sch. 4 to the Planning (Hazardous Substances) (Wales) Regulations 2015
16. **Maintenance of Land Notice Appeal (NEW) - S.217 Town and Country Planning Act -**

(1) If it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under section 215 of the Town and Country Planning Act.

(2) The notice shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified.

The regulations replace the existing procedure rules and regulations which set out the procedure for above appeals/applications.

The main changes are as follows:

**Regulation 15 – Notification of receipt of appeal**

**For enforcement appeals** (or any with a fee) - the appeal can only be started once the fee has been paid. The fee must be requested upon receipt and the LPA must inform us when/if it has been received (See The Town and Country Planning (Fees for applications and Site Visits) (Wales) (Amendment) Regulations 2017)

**PART 3 – Procedure for Householder, Advertisement Consent and Minor Commercial Appeals**

**Only applies where:**

(a) a householder, advertisement consent or minor commercial appeal is made in relation to an application; and  
(b) the Welsh Ministers determine that it is a matter which is to be determined on the basis of written representations only

**Reg 19 – Representations**

- The appellant’s representations (other than a referred application) will be deemed to comprise the notice of appeal and the documents accompanying it.

- The appellant’s representations in relation to a referred application (*e.g., call-ins; hazardous substances consent application*) will be deemed to comprise the application and its supporting documents.

- The completed questionnaire and the documents sent with it comprise the local planning authority’s representations.
We must as soon as practicable after receipt, send a copy of the representations made by the local planning authority to the appellant and must send a copy of the representations made by the appellant to the local planning authority.

**PART 4 – Written Representations**

**Applies where:**

(a) Notice of appeal has been received; and
(b) the Welsh Ministers determine that it is a matter which is to be determined on the basis of written representations, a hearing, an inquiry or combined proceedings; or
(c) An appeal has been transferred from Part 3

**NOTE:** This part also applies to the representations required for appeals following the hearing, inquiry or combined procedures

Reg 22. Representations

- The appellant’s representations (other than a referred application) will be deemed to comprise the notice of appeal and the documents accompanying it. - Appellants must submit a full statement of case with their notice of appeal.
- The appellant’s representations in relation to a referred application (e.g. call-ins; hazardous substances consent application) will be deemed to comprise the application, its supporting documents and if appellant elects a full statement of case.

**For Appeals (other than referred applications and Enforcements)**

- LPA must submit a full questionnaire, and notify interested persons so as to be received within 5 working days, of the start date letter

The LPA may

- Chose to treat the questionnaire and docs accompanying it as their reps for the appeal. If they do, they must inform us and the appellant when they send a copy of their questionnaire; or
- Elect to submit a full statement of case

**For Referred applications**

- Lpa may elect to submit a full statement of case

**For Enforcement Appeals and Discontinuance Notices**
• The LPA must submit a full statement of case to us which, together with the questionnaire will comprise the LPA’s representations

Full Statements

• The LPA must send two copies of their full statement of case to be received within 4 weeks of the starting date.
• We must send a copy to the appellant; and
• For enforcement appeals- to any person who was served with a copy of the enforcement notice.

Reg 23. Interested person Reps

• May send reps so as to be received within 4 weeks of starting date.
• We must send copy to appellant and LPA

Reg. 24. Further Representations (Final comments)

• The appellant, LPA and interested persons may send written comments on each other’s reps within the representation period (6 weeks)
• We must send copy of comments of each party to the other parties.

PART 5 – HEARINGS

Reg 29. Date, Place and notification of hearing

• We must fix the date for the hearing no later than 4 weeks after the end of the representation period (by week 10)
• If not possible then it must be the earliest date possible
• We must give at least 4 weeks written notice of the date, time and place of the hearing to the appellant, the lpa and anyone invited
• The written notice must identify the matters to be determined at the hearing and name the Inspector. (The Inspectors/WM’s are able to identify matters to be determined at the event; the matters which require further information and whether that information is to be given in writing or at an event

Reg 31. Participation in a hearing

• Persons who may take part in a hearing are the appellant; the lpa and anyone invited by us.
• However, we are not excluded from permitting any other person to take part in a hearing

PART 6 – INQUIRIES

Reg 38. Participation in an inquiry
• Persons who may take part in an inquiry are the appellant; the LPA and anyone invited by us.
• However, we are not excluded from permitting any other person to take part in an inquiry

Reg 40. Pre-inquiry meetings
• We must give not less than 2 weeks written notice of PIM to the appellant; the LPA and any person invited to take part.

Reg 41. Inquiry timetable
• The appointed Inspector may prepare a timetable for the inquiry, and may vary it at any time.
• The Inspector may specify a date for written statements of evidence and summary to be submitted

Reg 42. Date, Place and notification of Inquiry
• We must fix the date for the hearing no later than 12 weeks after the end of the representation period (by week 18); or
• Where a PIM is held 4 weeks after the conclusion of that meeting (or shorter is agreed by appellant, LPA and Inspector)
• If not possible then it must be the earliest date possible
• We must give at least 4 weeks written notice of the date, time and place of the Inquiry to the appellant, the LPA and anyone invited
• The written notice must identify the matters to be determined at the Inquiry and name the Inspector.

Reg 44. Written Statements of Evidence
• If the appellant, LPA, or person invited to inquiry propose to give, or call somebody to give evidence by reading a written statement:
  ▪ the appellant must send one copy of the statement, together with a written summary, to the LPA;
  ▪ the LPA must send one copy of the statement, together with a written summary, to the appellant;
  ▪ the appellant and LPA must also send a copy of their statement, together with a written summary, to us;
  ▪ each person invited to take part in the inquiry must send one copy of their statement, together with a written summary, to us.
• No written summary is required where the statement of evidence proposed to be read contains no more than 1,500 words.
• The statement of evidence and any summary must be received by us no later than—
  ▪ 4 weeks before the date fixed for the inquiry; or
  ▪ where a timetable has been arranged under regulation 41, the date specified in that timetable.
The Town and Country Planning (Development Management Procedure) (Wales)(Amendment) Order 2017

This order amends the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2012.

- The order requires, for planning appeals (with the exception of Householder and Minor Commercial Appeals), appellants to submit all of the information and evidence they intend to rely upon - their full statement of case with their notice of appeal. This must also be sent to the LPA.

- For consistency with other appeals, the Order sets a time limit for appeals where they relate to the Lawful Development Certificates, so an appeal must be made within 6 months of the decision. This does not apply to appeals against non-determination.

- The order provides circumstances in which an application may be varied once notice of appeal has been served. Appellants seeking to vary an application from that considered by the LPA will be advised the variation is not permitted. If they wish to amend or revise a proposal, this should be done by making a new application. However, it may be varied if it contains a correctable error. Article 26 C (Inserted by Article 7) states that a “correctable error” means an error which —

  (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.”

The Town and Country Planning (Enforcement notices and Appeals)(Wales) Regulations 2017

Note: Revoke and replace the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003

Applies to: Enforcement Notice; Tree Replacement Notice; maintenance of land notice and listed building enforcement appeals issued on or after 5 May 2017

- The Regulations set out an amended explanatory note which is to accompany enforcement notices served by the LPAs

- Appellants in relation to planning enforcement notice appeals, listed building enforcement notice appeals and appeals against notices requiring
the proper maintenance of land are required to submit a full statement of case with their notice of appeal.

- If a full statement of case is not submitted with the appeal, **appellants have a further 7 days beginning with the day on which the appeal is received** to submit one (or such longer period as the WM may allow, provided this is authorised by them in writing before the date specified in the enforcement notice as the date on which it is to take effect)

- The appellant is also required to send a copy of their notice and full statement of case to the relevant LPA.

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**The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits)(Wales) (Amendment) Regulations 2017**

**Note: Amends The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits)(Wales) Regulations 2015**

- We must send a copy of the notice requesting the fee to the LPA at the same time as the appellant
- The LPA must inform us when the appellant has paid the fee or not paid the fee within the time limit.

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

These regulations amend the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012.

- The Regulations required notice of a listed Building consent or conservation area consent appeal to be accompanied by a full statement of case and for the appellants to send a copy of their notice of appeal and full statement of case to the relevant LPA

- The order provides circumstances in which an application may be varied once notice of appeal has been served. Once a notice of appeal has been served appellants seeking to vary an application from that considered by the LPA will be advised the variation is not permitted. If they wish to amend or revise a proposal, this should be done by making a new application. However there are circumstances in which an amendment may be accepted. (The procedural guidance covers these areas).

**The Development Management Manual Section 12 Annex: Award of costs**

**Note: This guidance revokes and replaces existing Welsh Office Circular 23/93’ Awards of Costs incurred in Planning and Other (including Compulsory Purchase Order) Proceedings.**

- It provides guidance on the awards of costs for planning related appeals and applications before the Welsh Ministers.
Applications for an award of costs are now applicable regardless of choice of procedure on any appeal related to an application made on or after 05 May 2017. The costs application should accompany the appeal submission unless a good reason can be provided as to why they could not do so.

**The Town and Country planning (Trees)(Amendment)(Wales) Regulations 2017**

Note: Amends provisions in Part 1 and removes Part 2 of Schedule 2 to the order

- A notice of appeal must be accompanied by a full statement of case and supporting documents
- The appellant must send a copy of the notice of appeal and full statement of case to the LPA

**The Town and Country planning (Control of Advertisements) (Amendment)(Wales) Regulations 2017**

Note: Amends The Town and Country planning (Control of Advertisements) Regulations 2017 and Removes Part 4 of schedule 4

- A notice of appeal must be accompanied by a full statement of case and supporting documents for the following appeals –
  - Against the grant of express consent which is granted subject to conditions;
  - Where the LPA has failed to determine an application for express consent
  - In relation to discontinuance notices
- The appellant must send a copy of the notice of appeal and full statement of case to the LPA

**The Planning (Hazardous Substances) (Wales) (Amendment) Regulations 2017**

Note: Amends The planning (Hazardous Substances) (Wales) Regulations 2015

- Applications referred to Welsh Ministers under S20 of the Planning (Hazardous Substances) act 1990 (PHSA) – applicant must provide full statement of case with specified timescale if applicant so chooses
- Appeals under S 21 of the PHSA – to be accompanied by full statement of case and copy sent to the HAS
- Provision under S21(3E & 3(F) of the PHSA – a circumstance in which an application may be varied once notice of appeal has been served and provides for an application which is varied to be the subject of further consultation as WM consider appropriate
- Hazardous Substances Contravention notices – full statement of case to be sent within specified period and the appellant the send a copy of the notice of appeal and full statement of case to the HSA

## Old Regulations Vs New Regulations

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<th>Process</th>
<th>Applications received by the Local planning Authority before 5th May 2017</th>
<th>Applications received by the Local planning Authority on or after 5th May 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal Received</td>
<td>PINS start date letter confirming receipt of valid appeal and setting timetable for further submissions.</td>
<td>PINS start date letter confirming receipt of valid appeal and setting timetable for further submissions.</td>
</tr>
<tr>
<td></td>
<td><strong>Appellant submits Grounds of Appeal.</strong></td>
<td><strong>Full statement of case from appellant required. Initial assessment made in relation to the procedure.</strong></td>
</tr>
<tr>
<td>LPA</td>
<td>Within 2 weeks from the start date.</td>
<td>Within 5 working days of the start date.</td>
</tr>
<tr>
<td>Questionnaire &amp; third party notification</td>
<td>Within 6 weeks from the start date.</td>
<td>N/A</td>
</tr>
<tr>
<td>Statement of case from appellant</td>
<td>Within 6 weeks of the start date.</td>
<td>Within 4 weeks of the start date (If the LPA decides not to treat the questionnaire as its full representation)</td>
</tr>
<tr>
<td>Statement of case from LPA</td>
<td>Within 6 weeks of the start date.</td>
<td>Within 4 weeks of the start date.</td>
</tr>
<tr>
<td>Third party representations</td>
<td>Within 6 weeks of the start date.</td>
<td>Within 4 weeks of the start date.</td>
</tr>
<tr>
<td>LPA and Appellant final comments</td>
<td>Within 9 weeks of the start date.</td>
<td>Within 6 weeks of the start date.</td>
</tr>
<tr>
<td>Third party representations final comments</td>
<td>N/A</td>
<td><strong>Within 6 weeks of the start date.</strong></td>
</tr>
</tbody>
</table>

**NB. This does not apply to Householder, Minor Commercial, Advert Appeals**
## Enforcement

<table>
<thead>
<tr>
<th>Process</th>
<th>Enforcements received on or after 5&lt;sup&gt;th&lt;/sup&gt; May 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal Received</td>
<td>Appeal must be processed <strong>immediately</strong>. Fee must be requested and if required 7 days given for full statement of case where required.</td>
</tr>
<tr>
<td>Full statement of case and Fee Received</td>
<td>PINS start date letter setting start date and timetable for further submissions.</td>
</tr>
<tr>
<td></td>
<td><strong>Initial assessment made in relation to the procedure.</strong></td>
</tr>
<tr>
<td>LPA Questionnaire &amp; third party notification</td>
<td>Within 5 working days of the start date.</td>
</tr>
<tr>
<td>Statement of case from appellant</td>
<td>N/A</td>
</tr>
<tr>
<td>Statement of case from LPA</td>
<td>Within 4 weeks of the start date</td>
</tr>
<tr>
<td>Third party representations</td>
<td>Within 4 weeks of the start date.</td>
</tr>
<tr>
<td>LPA and Appellant final comments</td>
<td>Within 6 weeks of the start date.</td>
</tr>
<tr>
<td>Third party representations final comments</td>
<td><strong>Within 6 weeks of the start date.</strong></td>
</tr>
<tr>
<td>Examination of procedure</td>
<td>6 weeks file to Inspector to decide on procedure</td>
</tr>
</tbody>
</table>