
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace, as to England only, the Town and Country Planning (Control of Advertisements) Regulations 1992 (“the principal Regulations”). Many provisions of the principal Regulations are carried forward subject, in some cases, to minor drafting changes. The opportunity has been taken to re-order some of the material.

Regulation 1(3) specifies cases in which Parts 2 and 3 of the Regulations do not apply. Where the display of an advertisement within any of the Classes in Schedule 1 except Class F complies with the conditions and limitations specified in that Schedule as applicable to advertisements of that Class and also with the conditions specified in Schedule 2 (“the standard conditions”), Parts 2 and 3 of the Regulations do not apply. Those Parts do not apply to Class F advertisements if the conditions and limitations set out in Schedule 1 for that Class are met and if the requirements of paragraphs 1 to 3 and 5 of the standard conditions are complied with.

Regulation 2 defines some of the terms used in the Regulations.

Regulation 3 requires local planning authorities to exercise their powers under the Regulations in the interests of amenity and public safety, taking into account material provisions of the development plan and any other relevant factors.

Regulation 4 prohibits the display of advertisements unless the display has either deemed consent (Part 2 of the Regulations) or express consent (Part 3 of the Regulations), unless the advertisement is one to which regulation 1(3) applies. Paragraph (3) of regulation 4 allows account to be taken of any material change in circumstances likely to occur within the period for which the consent is required.

Regulation 5 specifies the effect of consent for the display of advertisements.

In Part 2, regulation 6 grants deemed consent for the display of an advertisement of any class specified in Part 1 of Schedule 3, subject to the standard conditions and the conditions and limitations specified in Part 1 of Schedule 3 in relation to that class. Regulation 7 enables a local planning authority to ask the Secretary of State to direct that express consent is required before advertisements for which deemed consent would otherwise be available may be displayed. Directions may not be given in respect of advertisements in Class 12 (advertisements inside buildings) or 13 (advertisements on sites used for preceding ten years for display of advertisements without consent) in Part 1 of Schedule 3. There are procedures for giving notice of proposals for directions, and of the making of directions. Regulation 8 enables a local planning authority to remedy what appears to the authority to be a substantial injury to the amenity of the locality or a danger to members of the public, by serving a discontinuance notice. A discontinuance notice may require the display of a particular advertisement for which there is deemed consent, or the use of a particular site for the display of advertisements for which there is deemed consent, to be discontinued. A discontinuance notice may not be served in relation to an advertisement which is within both Class 12 in Part 1 of Schedule 3 (advertisements inside buildings) and Class E or Class F in Schedule 1 (advertisements relating to certain elections or referendums, or required to be displayed by Parliamentary standing orders, enactments or conditions imposed by any enactment on the exercise of any function).

Part 3 of the Regulations deals with express consent for the display of advertisements. Regulation 9 specifies the procedure for making an application for express consent. Alternative forms and procedures may be used for the first six months following the coming into force of these Regulations. Regulation 10 applies, with modifications, section 77 of the Town and Country Planning Act 1990 (“the 1990 Act”), which enables the Secretary of State to direct that an application be made to her where it is an application for express consent made by an interested planning authority (defined in section 316 of the 1990 Act, as substituted by section 20 of the

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Planning and Compensation Act 1991 (c. 34)). Regulation 11 enables the Secretary of State to give directions to a local planning authority, either generally or in relation to a particular case or class of case, specifying the kinds of particulars, plans or information that are to accompany an application for express consent.

Regulation 12 specifies the steps to be taken by a local planning authority on receipt of an application and regulation 13 requires the authority to consult before granting express consent. Regulation 14 sets out a local planning authority's powers once an application has been received. The authority may grant consent or refuse consent or, in the two cases mentioned below, decline to deal with the application. The first case is where the authority cannot lawfully grant consent for the display of the advertisement because of the provisions of regulation 21(1). The second case is where, within the period of two years ending with the date on which the application is received, the Secretary of State has dismissed an appeal against the refusal of a similar application and, in the authority's opinion, there has been no significant change in any material consideration since that dismissal. These two cases depend on a modified version of section 70A of the 1990 Act. The modifications are specified in Part 1 of Schedule 4, and the provisions of section 70A, as so modified, are set out in Part 2 of that Schedule.

Regulation 15 deals with applications by interested local planning authorities. Regulation 16 specifies the steps to be taken by a local planning authority once express consent has been granted. Regulation 17 deals with appeals to the Secretary of State. Sections 78 and 79 of the 1990 Act are applied with the modifications specified in Part 3 of Schedule 4. The provisions of those sections as so modified are set out in Part 4 of that Schedule. Where there is an appeal against a discontinuance notice, those sections are modified as shown in Part 5 of that Schedule.

Regulation 18 enables a local planning authority to make an order revoking or modifying an express consent. Such an order has no effect unless it is approved by the Secretary of State.

Regulation 19 deals with claims for compensation arising from an order under regulation 18. Part 4 of the Regulations is concerned with areas of special control. Regulation 20 enables a local planning authority to make an area of special control order. Such an order may be made only on amenity grounds, and has no effect unless approved by the Secretary of State. The procedure is set out in Schedule 5. That Schedule also deals with the procedure for revoking or modifying an area of special control order. Regulation 21 provides that, in an area of special control, only advertisements of any class in Schedule 1 or any of Classes 1 to 3, 5 to 7 and 9 to 14 in Schedule 3 may be displayed without express consent. Certain other advertisements may be displayed if express consent has been granted (regulation 21(2)). Regulation 21(4) contains special provisions allowing certain advertisements that were displayed immediately before the coming into force of an area of special control order to be continued for a limited period.

In Part 5, regulation 22 allows certain documents to be sent or notices to be given by email or publication on a web-site.

Regulation 23 prescribes a time limit for making a claim under section 223 of the Act for compensation for the repayment of expenses reasonably incurred in removing prohibited advertisements. Claims must be made within 6 months from the completion of the works.

Regulation 24 requires each local planning authority to keep a register of applications, decisions and directions relevant to the display of advertisements. The register is to be available for public inspection.

Regulation 25 enables the Secretary of State to require local planning authorities to provide her with information for the purpose of any of her functions under the Regulations.

Regulation 26 enables the Secretary of State to make a discontinuance order or to make or revoke an area of special control order.

Regulation 27 enables the Secretary of State to make a discontinuance order in respect of the display of advertisements by a local planning authority.

Regulation 28 enables the Secretary of State to extend the time within which anything is required to be done under the Regulations or within which any objection, representation or claim for compensation may be made.

Regulation 29 provides that any direction given under the Regulations may be cancelled or varied by a subsequent direction.

Regulation 30 specifies the penalty on summary conviction for an offence under section 224(3) of the 1990 Act for displaying an advertisement in contravention of the Regulations. The penalty is a fine of an amount not exceeding level 4 on the standard scale (£2,500 as at the date on which the Regulations were made). In the case of a continuing offence, the maximum fine is one tenth of level 4 on the standard scale for each day during which the offence continues after conviction.

Regulation 31 allows certain advertisements that were displayed immediately before the coming into force of the Regulations to be continued for a limited period.

Regulation 32 provides for the principal Regulations (the Town and Country Planning (Control of Advertisements) Regulations 1992) to cease to have effect in relation to England, but to continue to apply for the purpose of considering or determining any application or appeal (or further appeal) made before the coming into force of these Regulations. Directions given by the Secretary of State under the principal Regulations in relation to matters affecting any part of England, and special control orders made under those Regulations in relation to any part of England are unaffected. Where, after the coming into force of these Regulations, the Secretary of State re-determines an application or appeal made under the principal Regulations, the re-determination is to be made by reference to these Regulations.

A full regulatory impact assessment 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 the Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU or viewed at www.communities.gov.uk

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