

**2008 No. 595**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Amendment) (England) Regulations 2008**

<i>Made</i>	- - - -	<i>5th March 2008</i>
<i>Laid before Parliament</i>		<i>12th March 2008</i>
<i>Coming into force</i>	- -	<i>6th April 2008</i>

The Secretary of State, in exercise of the powers conferred by section 333 of, and paragraph 1 of Schedule 6 to, the Town and Country Planning Act 1990(a), section 93 of, and paragraph 1 of Schedule 3 to, the Planning (Listed Buildings and Conservation Areas) Act 1990(b), and section 40 of, and paragraph 1 of the Schedule to, the Planning (Hazardous Substances) Act 1990(c), makes the following Regulations—

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Amendment) (England) Regulations 2008 and shall come into force on 6th April 2008.

(2) These Regulations apply in relation to England only.

**Amendment of Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997**

2.—(1) The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997(d) are amended as follows.

(2) In regulation 3 (classes of appeal for determination by appointed persons)—

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- (a) 1990 c.8; paragraph 1 of Schedule 6 was amended by the Environment Act 1995 (c.25), Schedule 22, paragraph 44. These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672: see the entry in Schedule 1 for the Town and Country Planning Act 1990 as substituted by Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32) they were transferred to the Welsh Ministers.
- (b) 1990 c.9; These powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see the entry in Schedule 1 for the Planning (Listed Buildings and Conservation Areas) Act 1990. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.
- (c) 1990 c.10; these powers are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672: see the entry in Schedule 1 for the Planning (Hazardous Substances) Act 1990. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.
- (d) S.I. 1997/420. Relevant amendments were made by S.I. 2006/2227.

- (a) in sub-paragraph (a) of paragraph 1, at the end add, “and appeals under that section as applied by section 198(3)(c) and (4) of the principal Act<sup>(a)</sup> (appeals concerning tree preservation orders)”;
- and
- (b) at the end of paragraph (1), add—
  - “(d) appeals under section 208 of the principal Act (appeals against section 207 notices – replacement of trees);
  - (e) appeals under paragraph 11(1) of Schedule 13 and paragraph 9(1) of Schedule 14 to the Environment Act 1995 (appeals against the determination of conditions to be attached to mineral permissions).”.
- (3) At the end of regulation 3, add—
  - “(3) Appeals under section 21 of the Planning (Hazardous Substances) Act 1990 (appeals against decisions or failure to take decisions relating to hazardous substances) are prescribed, for the purposes of paragraph 1 of the Schedule to the Planning (Hazardous Substances) Act 1990, as classes of appeals which are to be determined by a person appointed by the Secretary of State instead of by the Secretary of State.”.
- (4) In regulation 4 (classes of appeal reserved for determination by the Secretary of State), omit paragraph (f).

### **Saving**

3. These Regulations do not apply to any appeal in respect of which notice of appeal was given to the Secretary of State before these Regulations come into force.

Signed by authority of the Secretary of State

5th March 2008

*Iain Wright*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

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(a) “The principle Act” means the Town and Country Planning Act 1990; see the definition in regulation 2 of S.I.1997/420.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997 (“the principal Regulations”). The principal Regulations prescribe the classes of appeal which are to be determined by persons appointed by the Secretary of State in accordance with the provisions of Schedule 6 to the Town and Country Planning Act 1990 (“the Act”), Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Schedule to the Planning (Hazardous Substances) Act 1990 instead of being determined by the Secretary of State.

Regulations 3(2) and 3(3) amend the principal Regulations by prescribing the following classes of appeal as appeals to be determined by an appointed person instead of by the Secretary of State—

- (a) appeals concerning tree preservation orders under section 78 of the Act, as applied by section 198 of the Act;
- (b) appeals concerning tree replacement notices under section 208 of the Act;
- (c) appeals concerning the determination of conditions attached to mineral permissions under paragraph 11(1) of Schedule 13 and paragraph 9(1) of Schedule 14 to the Environment Act 1995; and
- (d) appeals concerning hazardous substances consent under section 21 of the Planning (Hazardous Substances) Act 1990.

Regulation 3(4) amends the principal Regulations, by excluding from the reserved classes of appeal, appeals relating to buildings for which grants have been made under section 3A or 4 of the Historic Buildings and Ancient Monuments Act 1953 (c.49). Section 3A of that Act was inserted by section 33 of, and paragraph 3 of Schedule 4 to, the National Heritage Act 1983 (c. 47). These appeals will now be determined by a person appointed by the Secretary of State.

An impact assessment has been prepared in relation to these Regulations. It has been placed in the Library of each House of Parliament and is available on the internet at [www.communities.gov.uk](http://www.communities.gov.uk). Copies can be obtained by post from the Planning Central Casework Division, Department for Communities and Local Government, Eland House, Bressenden Place, London SW1E 5DU.

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Appointed Persons) (Prescribed Classes) (Amendment)  
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