

**2014 No. 553**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Enterprise and Regulatory Reform Act 2013 (Listed Buildings Certificate of Lawfulness) (Hearings and Inquiries Procedures) (Consequential Amendments) (England) Order 2014**

<i>Made</i> - - - -	<i>10th March 2014</i>
<i>Laid before Parliament</i>	<i>13th March 2014</i>
<i>Coming into force</i> - -	<i>6th April 2014</i>

The Secretary of State makes the following Order in exercise of the power conferred by section 99 of the Enterprise and Regulatory Reform Act 2013(a).

**Citation, commencement and application**

1.—(1) This Order may be cited as the Enterprise and Regulatory Reform Act 2013 (Listed Buildings Certificate of Lawfulness) (Hearings and Inquiries Procedures) (Consequential Amendments) (England) Order 2014 and comes into force on 6th April 2014.

(2) This Order applies in relation to England only.

**Amendment of the Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002**

2.—(1) The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002(b) are amended in accordance with this article.

(2) In rule 2 (interpretation)—

(a) after the definition of “the Listed Buildings Act” insert—

“Listed Buildings Act certificate of lawfulness” means a certificate under section 26H of the Listed Buildings Act(c);” and

(b) in the definition of “local planning authority”, after paragraph (b), insert—

“(c) an appeal against the refusal or non-determination of an application for a Listed Buildings Act certificate of lawfulness, the body to whom that application was made;”.

(3) In rule 3 (application of the rules) after paragraph (1)(b) insert—

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(a) 2013 c. 24.

(b) S.I. 2002/2684; amended by S.I. 2003/956, 2006/1282 and 2013/2146.

(c) Section 26H was inserted into the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) by section 61 of the Enterprise and Regulatory Reform Act 2013 (c. 24).

“(ba) section 26K of the Listed Buildings Act (appeal against a refusal or failure to give a decision on an application for a Listed Buildings Act certificate of lawfulness)(a);”.

(4) In rule 9 (appearances at hearing), in paragraph (1)(d), after “an appeal under section 195 of the Planning Act” insert “or an appeal under section 26K of the Listed Buildings Act”.

### **Amendment of the Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002**

**3.**—(1) The Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002(b) are amended as follows.

(2) In rule 2 (interpretation)—

(a) after the definition of “the Listed Buildings Act” insert—

“Listed Buildings Act certificate of lawfulness” means a certificate under section 26H of the Listed Buildings Act(c);”; and

(b) in the definition of “local planning authority”, after paragraph (1)(b), insert—

“(c) an appeal against the refusal or non-determination of an application for a Listed Buildings Act certificate of lawfulness, the body to whom that application was made;”.

(3) In rule 3 (application of the rules), after paragraph (1)(b), insert—

“(ba) section 26K of the Listed Buildings Act (appeal against a refusal or failure to give a decision on an application for a Listed Buildings Act certificate of lawfulness)(d);”.

(4) In rule 11 (appearances at inquiry) in paragraph (1)(f) after “an appeal under section 195 of the Planning Act” insert “or an appeal under section 26K of the Listed Buildings Act”.

### **Amendment of the Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002**

**4.**—(1) The Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002(e) are amended as follows.

(2) In rule 2 (interpretation)—

(a) after the definition of “the Listed Buildings Act” insert—

“Listed Buildings Act certificate of lawfulness” means a certificate under section 26H of the Listed Buildings Act(f);”; and

(b) in the definition of “local planning authority” after paragraph (1)(b) insert—

“(c) an appeal against the refusal or non-determination of an application for a Listed Buildings Act certificate of lawfulness, the body to whom that application was made;”.

(3) In rule 3 (application of the rules), after paragraph (1)(b), insert—

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- (a) Section 26K was inserted into the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) by section 61 of the Enterprise and Regulatory Reform Act 2013 (c. 24).
- (b) S.I. 2002/2685; amended by S.I. 2003/956, 2008/2831 and 2013/2146.
- (c) Section 26H was inserted into the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) by section 61 of the Enterprise and Regulatory Reform Act 2013 (c. 24).
- (d) Section 26K was inserted into the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) by section 61 of the Enterprise and Regulatory Reform Act 2013 (c. 24).
- (e) S.I. 2002/2686; amended by S.I. 2003/956, 2006/1282, 2008/2831 and 2013/2146.
- (f) Section 26H was inserted into the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) by section 61 of the Enterprise and Regulatory Reform Act 2013 (c. 24).

“(ba) section 26K of the Listed Buildings Act (appeal against a refusal or failure to give a decision on an application for a Listed Buildings Act certificate of lawfulness)(a);”.

(4) In rule 13 (appearances at inquiry), in paragraph (1)(f), after “an appeal under section 195 of the Planning Act” insert “or an appeal under section 26K of the Listed Buildings Act”.

Signed by authority of the Secretary of State for Communities and Local Government

*Nick Boles*

Parliamentary Under Secretary of State

Department for Communities and Local Government

10th March 2014

### **EXPLANATORY NOTE**

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

The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002, the Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002 and the Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002 (together “the 2002 Rules”) between them set out the procedures to be followed in connection with hearings and local inquiries held for the purposes of, amongst other things, appeals against the refusal or non-determination of an application for a certificate of lawful use or development under section 195 of the Town and Country Planning Act 1990 (“the 1990 Act”).

The Enterprise and Regulatory Reform Act 2013 introduced a new section 26H into the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Building Act”) which provides that anyone who wishes to ascertain whether proposed works for the alteration or extension of a listed building would be lawful may make an application to the local planning authority for a certificate of lawfulness of proposed works. Section 26H broadly mirrors the provisions of section 192 of the 1990 Act in respect of certificates of lawfulness of proposed use or development in the planning system. Section 26K of the Listed Buildings Act gives a right of appeal equivalent to that under section 195 of the 1990 Act.

This Order makes consequential amendments to the 2002 Rules so as to extend the procedures which apply to appeals under section 195 of the 1990 Act to appeals under section 26K of the Listed Buildings Act.

A full impact assessment has not been prepared for this instrument, as impacts of the measures to which the order relates were considered as part of the impact assessments prepared for the *Consultation on Improvements to the system of Listed Building Consents* (published in August 2012). The consultation impact assessments are available at: <https://www.gov.uk/government/consultations/consultation-on-improvements-to-the-system-of-listed-building-consents>.

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(a) Section 26K was inserted into the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) by section 61 of the Enterprise and Regulatory Reform Act 2013 (c. 24).

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