

Statutory Document No. 2019/0422



Town and Country Planning Act 1999

TOWN AND COUNTRY PLANNING (MISCELLANEOUS AMENDMENTS) REGULATIONS 2019

Approved by Tynwald: 19 November 2019

Coming into Operation in accordance with regulation 2

The Department of Environment, Food and Agriculture makes the following Regulations under sections 15(5), 19(3), 20(2) and (3), 22, 24 and 35 of the Town and Country Planning Act 1999.

PART 1 – INTRODUCTORY

1 Title

These Regulations are the Town and Country Planning (Miscellaneous Amendments) Regulations 2019.

2 Commencement

If approved by Tynwald, these Regulations come into operation immediately following the coming into operation of the Town and Country Planning (Development Procedure) Order 2019¹.

PART 2 – AMENDMENT OF THE TOWN AND COUNTRY PLANNING (REGISTERED BUILDINGS) REGULATIONS 2013

3 Amendment of the Town and Country Planning (Registered Buildings) Regulations 2013

The Town and Country Planning (Registered Buildings) Regulations 2013² are amended in accordance with this Part.

¹ SD 2019/0423.

² SD 0432/13.

4 Amendment of regulation 3

In regulation 3 (interpretation) —

- (a) number the existing paragraph as “(1)”;
- (b) after the newly numbered paragraph (1), add —

33(2) Any —

- (a) document, plan, drawing, illustration or other thing required under these Regulations to be given (howsoever expressed) may be given by electronic means provided the intended recipient is able, and willing, to receive it by those means;
- (b) plan, drawing or illustration given under these Regulations must include a statement setting out its metric scale when printed or reproduced on a particular size of paper (for example “1:100 when printed on A4 paper”). **34**

5 Amendment of regulation 7

(1) Regulation 7 (applications relating to registered building consent and de-registration of buildings), is amended as follows.

(2) In paragraph (1), for the full-out words substitute —

35 must be made on a form supplied by the Department and be accompanied by such plans, drawings and information as the Department, either generally or in a particular case, may direct **36**.

(3) In paragraph (2), omit “signed”.

(4) Omit paragraph (4).

6 New regulation 7A

After regulation 7, add —

377A Similar applications

(1) The Department may refuse an application referred to in regulation 7 without preparing and publishing a notice of application under regulation 8 where—

- (a) that application is, in accordance with these Regulations, to be determined by the Department; and
- (b) the Department considers that application to be a similar application.

(2) Where the Department refuses an application under paragraph (1), it must give the applicant a notice setting out the reasons for that refusal and stating that its decision is final and binding

- subject only to the possibility of judicial review by petition of doleance.
- (3) The Council of Ministers may refuse an application where —
- (a) that application is, in accordance with these Regulations, to be determined by the Council; and
 - (b) the Council considers that application in question to be a similar application.
- (4) Where the Council of Ministers refuses an application under paragraph (3) the Chief Secretary must give the applicant a notice setting out the reasons for that refusal and stating that the decision is final and binding subject only to the possibility of judicial review by petition of doleance.
- (5) A “similar application” is an application (“application B”) made under article 7 which is not materially different to an application for de-registration, registered building consent or the variation or discharge of conditions (“application A”) which has been determined within the applicable 5 year period.
- (6) The applicable 5 year period —
- (a) begins with —
 - (i) if an appeal was submitted in respect of application A, the day on which the appeal decision notice in respect of that appeal was issued; or
 - (ii) if no such appeal was submitted, the last day on which such an appeal could have been submitted; and
 - (b) ends with the day on which the application B was submitted to the Department.
- (7) For the avoidance of doubt, where this article applies articles 8 to 14 do not. **22**

7 Amendment of regulation 8

- (1) Regulation 8 (notice of application) is amended as follows.
- (2) In paragraph (3) —
- (a) in sub-paragraph (a) —
 - (i) after “the applicant” where it first appears, insert “or the applicant’s agent (where appropriate) requiring that person”;
 - (ii) omit paragraph (i);
 - (b) for sub-paragraphs (b) and (c) substitute —

- (b) notify Manx National Heritage and the local authority for the district in which the land subject to that application is situated, of that application and the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms); and
 - (c) cause the matters referred to in sub-paragraphs (a) to (e) of paragraph (1) to be published —
 - (i) in at least one newspaper circulating in the Island; or
 - (ii) by such other means as the Department considers appropriate. **22**.
- (3) After paragraph (3), add —
 - (4) Where a local authority is notified of the application under paragraph (3)(b), it may publicise the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms), in any manner it sees fit. **22**

8 Amendment of regulation 9

- (1) Regulation 9 (determination of application) is amended as follows.
- (2) In paragraph (4), omit sub-paragraph (b).
- (3) In paragraph (5), omit the words from “except where” to “regulation 7(4)”.

9 Amendment of regulation 11

- (1) Regulation 11 (appeal from decisions of the Department) is amended as follows.
- (2) In paragraph (1) —
 - (a) omit “signed by that person”;
 - (b) for sub-paragraph (c) substitute —
 - (c) an election to have the appeal determined by means of an inquiry (if that is required) together with the fee payable in respect of such an inquiry as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015. **22**
- (3) In paragraph (3)(a), after “inquiry” insert “and if so, to pay the fee payable in in respect of such an inquiry as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015”.
- (4) In paragraph (5), after “an inquiry” insert “and that request is accompanied by the fee payable in respect of such an inquiry as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015,”.

10 Amendment of regulation 13

- (1) Regulation 13 (reference of certain applications to the Council of Ministers) is amended as follows.
- (2) Omit paragraph (5).
- (3) In paragraph (11), omit sub-paragraph (c).

11 Omission of Schedule 1

Schedule 1 (form of certificate) is omitted.

12 Transitional provision

Where, before these Regulations come into operation, an application –

- (a) has been made under regulation 7 of the Town and Country Planning (Registered Buildings) Regulations 2013 (“the unamended Regulations”); and
- (b) has not finally determined, or disposed of, in accordance with those unamended Regulations,

that application is to be dealt with in accordance with the provisions of the unamended Regulations and as if these Regulations had not been made.

**PART 3 – AMENDMENT OF THE TOWN AND COUNTRY
PLANNING (CONTROL OF ADVERTISEMENTS)
REGULATIONS 2013**

13 Amendment of the Town And Country Planning (Control of Advertisements) Regulations 2013

The Town and Country Planning (Control of Advertisements) Regulations 2013³ are amended in accordance with this Part.

14 Amendment of regulation 4

- (1) Regulation 4 (interpretation) is amended as follows.
- (2) In paragraph (1), for the definition of “Development Procedure Order” substitute -
| **“Development Procedure Order”** means the Town and Country
| Planning (Development Procedure) Order 2019;**2**.
- (3) After paragraph (2), add –
| **(3)** Any –

³ SD 0434/13.

- (a) document, plan, drawing, illustration or other thing required under these Regulations to be given (howsoever expressed) may be given by electronic means provided the intended recipient is able, and willing, to receive it by those means;
- (b) plan drawing or illustration given under these Regulations must include a statement setting out its metric scale when printed or reproduced on a particular size of paper (for example “1:100 when printed on A4 paper”).²²

15 Amendment of regulation 9

- (1) Regulation 9 (application for express consent) is amended as follows.
- (2) In paragraph (1), omit “, signed by the applicant or the applicant’s agent”.
- (3) In paragraph (2), omit “signed”.
- (4) Omit paragraph (4).

16 New regulation 9A

After regulation 9, add —

9A Similar applications

- (1) The Department may refuse an application referred to in regulation 9 without preparing and publishing a notice of application under regulation 10 where—
 - (a) that application is, in accordance with these Regulations, to be determined by the Department; and
 - (b) the Department considers that application to be a similar application.
- (2) Where the Department refuses an application under paragraph (1), it must give the applicant a notice setting out the reasons for that refusal and stating that its decision is final and binding subject only to the possibility of judicial review by petition of dolance.
- (3) The Council of Ministers may refuse an application where —
 - (a) that application is, in accordance with these Regulations, to be determined by the Council; and
 - (b) the Council considers that application in question to be a similar application.

- (4) Where the Council of Ministers refuses an application under paragraph (3) the Chief Secretary must give the applicant a notice setting out the reasons for that refusal and stating that the decision is final and binding subject only to the possibility of judicial review by petition of doleance.
- (5) A “similar application” is an application (“application B”) made under article 9 which is not materially different to an application for de-registration, registered building consent or the variation or discharge of conditions which has been determined within the applicable 5 year period (“application A”).
- (6) The applicable 5 year period –
 - (a) begins with –
 - (i) if an appeal was submitted in respect of application A, the day on which the appeal decision notice in respect of that appeal was issued; or
 - (ii) if no such appeal was submitted, the last day on which such an appeal could have been submitted; and
 - (b) ends with the day on which the application B was submitted to the Department.
- (7) For the avoidance of doubt, where this article applies articles 10 to 15 do not. **22**

17 Amendment of regulation 10

- (1) Regulation 10 (notice of applications) is amended as follows.
- (2) In paragraph (3) –
 - (a) in sub-paragraph (a) –
 - (i) after “the applicant” where it first appears, insert “or the applicant’s agent (where appropriate) requiring that person”;
 - (ii) omit paragraph (i);
 - (b) for sub-paragraphs (b) and (c) substitute –
 - 23**(b) notify the Highways, Ports and Railways divisions of the Department of Infrastructure and the local authority for the district in which the land subject to that application is situated, of that application and the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms); and
 - (c) cause the matters referred to in sub-paragraphs (a) to (c) of paragraph (1) to be published –

- (i) in at least one newspaper circulating in the Island;
or
 - (ii) by such other means as the Department considers appropriate. **22**
- (3) After paragraph (3), add —
- 23**(4) Where a local authority is notified of the application under paragraph (3)(b), it may publicise the place and times at which it may be viewed (whether in hard copy form or electronic form or both forms), in any manner it sees fit. **22**

18 Amendment of regulation 11

In Regulation 11 (determination of application), in paragraph (4) —

- (a) omit sub-paragraphs (b), (c),(e), (f) and (g);
- (b) after sub-paragraph (h), add —
 - 23**(i) the Highways, Ports and Railways divisions of the Department of Infrastructure. **22**

19 Amendment of regulation 13

In regulation 13 (appeal from decisions of the Department), in paragraph (1) —

- (a) omit “signed by that person”; and
- (b) for sub-paragraph (c) substitute —
 - 23** (c) an election to have the appeal determined by means of an inquiry (if that is required) together with the fee payable in respect of such an inquiry as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015. **22**

20 Amendment of regulation 14

- (1) Regulation 14 (reference of certain applications to Council of Ministers) is amended as follows.
- (2) Omit paragraph (6).
- (3) In paragraph (7)(b) after “inquiry” insert “and if so, to pay the fee payable in in respect of such an inquiry as prescribed by the Department in an order made under section 81 of the Interpretation Act 2015”.
- (4) In paragraph (12), omit sub-paragraph (c).

21 Omission of Schedule 4

Schedule 4 (form of certificate) is omitted.

22 Transitional provision

Where, before these Regulations come into operation, an application –

- (a) has been made under regulation 9 of the Town and Country Planning (Control of Advertisements) Regulations 2013 (“the unamended Regulations”); and
- (b) has not finally determined, or disposed of, in accordance with those unamended Regulations,

that application is to be dealt with in accordance with the provisions of the unamended Regulations and as if these Regulations had not been made.

PART 4 – AMENDMENT OF THE TOWN AND COUNTRY PLANNING (CERTIFICATES OF LAWFUL USE OR DEVELOPMENT) REGULATIONS 2005

23 Amendment of the Town And Country Planning (Certificates of Lawful Use or Development) Regulations 2005

The Town And Country Planning (Certificates of Lawful Use or Development) Regulations 2005⁴ are amended in accordance with this Part.

24 Amendment of regulation 1

(1) Regulation 1 (citation, commencement and interpretation) is amended as follows.

(2) After paragraph (2), add –

 (3) Any –

- (a) document, plan, drawing, illustration or other thing required under these Regulations to be given (howsoever expressed) may be given by electronic means provided the intended recipient is able, and willing, to receive it by those means;
- (b) plan drawing or illustration given under these Regulations must include a statement setting out its metric scale when printed or reproduced on a particular size of paper (for example “1:100 when printed on A4 paper”).

25 Amendment of regulation 2

(1) Regulation 2 (application for certificate) is amended as follows.

⁴ SD 253/05 as amended by SD 674/05.

- (2) In paragraph (1)(a), after “writing” insert “and on an application form supplied by the Department”.
- (3) For paragraph (2)(c) substitute —
 - ca (c) the fee payable for such an application prescribed in an order made by the Department under section 81 of the Interpretation Act 2015. ca

26 Amendment of regulation 3

In regulation 3 (determination of applications) for paragraph (1) substitute —

ca(1)The Department shall give notice of an application for a certificate to the local authority for the district in which the land which is the subject of the application is situated, stating that the recipient may make written representations to the Department with respect to the application before such date as is specified in the notice (not being less than 21 days after the date on which the notice is given). ca

27 Omission of regulation 4

Omit regulation 4.

28 Omission of Schedule

The Schedule (form of certificate) is omitted.

29 Transitional provision

Where, before these Regulations come into operation, an application —

- (a) has been made under regulation 2 of the Town and Country Planning (Certificates of Lawful Use or Development) Regulations 2005 (“the unamended Regulations”); and
- (b) has not finally determined, or disposed of, in accordance with those unamended Regulations,

that application is to be dealt with in accordance with the provisions of the unamended Regulations and as if these Regulations had not been made.

MADE 22 OCTOBER 2019

GEOFFREY BOOT

Minister for Environment, Food and Agriculture

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

These Regulations amend the Town and Country Planning (Registered Buildings) Regulations 2013 (“the Registered Buildings Regulations”) (SD 0432/13), the Town and Country Planning (Control of Advertisements) Regulations 2013 (“the Advertisements Regulations”) (SD 0434/13) and the Town and Country Planning (Certificates of Lawful Use or Development) Regulations 2005 (“the Certificates Regulations”) (SD 253/05).

The Registered Buildings Regulations and the Advertisements Regulations are amended to —

- (a) provide for documents under those Regulations to be given (in certain cases) by electronic means (see regulation 4 in respect of the Registered Buildings Regulations and regulation 14 in respect of the Advertisement Regulations);
- (b) remove the reference to a certificate referred to in Schedule 1 (see regulation 5 in respect of the Registered Buildings Regulations and regulation 15 in respect of the Advertisement Regulations);
- (c) add a new regulation to enable the Department and the Council of Ministers to refuse, without more, an application which is similar to one which has been determined in the past 5 years (see regulation 6 in respect of the Registered Buildings Regulations (which adds a new regulation 7A) and regulation 16 in respect of the Advertisement Regulations (which adds a new regulation 9A));
- (d) to make further provision about the recipients of a notices of application (see regulation 7 in respect of the Registered Buildings Regulations and regulation 17 in respect of the Advertisement Regulations);
- (e) make further provision about the payment of fees in the case of appeals (see regulation 9 in respect of the Registered Buildings Regulations and regulation 19 in respect of the Advertisement Regulations);
- (f) omit Schedules which deal with the form of certificates (see regulation 11 in respect of the registered Building Regulations and regulation 21 in respect of the Advertisement Regulations);
- (g) provide that applications made under them prior to the date these Regulations come into operation are to continue to be dealt with under those Regulations as they applied before that date (see regulation 12 in respect of the registered Building Regulations and regulation 22 in respect of the Advertisement Regulations).

Minor and technical amendments to the Registered Building Regulations and the Advertisements Regulations are made by regulations 8 and 10 in the case of the former and regulation 14 in the case of the latter.

The Certificates Regulations are amended to —

- (a) provide for documents under those Regulations to be given (in certain cases) by electronic means (see regulation 24);
- (b) make further provision about the payment of fees respect of applications and the form of such applications (see regulation 25);
- (c) to make further provision about the recipients of a notices of application (see regulation 26);
- (d) omit the provisions relating to the Schedule (which deals with the form of certificates) (see regulations 27 and 28);
- (e) provide that applications made under those Regulations prior to the date these Regulations come into operation are to continue to be dealt with under those Regulations as they applied before that date (see regulation 29).