



TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS 2013

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Statutory Document No. 0434/13



Town and Country Planning Act 1999

TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS 2013

Approved by Tynwald: 22 January 2014
Coming into Operation: 1 February 2014

The Department of Infrastructure makes the following Regulations under sections 22 and 35 of the Town and Country Planning Act 1999.

1 Title

These Regulations are the Town and Country Planning (Control of Advertisements) Regulations 2013.

2 Commencement

If approved by Tynwald, these Regulations come into operation on 1 February 2014¹.

3 Application

The Regulations apply to the display on any site in the Island of any advertisement.

4 Interpretation

(1) In these Regulations —

“**Act**” means the Town and Country Planning Act 1999;

“**advertisement**” does not include anything employed wholly as a memorial or as a railway or tramway signal;

“**appellant**” means a person by whom an appeal is made under regulation 13;

“**applicant**” means a person who makes an application for express consent under regulation 9;

“**conservation area**” shall be construed in accordance with section 18 of the Act;

“**deemed consent**” has the meaning given by regulation 8;

¹ Tynwald approval is required by section 44(1) of the Act

“**Development Procedure Order**” means the Town and Country Planning (Development Procedure) (No. 2) Order 2013²;

“**express consent**” has the meaning given by regulation 9;

“**interested person**” means any person whom the Department decides under regulation 11(3) has sufficient interest in the subject matter of the application to take part in any subsequent proceedings and any person mentioned in regulation 11(4);

“**local authority**”, except in regulation 10(3)(c)(i), includes a joint board constituted under section 7 of the Local Government Act 1985 or section 7 of the Recreation and Leisure Act 1998;

“**planning inspector**” means a person whose name appears on a list approved for the purposes of these Regulations by the Council of Ministers;

“**site**” means any land or building, other than an advertisement, on which an advertisement is, or is proposed to be, displayed;

“**standard conditions**” means the conditions specified in Schedule 1;

“**traffic sign**” has the same meaning as in the Road Traffic Regulation Act 1985; and

“**written submissions**” includes supporting documents and comments, objections, responses or views expressed in writing.

(2) Any reference in these Regulations to a person displaying an advertisement includes —

- (a) the owner and occupier of the land on which the advertisement is displayed;
- (b) any person to whose goods, trade, business or other concerns publicity is given by the advertisement; and
- (c) the person who undertakes or maintains the display of the advertisement.

5 Powers to be exercised in the interests of amenity and public safety

(1) The Department must exercise its powers under these Regulations only in the interests of amenity and public safety, taking account of any material factors, and in particular —

- (a) in the case of amenity, the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest, disregarding, if they think fit, any advertisement being displayed there;
- (b) in the case of public safety —

² SD 0238/13

- (i) the safety of any person who may use any road, railway, tramway, harbour or aerodrome; and
 - (ii) whether any display of advertisements is likely to obscure or hinder the ready interpretation of, any traffic sign, railway or tramway signal or aid to navigation by water or air.
- (2) In determining an application for consent for the display of advertisements, the Department may have regard to any material change in circumstances likely to occur within the period for which the consent is required or granted.
- (3) Unless it appears to the Department to be required in the interests of amenity or public safety, an express consent for the display of advertisements must not contain any limitation or restriction relating to the subject matter, content or design of what is to be displayed.

6 Requirement for consent

An advertisement must not be displayed unless consent has been granted –

- (a) by the Department on an application under regulation 9 for the purpose (“express consent”); or
- (b) by regulation 8 (“deemed consent”).

7 General effect of Consent

A consent for the display of advertisements takes effect as consent for the use of the site for the purpose of the display, whether by erection of the structures or otherwise, and for the benefit of any person interested in the site.

8 Deemed consent

- (1) Deemed consent is granted for the display of an advertisement falling within any class specified in Part 1 of Schedule 2, subject to –
 - (a) any conditions and limitations specified in that Part in relation to that class; and
 - (b) the standard conditions in Schedule 1.
- (2) Deemed consent is granted for the display of an advertisement falling within any class specified in Part 1 of Schedule 3, subject to –
 - (a) its being outside of any conservation area;
 - (b) any conditions and limitations specified in that Part in relation to that class; and
 - (c) the standard conditions.

9 Application for express consent

- (1) An application to the Department for express consent must be made on a form supplied by the Department, signed by the applicant or applicant's agent, and include –
 - (a) such particulars, and be accompanied by such plans and drawings, as the Department (either generally or in any particular case) may direct;
 - (b) such further particulars as the Department may at any time before the final determination of the application direct to be furnished in any particular case; and
 - (c) a planning application fee as prescribed in an order made by the Department under section 1(1) of the Fees and Duties Act 1989.
- (2) Four identical versions in total of the signed form of application and any accompanying documentation must be submitted.
- (3) If the Department directs under paragraph (1)(b) that further particulars be furnished and the applicant or the applicant's agent fails to comply within such time (being not less than 21 days) as may be specified, the application may be treated as withdrawn.
- (4) The Department may decline to consider an application in any case where it considers that the application is substantially the same as an application which has been refused at any time in the previous 5 years prior to the date of the new application.

10 Notice of applications

- (1) As soon as practicable after receipt of an application, the Department must prepare a notice of the application and decide on the date by which the notice must be published in accordance with this regulation ("the publication date").
- (2) The notice of application must –
 - (a) identify the site that is the subject of the application;
 - (b) describe briefly the nature of the advertisement to which the application relates, and
 - (c) state that any person may make written submissions to the Department with respect to the application before such date as is specified in the notice (being not less than 21 days after the publication date).
- (3) No later than the publication date the Department must –
 - (a) send a copy of the notice to the applicant requiring the applicant to –

- (i) send a copy of the notice to every owner and occupier (who is known to the applicant) of the land that is the subject of the application or any part of it;
 - (ii) display a copy of the notice by fixing it firmly to a building or other structure or object on or near the land that is the subject of the application so that it is easily visible by members of the public from a public highway and is unlikely to become obscured or concealed, and to ensure that it remains displayed for a period of not less than 21 days;
- (b) send a certificate to the applicant requiring the applicant to complete a certificate in the form in Schedule 4. (Such a requirement shall not be made where the applicant has already sent to the Department such a certificate stating that he is the sole owner to and occupier of the site).
- (c) send a copy of the notice and application to —
- (i) the local authority for the district in which the land the subject of the application is situated, which authority must post it in one or more conspicuous places within its district;
 - (ii) where it considers that a grant of consent may affect the safety of persons using a highway, the Highways Division of the Department;
 - (iii) where it considers that a grant of consent may affect the safety of persons using a harbour or an aerodrome, the Ports Division of the Department; and
 - (iv) where it considers that a grant of consent may affect the safety of persons using any railway or tramway, the operator of the railway or tramway.
- (d) cause the notice to be published in at least one newspaper published and circulating in the Island or published by such other means as the Department considers appropriate.

11 Determination of application

- (1) As soon as practicable after the relevant date the Department must consider an application for express consent, including any written submissions with respect to it, and determine it.
- (2) In paragraph (1) “the relevant date”, in relation to the application, means—
- (a) the date specified in the notice under regulation 10(2)(c); or
 - (b) the date on which the certificate mentioned in regulation 10(3)(b) is received; or

- (c) if the Department has directed under regulation 9(1)(b) that further particulars be furnished, the date on which the particulars are received by the Department,
- whichever is the last.
- (3) When it determines the application the Department must decide which persons (if any) who have made written submissions with respect to the application (whether pursuant to a notice under regulation 10 or otherwise), other than those referred to in paragraph (4), should be treated as having sufficient interest in the subject matter of the application to take part in any subsequent proceedings relating to the application.
- (4) The persons referred to in paragraph (3) are—
- (a) the applicant or if there is one, the applicant's agent;
 - (b) the owner and the occupier of any land that is the subject of the application or any other person in whose interest the land becomes vested;
 - (c) the persons to whom notice has been given under regulation 10(3)(a)(i); and
 - (d) any Government Department that has made written submissions relating to planning considerations with respect to the application (whether pursuant to a notice under regulation 10 or otherwise) that the Department considers material;
 - (e) the Highways Division of the Department;
 - (f) the Ports Division of the Department;
 - (g) the operator of the railway or tramway; and
 - (h) the local authority in whose district the land the subject of the application is situated.
- (5) The determination of the application shall not have effect —
- (a) if an appeal is made under regulation 13, until the appeal is determined or withdrawn;
 - (b) if no such appeal is made, until the time within which an appeal may be made has expired.

12 Notice of decision

- (1) As soon as practicable after the determination of an application for express consent, the Department must give notice in writing of the decision to—
- (a) the persons specified in regulation 11(4); and
 - (b) any other person who has made representations with respect to the application (pursuant to a notice) under regulation 10.

- (2) A notice under paragraph (1) must set out—
 - (a) in the case of an approval, the conditions (if any) subject to which the approval is granted and the reasons for them;
 - (b) in the case of a refusal, the reasons for it; and
 - (c) the effect of regulation 11(5).
- (3) In the case of a notice given to—
 - (a) any person whom the Department has decided under regulation 11(3) has sufficient interest in the subject matter of the application; and
 - (b) any of the persons specified in regulation 11(4),

The notice must state that those persons may, in accordance with regulation 13, appeal to the Department.

13 Appeal from decisions of the Department

- (1) An appeal may be made by any person specified in regulation 11(3) and 11(4) within 21 days of the date of the notice under regulation 12 to the Department, signed by that person and include —
 - (a) the reasons for making the appeal;
 - (b) payment of a planning appeal fee as prescribed in an order made by the Department under section 1(1) of the Fees and Duties Act 1989; and
 - (c) an election to have the appeal conducted by means of an inquiry or by means of written representation.
- (2) Articles 8(2) to (9) of the Development Procedure Order apply for the purposes of this regulation.
- (3) The appellant may, at any time before the appeal is referred to the planning inspector, withdraw the appeal by giving notice in writing to the Chief Secretary.

14 Reference of certain applications to Council of Ministers

- (1) Section 11(3) and (4) of the Act (reference of applications by the Department to Council of Ministers) apply to applications for express consent as they apply to applications for planning approval for development of land, with the substitution for “a development order” of “regulations”.
- (2) An application for express consent —
 - (a) in which the Department is the applicant or agent; or
 - (b) in relation to a site in which any interest in which is vested in, or which is occupied or controlled by, the Department,

must be referred to and determined by the Council of Ministers.

- (3) An application to be determined by the Council of Ministers under paragraph (2) must be published by the Department and the notice provisions set out in regulation 10 apply to any such application.
- (4) Any written submissions made in respect of a notice under regulation 10—
 - (a) must be sent to the Department within 21 days from the date of the notice;
 - (b) must be sent as soon as practicable by the Department to the Chief Secretary.
- (5) All written submissions must —
 - (a) indicate the relationship between the person's land and the land that is the subject of the application;
 - (b) explain the nature of the person's interest in the application; and
 - (c) detail the reasons for supporting or objecting to the proposed advertisement(s).
- (6) The Council of Ministers may decline to consider an application in any case referred to it under paragraph (2), if it considers that the application is substantially the same as an application that has been refused at any time within the previous 5 years prior to the date of the new application.
- (7) The Chief Secretary must —
 - (a) invite every person specified in paragraph (12) to send any written submissions to the Chief Secretary within 21 days of the date of invitation, which period may be extended on request at the Chief Secretary's discretion, for consideration by the planning inspector;
 - (b) inform those persons that unless any of them requests that the application be conducted by means of an inquiry, the application will be dealt with by means of written representations only.
- (8) The Chief Secretary must refer an application under paragraph (2) to a planning inspector.
- (9) The planning inspector —
 - (a) must consider the application and any written submissions made with respect to it;
 - (b) may in the case of an inquiry only, hold a pre-inquiry meeting to be convened on his or her behalf by the Chief Secretary;
 - (c) may hold an inquiry so as to give every person mentioned in paragraph (12) an opportunity to appear before him or her, to make oral representations and to call and examine witnesses;
 - (d) may invite any Government Department (including any Division of the Department) or any other body or person to provide technical advice; and

- (e) must submit to the Council of Ministers a report in writing, including the planning inspector's recommendations as to the determination of the application.
- (10) As soon as practicable after the Council of Ministers has considered the recommendations of the planning inspector, the Council of Ministers must determine the application and the Chief Secretary must then give notice in writing of the Council of Ministers' decision to every person mentioned in paragraph (12).
- (11) The notice must —
 - (a) include details of where the report of the planning inspector can be viewed;
 - (b) if, and to the extent that, the decision does not follow the recommendation of the planning inspector, state the reasons for the decision; and
 - (c) advise that the decision of the Council of Ministers is binding and final (subject to the possibility of judicial review by petition of dolence).
- (12) The persons are —
 - (a) the Department;
 - (b) the applicant (if not the Department);
 - (c) the owner and the occupier of any land that is the subject of the application (if not the Department);
 - (d) the local authority in whose district the land is situated;
 - (e) any person who is requested by the planning inspector to provide technical advice; and
 - (f) any person who has made written submissions (whether pursuant to a notice under regulation 10 or otherwise) with respect to the application.

15 Inquiry and written representation procedure

Schedule 6 applies to proceedings conducted by a planning inspector under regulations 13 and 14(9).

16 Enforcement notices

- (1) This regulation applies where it appears to the Department that —
 - (a) an advertisement is displayed in contravention of these Regulations; or
 - (b) a site is being used for the display of advertisements in contravention of these Regulations.
- (2) The Department may, subject to regulation 5(1), issue a notice —

- (a) specifying the advertisement or site to which it relates;
 - (b) requiring the advertisements to be removed, or the use of the site for the display of advertisements to be discontinued, as the case may be; and
 - (c) specifying the grounds on which the display of the advertisement, or the use of the site, is alleged to contravene these Regulations.
- (3) Section 26(2) and (4) to (9) of, and Schedule 4 to, the Act apply with modifications to notices under paragraph (2) and those provisions as modified areas set out in Schedule 5.

17 Transitional provision

- (1) Any application for consent to display an advertisement made but not finally determined under the 2005 Regulations before these Regulations come into operation is to be determined in accordance with those Regulations as if these Regulations had not been made.
- (2) An enforcement notice issued under the 2005 Regulations in respect of which proceedings may still be brought, or if brought have not been concluded, under the 2005 Regulations before these Regulations come into operation is to be determined in accordance with those Regulations as if these Regulations had not been made.
- (3) In this regulation “2005 Regulations” means the regulations revoked by regulation 18.

18 Revocation

The Control of Advertisements Regulations 2005³ are revoked.

MADE 10 DECEMBER 2013

D C CRETNEY
Minister for Infrastructure

³ SD 672/05



SCHEDULE 1

[Regulation 4(1)]

STANDARD CONDITIONS

- (1) Any advertisements displayed, and any site used for the display of advertisements, must be maintained in a clean and tidy condition to the reasonable satisfaction of the Department.
- (2) Any structure or hoarding erected or used principally for the purpose of displaying advertisements must be maintained in a safe condition.
- (3) Where an advertisement is required under these Regulations to be removed, the removal must be carried out to the reasonable satisfaction of the Department.
- (4) An advertisement must not be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (5) An advertisement must not be sited or displayed so as to obscure, or hinder the ready interpretation of, any traffic sign, railway or tramway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, tramway, harbour or aerodrome.

SCHEDULE 2

[Regulation 8(1)]

**CLASSES OF ADVERTISEMENTS WHICH MAY BE DISPLAYED WITH DEEMED
CONSENT IN ANY PART OF THE ISLAND**

PART 1 – SPECIFIED CLASSES AND CONDITIONS

<i>Description</i>	<i>Conditions and Limitations</i>
CLASS 1 – an advertisement displayed on or in a vehicle	The vehicle is not – (a) normally employed except as a moving vehicle; or (b) used principally for the display of advertisements.
CLASS 2 – an advertisement incorporated in the fabric of a building	The building or any external face of it is not used principally for the display of advertisements.
CLASS 3 – an advertisement displayed on an article for sale or on the container in, or from which, an article is sold.	1. The advertisement refers only to the article for sale. 2. It may not be illuminated. 3. It may not exceed 0.1sqm in area.
CLASS 4 – An advertisement relating specifically to a pending election to the House of Keys or a Local Authority	The advertisement shall be removed within 14 days after the close of the poll in the election to which it relates.
CLASS 5 – an advertisement required to be displayed by any statutory provision or by the Standing Orders of Tynwald, the Council, or the Keys, or any condition imposed by any statutory provision on the exercise of any power or function.	1. The size, height, and number of advertisements displayed shall not exceed what is necessary to achieve the purpose for which the advertisement is required. 2. The advertisement may not be displayed after the expiry of the period during which it is required or authorised to be displayed, or if there is no such period, the expiry of a reasonable time after its purpose has been satisfied.
CLASS 6 – a traffic sign	
CLASS 7 – the national flag of any country	1. Each flag is to be displayed on a single vertical flagstaff. 2. Neither the flag nor the flagstaff may display any advertisement or subject matter additional to the design of the flag.
CLASS 8 – an advertisement displayed inside a building	1. The advertisement may not be illuminated. 2. The building in which the advertisement is displayed is not used principally for the display of advertisements. 3. No part of the advertisement may be within 1m of any external door, window, or other opening through which it is visible from outside of the building.

CLASS 9 – an advertisement displayed wholly for the purpose of announcement or direction in relation to any of the functions of a Department, a Statutory Board, Manx National Heritage, or a local authority, or to the operation of a statutory undertaking or a public transport undertaking	<ol style="list-style-type: none">1. The advertisement is reasonably required to be displayed for the safe or efficient performance of those functions or the operation of that undertaking.2. Illumination is not permitted unless reasonably required for the purpose of the advertisement.
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PART 2 – INTERPRETATION

(1) In this Schedule—

“ground level”, in relation to the display of advertisements on any building, means the ground-floor level of that building;

“joined boards” means boards joined at an angle, so that only one surface of each is usable for advertising;

“public transport undertaking” means an undertaking consisting of the provision of a regular service within the meaning of the Road Transport Act 2001 by authority of a licence under section 25 of that Act;

“statutory undertaking” means an undertaking established by an enactment.

(2) For the purposes of Class 2—

(a) An advertisement fixed to, or painted on, a building is not to be regarded as incorporated in its fabric; and

(b) A hoarding or similar structure is to be regarded as a building used principally for the display of advertisements.

(3) For the purposes of Class 3, “article” includes a gas or liquid.

(4) Where a maximum area is specified, in relation to any class in this Schedule, in the case of a double-sided board, the area of one side only shall be taken into account.

SCHEDULE 3

[Regulation 8(2)]

**CLASSES OF ADVERTISEMENTS WHICH MAY BE DISPLAYED WITH DEEMED
CONSENT ONLY OUTSIDE OF ANY CONSERVATION AREA**

PART 1 – SPECIFIED CLASS AND CONDITIONS

<i>Description</i>	<i>Conditions and limitations</i>
CLASS 1 – an advertisement displayed on enclosed land.	The advertisement is not readily visible from outside the enclosed land or from any place to which the public have a right of access.
CLASS 2 – any advertisement displayed on businesses premises wholly with reference to the business carried on, the goods sold or services provided, or the name or qualifications of the person carrying on the business, on those premises.	<ol style="list-style-type: none"> 1. In the case of a shop, no such advertisement may be displayed except on a wall containing a shop window. 2. The space occupied by any such advertisement may not exceed 0.1 of the overall area of the face of the building on which it is displayed, up to a height of 3.6m from ground level. 3. Illumination is not permitted. 4. No character or symbol on the advertisement may be more than 0.75m in height. 5. No part of the advertisement may be higher above ground level than whichever is the lower of – <ol style="list-style-type: none"> (a) 3.6m; or (b) the bottom level of any first floor window in the wall on which the advertisement is displayed.
CLASS 3 – an advertisement displayed on any forecourt of business premises, wholly with reference to all or any of the matters specified in Class 2.	<ol style="list-style-type: none"> 1. Advertisements displayed on any such forecourt or, in the case of a building with a forecourt on two or more frontages, on each of those frontages, shall not exceed in aggregate 4.5sq m in area. 2. Illumination is not permitted. 3. No character or symbol on the advertisement may be more than 0.75m in height. 4. No part of the advertisement may be more than 3.6m above ground level.

PART 2 – INTERPRETATION

(1) In this Schedule –

“business premises” means any building or part of a building normally used for the purpose of any professional, commercial, or industrial undertaking, or for providing services to members of the public or of any association, and includes a public restaurant, licensed premises, and a place of public entertainment, but not –

- (a) a building used as an institution of a religious, educational, cultural, recreational, medical, or similar character;
- (b) a building used as one or more separate dwellings;
- (c) any forecourt or other land forming part of the curtilage of a building;
- (d) any fence, wall or similar screen or structure, unless it forms part of the fabric of a building;

“forecourt” includes any fence, wall or similar screen or structure enclosing a forecourt and not forming part of the fabric of a building constituting business premises;

“ground level”, in relation to the display of advertisements on any building, means the ground floor level of that building.

SCHEDULE 5

[Regulation 16(3)]

APPLICATION OF SECTION 26 AND SCHEDULE 4 TO THE ACT AS MODIFIED

26 [Advertisement] enforcement notice

Parts 1 and 2 of Schedule 4 to the Act have effect with respect to the issue of, and appeals against, [advertisement] enforcement notices.

(2) Where, at any time after the end of the period for compliance with an [advertisement] enforcement notice —

(a) any steps required by the notice to be taken have not been taken, or

(b) any activity required by the notice to cease is being carried on, the person who is then the owner of the land to which the notice relates is guilty of an offence.

[(3) Omitted]

(4) A person who is guilty of an offence under subsection (2) ... is liable on summary conviction, to a fine not exceeding [£5,000], ... and in determining the amount of any fine to be imposed on a person convicted of such an offence, the court shall in particular have regard to any financial benefit which has accrued or appears likely to accrue to him in consequence of the offence.

(5) An offence under subsection (2) ... may be charged by reference to any period of time, and a person may be convicted of a second or subsequent offence by reference to any period of time following the preceding conviction for such an offence.

(6) In proceedings for an offence under subsection (2), it is a defence for the person accused to show that he did everything he could be expected to do to secure compliance with the notice.

(7) In proceedings for an offence under subsection (2) ... it is a defence for the person accused to show that —

(a) he was not served with a copy of the ... notice;

(b) he was not aware of its existence; and

(c) it was not entered in the appropriate register maintained [by the Department].

(8) In proceedings for an offence under subsection (2) ... it shall not be open to the person accused to raise any defence on a ground which could have been raised on an appeal under paragraph 10 of Schedule 4.

(9) Part 3 of Schedule 4 has effect with respect to works to remedy non-compliance with an [advertisement] enforcement notice.

SCHEDULE 4

[ADVERTISEMENT] ENFORCEMENT NOTICES

[Section 26]

PART 1 – ISSUE OF [ADVERTISEMENT] ENFORCEMENT NOTICES

1 [Omitted]

2 Time for compliance with notice

- (1) An [advertisement] enforcement notice shall specify the period by the end of which any steps are required to have been taken or any activities are required to have ceased, and may specify different periods for different steps or activities.
- (2) References in this Act to the period for compliance with an [advertisement] enforcement notice, in relation to any step or activity, are to the period by the end of which the step is required to have been taken or the activity to have ceased.

3 Time limits for issue of notice

No [advertisement] enforcement notice may be issued in respect of an advertisement, or the use of a site, after the end of the period of 4 years beginning with the date on which the advertisement was first displayed or the site was first used for the display of advertisements, as the case may be.

4 Time at which notice takes effect

An [advertisement] enforcement notice shall take effect, in relation to —

- (a) any person on whom a copy of it is served, and
- (b) any successor in title of such a person,

on the expiration of such period (not being less than 28 days) after service on the person mentioned in sub-paragraph (a) as may be specified in the notice.

5 Service of notice

A copy of an [advertisement] enforcement notice shall be served, not later than 28 days after the date of its issue —

- (a) on the owner and the occupier of the land to which it relates; and
- (b) on any other person having an interest in the land, being an interest which in the Department's opinion is materially affected by the notice;

but the validity of the notice shall not be affected by any failure to serve a copy of it on any person upon whom it is required to be served, except as against that person and a successor in title of his.

6 Withdrawal or variation of notice

The Department may at any time —

- (a) withdraw an [advertisement] enforcement notice (without prejudice to its power to issue another), or
- (b) vary an [advertisement] enforcement notice by waiving or relaxing any requirement of the notice, or extending any period specified under paragraph 2,

and shall give notice of the exercise of any power under this paragraph to every person on whom a copy of the ... notice was served or on whom, if the notice were re-issued, a copy of it would be served.

7 [Omitted]

8 Continuing effect of notice

- (1) Compliance with an [advertisement] enforcement notice ... does not discharge the notice.
- (2) In particular a requirement of an [advertisement] enforcement notice that a use of land be discontinued is a requirement that it be discontinued permanently (so a resumption of that use at any time after it has been discontinued in compliance with the notice is a contravention of the notice).

9 Effect of express consent

If, after the issue of a notice under regulation 16 of the Town and Country Planning (Control of Advertisements) Regulations 2013, express consent is granted—

- (a) for the retention of an advertisement, or
- (b) for the continuance of the use of a site for the display of advertisements, or
- (c) for the retention of an advertisement or the continuance of the use of the site without compliance with some condition subject to which a previous express consent was granted,

the notice shall cease to have effect in so far as it requires steps to be taken for removing the advertisement, discontinuing that use or complying with that condition, as the case may be, but without prejudice to any liability for an offence in respect of a previous failure to comply with the notice.]

PART 2 – APPEALS AGAINST ADVERTISEMENT ENFORCEMENT NOTICES

- 10(1) Any person having an interest in the land to which an [advertisement] enforcement notice relates may, at any time before it takes effect in relation to him, appeal to the High Bailiff against the notice on any of the following grounds –
- (a) that the matters alleged in the notice do not constitute a breach of [the Town and Country Planning (Control of Advertisements) Regulations 2013];
 - (b) that the breach of [those Regulations] alleged in the notice has not taken place;
 - (c) that the issue of the [advertisement] enforcement notice was precluded by paragraph 3;
 - (d) that the period specified in the notice as the period within which any step required is to be taken falls short of what should reasonably be allowed;
 - (e) that the steps required by the notice to be taken exceed what is necessary for the purposes specified in regulation 16(2)(b).of the Town and Country Planning (Control of Advertisement) Regulations 2013.
- (2) On the determination of an appeal under this paragraph, the High Bailiff may –
- (a) give directions for giving effect to the determination, including (where appropriate) directions for quashing the notice or for varying its terms; or
 - (b) correct any defect, error or misdescription in the notice, or vary its terms, if he is satisfied that the correction or variation can be made without injustice to the appellant or the Department.
- (3) Where an appeal is brought against an [advertisement] enforcement notice, the notice is of no effect pending the final determination or the withdrawal of the appeal.
- (4) The validity of an [advertisement] enforcement notice shall not, except by way of an appeal under this paragraph, be questioned in any proceedings whatever on any of the grounds on which such an appeal may be brought.

PART 3 – WORKS TO REMEDY NON-COMPLIANCE WITH ENFORCEMENT
NOTICE

- 11.(1) Where any steps required by an [advertisement] enforcement notice to be taken have not been taken within the period for compliance with the notice, the Department may itself take those steps, and may recover from any person having an interest in the land the expenses reasonably incurred by it in so doing.

- (2) In proceedings for the recovery of any expenses under sub-paragraph (1), the court –
 - (a) after giving each person concerned who has an interest in the land an opportunity of being heard, may make such order as it thinks just and equitable as to –
 - (i) the proportions in which any such expenses are to be borne by any of those persons, and
 - (ii) the contribution which any of those persons is to make towards the expenses to be borne by any other such person; and
 - (b) shall have regard, as between any of those persons, to the nature of their respective interests and to the terms and conditions of any lease or other agreement or arrangement between them.
- (3) In any such proceedings it shall not be open to the person accused to raise any defence on a ground which could have been raised on an appeal under paragraph 10.

SCHEDULE 6

[Regulation 15]

INQUIRY AND WRITTEN REPRESENTATION PROCEDURE

1 Interpretation

In this Schedule —

“inquiry” means proceedings conducted by a planning inspector under articles 13 and 14(9);

“written representation procedure” means proceedings conducted by a planning inspector under regulation 13 or 14(9) or by consideration of written submissions only.

2 Procedure at inquiry

- (2) Except as otherwise provided in this Schedule, the planning inspector is to determine the procedure at an inquiry.
- (2) At the start of the inquiry the planning inspector must identify what are, in the inspector’s opinion, the main issues to be considered at the inquiry and any matters on which the person requires further explanation from the persons entitled or permitted to appear.
- (3) Nothing in sub-paragraph (2) precludes any person entitled or permitted to appear from referring to issues that the planning inspector considers relevant to the consideration of the application or appeal but which were not issues identified by the inspector under to that sub-paragraph.
- (4) Unless in any particular case the planning inspector otherwise determines, the Department begins and the applicant has the right of final reply; and the other persons entitled or permitted to appear are to be heard in such order as the planning inspector may determine.
- (5) The planning inspector may —
 - (a) require any person appearing or present at an inquiry who, in the planning inspector’s opinion, is behaving in a disruptive manner to leave; and
 - (b) refuse to permit that person to return; or
 - (c) permit the person to return only on such conditions as the planning inspector may specify,

but any such person may submit to the planning inspector any evidence or other matter in writing before the close of the inquiry.

- (6) The planning inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

- (7) The planning inspector may take into account any written submission or evidence or any other document received from any person before an inquiry opens or during the inquiry provided that the planning inspector discloses it at the inquiry.
- (8) The planning inspector may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice is required.
- (9) The planning inspector may make an unaccompanied inspection of the land before or during an inquiry without giving notice of his or her intention to the persons entitled to appear at the inquiry.
- (10) During an inquiry or after its close, the planning inspector —
 - (a) may inspect the land either unaccompanied or in the company of the applicant, the Department and any other person entitled to appear at the inquiry; and
 - (b) must make such an inspection if so requested by the applicant or the Department before or during an inquiry.
- (11) In all cases where the planning inspector intends to make an accompanied site inspection he or she must announce during the inquiry the date and time at which the inspection is intended to take place.
- (12) The planning inspector is not bound to defer an inspection of the kind referred to in sub-paragraph (10) if a person there mentioned is not present at the time appointed.

3 Evidence

- (13) A person entitled to appear at an inquiry is entitled to call evidence and to cross-examine persons giving evidence, but, subject to sub-paragraphs (2) and (3), the calling of evidence and the cross-examination of persons giving evidence is otherwise at the discretion of the planning inspector,
- (2) The planning inspector may refuse to permit —
 - (a) the giving or production of evidence;
 - (b) the cross-examination of persons giving evidence; or
 - (c) the presentation of any other matter,that the planning inspector considers to be irrelevant or repetitious; but where he or she refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit any evidence or other matter in writing before the close of the inquiry.
- (3) The planning inspector may direct that facilities are afforded to any person appearing at an inquiry to take or obtain copies of documentary evidence open to public inspection.

4 Written representation procedure

- (1) The written representation procedure requires the planning inspector to take into account all written submissions received from the Department, the appellant or the appellant's agent and any interested person.
- (2) The planning inspector may make an unaccompanied inspection of the land at any time during consideration of the written submissions without giving notice of his or her intention to —
 - (a) the Department; or
 - (b) the appellant or the appellant's agent; or
 - (c) the owner of the land who is not the appellant; or
 - (d) any interested person who has made written submissions to the appeal.
- (3) In the case of proceedings under regulation 14(9), references in this paragraph to "appellant" or "appellant's agent" must be construed as references to the "applicant" or the "applicant's agent" and any reference to "interested person" be construed as reference to "any person".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the procedure for applications for advertisement consent and replaces the Control of Advertisements Regulations 2005.

The Regulations apply to the whole of the Island, and provide for the Department to exercise its powers only in the interests of amenity and public safety.

The significant changes from the 2005 Regulations are –

- (a) references to the Minister are removed (references to the Department, by virtue of the Government Departments Act, already mean the Minister unless delegated by the Minister under that Act); and
- (b) the persons appointed to written representations and inquiries under the Regulations are now called planning inspectors.