



## TOWN AND COUNTRY PLANNING (REGISTERED BUILDINGS) REGULATIONS 2013

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Statutory Document No. 0432/13



*Town and Country Planning Act 1999*

## **TOWN AND COUNTRY PLANNING (REGISTERED BUILDINGS) REGULATIONS 2013**

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

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The Department of Infrastructure makes the following Regulations under sections 15(5), 19(3), 20(2) and (3), 34(1) and paragraph 3 of Schedule 2 of the Town and Country Planning Act 1999.

### **1 Title**

These Regulations are the Town and Country Planning (Registered Buildings) Regulations 2013.

### **2 Commencement**

If approved by Tynwald, these Regulations come into operation on 1 February 2014<sup>1</sup>.

### **3 Interpretation**

In these Regulations —

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

“**appellant**” means a person by whom an appeal is made under regulation 11;

“**applicant**” means a person who makes an application under regulation 7;

“**application**” means an application under regulation 7;

“**interested person**” means any person whom the Department decides under regulation 9(3) has sufficient interest in the subject matter of the application to take part in any subsequent proceedings relating to it and any person mentioned in regulation 9(4);

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

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<sup>1</sup> Tynwald approval is required by section 44(1) of the Act

“**register**” or “**de-register**”, in relation to a building, means enter the building in, or remove it from, the register, as the case may be; and

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

#### **4 Contents of Protected Buildings Register**

Each entry in the register must contain the following particulars —

- (a) a description of the building in question sufficient to enable it to be identified;
- (b) the nature of the special architectural or historic interest of the building (including any matters taken into account by the Department under section 14(2) of the Act).

#### **5 Periods for purpose of Schedule 2 paragraph 2(2) of Act**

- (1) The period specified for the purposes of paragraph 2(2)(a) of Schedule 2 to the Act (period after notice of registration, within which owner or occupier may request de-registration) is 21 days.
- (2) The period specified for the purposes of paragraph 2(2)(b) of Schedule 2 to the Act (period after initial period, during which owner or occupier may not request de-registration) is 5 years.

#### **6 Notice of proposal to register or de-register building**

- (1) The Department must give public notice of any proposal to register or to de-register a building in at least one newspaper published and circulating in the Island or by such other means as the Department considers appropriate —
  - (a) identifying the building in question, and
  - (b) stating that any person may make written submissions to the Department with respect to the proposal before such date as is specified in the notice (not being less than 21 days after the date on which the notice is first published).
- (2) The Department must give a copy of the notice and state that written submissions with respect to the proposal may be made to the Department as directed under paragraph (1)(b) to —
  - (a) every owner or occupier of the building;
  - (b) the local authority for the district in which the building is situated; and
  - (c) Manx National Heritage.
- (3) The Department must not register or de-register the building, as the case may be, until —

- (a) it has considered any representation duly made in pursuance of a notice under paragraph (1) or (2); and
- (b) the period referred to in paragraph (1)(b) has elapsed.

## **7 Applications relating to registered building consent and de-registration of buildings**

- (1) An application for —
  - (a) de-registration of a building (subject to the periods specified in regulation 5(1) and (2));
  - (b) registered building consent; or
  - (c) the variation or discharge of the conditions of a registered building consent under paragraph 3 of Schedule 3 to the Act.

must be made on a form supplied by the Department, signed by the applicant or the applicant's agent and must include such particulars, and be accompanied by such plans and drawings, as the Department (either generally or in any particular case) may direct and must include a certificate set out in Schedule 1.

- (2) In the case of an application under paragraph 1(b) or (c), four identical versions in total of the signed form of application and the accompanying documentation must be submitted.
- (3) If the Department directs under paragraph (1) 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 in the direction, the application may be treated as withdrawn .
- (4) In the case of an application under paragraph 1(b) or (c), the Department may decline to consider an application in any case 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.
- (5) In the case of an application under paragraph 1(a), the applicant must state the reasons for making the application.

## **8 Notice of application**

- (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) specify the location of the building to which the application relates; and

- (b) in the case of an application under regulation 7(1)(a), state that an application to de-register a building has been made to the Department; or
  - (c) in the case of an application under regulation 7(1)(b) or (c), describe the nature of the work or of the variation or discharge, to which the application relates;
  - (d) 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 (not being less than 21 days after the publication date); and
  - (e) state that if a person wishes to apply to be treated as an interested person the person must indicate in his or her written submission the relationship between the person's land and the building that is the subject of the application.
- (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 or occupier (who is known to the applicant) of the building that is the subject of the application or any part of it; and
    - (ii) display a copy of the notice by fixing it firmly to the building or other structure or object on or near the building 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 so displayed for a period of not less than 21 days;
  - (b) send a copy of the notice and application to —
    - (i) the local authority for the district in which the building the subject of the application is situated, which authority must post it in one or more conspicuous places within its district; and
    - (ii) to Manx National Heritage; and
  - (c) cause the notice to be published in at least one newspaper published and circulating in the Island or by such other means as the Department considers appropriate.

## 9 Determination of application

- (1) As soon as practicable after the relevant date the Department must consider the application, including any written submissions with respect to it, and determine it.

- (2) In paragraph (1) “the relevant date”, in relation to an application, means—
- (a) the date specified in the notice under regulation 8(2); or
  - (b) if the Department has directed under regulation 7(3) that further particulars be furnished, the date on which such particulars are received by the Department,
- whichever is the later.
- (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 8 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 are —
- (a) the applicant or, if there is one, the applicant’s agent;
  - (b) the owner and the occupier of any building the subject of the application;
  - (c) Manx National Heritage; and
  - (d) the local authority in whose district the building is situated.
- (5) In the case of an application under regulation 7(1)(b) or (c), except where a previous application relating to the same building the subject of the application has not been finally disposed of or the Department declines to consider the application under regulation 7(4), the Department must wherever possible determine the application within 8 weeks of receipt of the application or the last further particulars directed to be furnished under regulation 7(3), whichever is the later.
- (6) The determination of the application does not have effect —
- (a) if an appeal is made under regulation 11, 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.
- (7) In the case of an application under regulation 7(1)(b) or (c), except in so far as the approval otherwise provides, an approval applies to the building in respect of which it is granted irrespective of any change in ownership or interest in the building.

## 10 Notice of decision

- (1) As soon as practicable after the determination of the application under regulation 9(1) the Department must give notice in writing of the decision to —

- (a) every interested person; and
  - (b) any other person who has made representations with respect to the application.
- (2) A notice under paragraph (1) must set out —
- (a) in the case of an approval in respect of an application under regulation 7(1)(a), the reasons for granting the de-registration of the building; or
  - (b) in the case of an approval in respect of an application under regulation 7(1)(b) or (c), the conditions (if any) subject to which the approval is granted and the reasons for them;
  - (c) in the case of a refusal of any application, the reasons for it; and
  - (d) the effect of regulation 9(6),
- and, in the case of a notice given to any persons mentioned in paragraph (1)(a), must state that such person may appeal in accordance with regulation 11.

## 11 Appeal from decisions of the Department

- (1) An appeal from a decision of the Department may be made by the applicant or the applicant's agent and any interested person in writing to the Department within 21 days of the date of the notice under regulation 10(1), signed by that person and must 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) The Department must refer the documentation received under paragraph (1) as soon as practicable to the Chief Secretary.
- Note: section 20 of the Interpretation Act 1976 enables the Chief Secretary's powers under these Regulations to be delegated.*
- (3) Within 10 working days of the receipt of the documentation, the Chief Secretary must —
- (a) if the appellant has elected to have the appeal conducted by means of written representation, invite the Department or any interested person within 21 days of the invitation to indicate whether the invitee would prefer an inquiry; and
  - (b) in all cases invite the appellant, the Department and any interested person to send detailed 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.

- (4) With respect to appeals to be conducted by means of written representations only, the Chief Secretary may invite the submission of additional written submissions within 14 days from the date of such invitation.
- (5) If the appellant or any interested person requests the appeal to be conducted by means of an inquiry, the appeal must be conducted by such means unless all persons making such a request elect instead for the appeal to be conducted by means of a written representation.
- (6) The Chief Secretary must refer an appeal under paragraph (1) to a planning inspector.
- (7) 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) must in the case of an inquiry only, give to the appellant, the Department and every interested person, an opportunity to appear before him or her on a date fixed and 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 make to the Department a report in writing that includes the planning inspector's recommendations as to the determination of the appeal.
- (8) The Department must consider the report of the planning inspector and—
  - (a) must either allow or dismiss the appeal; and
  - (b) may in either case reverse or vary any part of its decision, whether or not the appeal relates to that part.
- (9) As soon as practicable after the determination of the appeal, the Department must give notice in writing of the decision to the appellant and every interested person, and the notice —
  - (a) must include details of where the report of the planning inspector can be viewed; and
  - (b) if, and to the extent that, the decision does not follow the recommendation of the planning inspector, must state the reasons for the decision of the Department.

- (10) The appellant may withdraw the appeal by giving notice in writing to the Chief Secretary at any time before —
  - (a) 7 days from the date scheduled for the commencement of the inquiry; or
  - (b) in the case of the written representation procedure, at any time before the final date of receipt for written submissions.

## 12 Buildings in conservation areas

Sections 15, 16 and 31 of, and schedules 3 and 5 to, the Act apply to buildings in a conservation area subject to —

- (a) the modification that for references to a registered building there are substituted references to a building in a conservation area; and
- (b) the further modifications specified in Schedule 2.

## 13 Reference of certain applications to the Council of Ministers

- (1) An application under regulation 7(1)(b) to which section 20(1) of the Act (Building of Department) applies must be referred to and determined by the Council of Ministers.
- (2) The application must be published by the Department and the notice provisions set out in regulation 8 apply to any such application.
- (3) Any written submissions made in respect of an application under paragraph (1) or in response to a notice under regulation 8 —
  - (a) must be sent to the Department within 21 days of the date of the notice;
  - (b) must be sent as soon as practicable by the Department to the Chief Secretary.
- (4) All written submissions must —
  - (a) indicate the relationship between the person's land and the building 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 registered building consent application.
- (5) The Council of Ministers may decline to consider an application in any case referred to it under paragraph (1), 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.
- (6) The Chief Secretary must —
  - (a) invite every person mentioned in paragraph (1) 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.
- (7) The Chief Secretary must refer an application under paragraph (1) and (2) to a planning inspector.
- (8) 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 (11) 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.
- (9) 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 (11).
- (10) 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).
- (11) The persons are —
- (a) the Department;
  - (b) the applicant (if not the Department);
  - (c) the owner and the occupier of any building that is the subject of the application (if not the Department);
  - (d) the local authority in whose district the building 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 8 or otherwise) with respect to the application.
- (12) In the case of buildings to which section 20(1) of the Act applies, section 15(2) and (3) of, and paragraphs 1(3) and 3 of Schedule 3 to, the Act are modified so that references to the Department are to be read as references to the Council of Ministers.

#### **14 Inquiry and written representation procedure**

Schedule 3 applies to proceedings conducted by a planning inspector under regulation 11(7) and 13(8).

#### **15 Interests in buildings, etc**

- (1) Every registered building consent must be for the benefit of the building to which it relates and of all persons for the time being interested in it.
- (2) If the applicant is —
  - (a) the owner of an interest in the building to which the application relates; and
  - (b) that interest becomes vested in another person (whether by operation of law or otherwise),that other person may, with the leave of the Department, be treated as the applicant.

#### **16 Transitional provision**

Any application with respect to registration or deregistration or otherwise relating to registered building consent made but not finally determined under the Registered Buildings Regulations 2005<sup>2</sup> before these Regulations come into operation is to be determined in accordance with those Regulations as if these Regulations had not been made.

#### **17 Revocation**

The Registered Buildings Regulations 2005 are revoked.

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<sup>2</sup> SD 252/05

**MADE 10 DECEMBER 2013**

**D C CRETNEY**  
*Minister for Infrastructure*



**SCHEDULE 1**

[Regulation 7(1)]

**FORM OF CERTIFICATE**

TOWN AND COUNTRY PLANNING ACT 1999

**CERTIFICATE OF BUILDING OWNERSHIP**

This certificate provides confirmation that the owner of the building which is the subject matter of the application is either the applicant or is fully aware of the application.

The certificate constitutes a statement of ownership and is not proof of ownership.

The applicant is requested to complete either Statement A or Statement B and return the completed certificate and application form and any supporting documents.

NO APPLICATION WILL BE PROCESSED UNTIL SUCH TIME AS THE CERTIFICATE IS SUBMITTED.

**1. STATEMENT A: Building owner is applicant**

I certify that the accompanying application is made by or on behalf of the owner of the building, namely:

.....  
.....(full names in CAPITAL letters)

who is —

- (a) the full\*/limited\* owner of the freehold\*/leasehold\* estate in the building (\*delete as appropriate); and
- (b) in full possession of every part of the building to which the application relates.

If the application is made on behalf of the building owner, a certified copy of the power of authority signed by the owner authorising the application on his behalf must be attached.

**2. STATEMENT B: Building owner is not applicant**

I certify that appropriate written notice of the accompanying application has been given by or on behalf of the applicant to —

- (a) the building owner; and
- (b) any person who at the time of the making of the application was —
  - (i) a person then in actual possession;
  - (ii) the trustee of a trust or settlement if a beneficiary under the trust or settlement was in actual possession and no person other than such a beneficiary was entitled to enter into actual possession within a period of 40 years; and
  - (iii) a person (not being a person falling within (a) or (b)) entitled to enter into actual possession within a period of 40 years.

The persons upon whom notice was issued are —

NAME.....

ADDRESS.....

INTEREST.....Date Notified.....

NAME.....

ADDRESS.....

INTEREST.....Date Notified.....

Signature: Applicant/Agent .....

Date.....





**SCHEDULE 2**

[Regulation 12]

**MODIFICATIONS OF ACT IN RELATION TO BUILDINGS IN CONSERVATION  
AREAS**

<b>Provision</b>	<b>Modification</b>
Section 15	For subsection (1) substitute “(1) No works may be executed for the demolition of a building in a conservation area unless they are authorised under this Part.” In subsection (2), omit “, alteration or extension” Omit subsection (3)
Section 16	In subsection (1), omit “, alteration or extension”
Schedule 3	In paragraph 1(2), in paragraph (a) omit “either as part of it or”, and omit paragraphs (b) and (c)
Schedule 5	In paragraph 1, for “the character of the building as one of special architectural or historical interest” substitute “the character or appearance of the conservation area in which the building is situated” In paragraph 6, omit “alteration or extension”



**SCHEDULE 3**

[Regulation 11(7) and 13(8)]

**INQUIRY AND WRITTEN REPRESENTATION PROCEDURE**

**1 Interpretation**

In this Schedule —

“**inquiry**” means proceedings conducted by a planning inspector under regulations 11(7) and 13(8);

“**written representation procedure**” means proceedings conducted by a planning inspector under regulation 11(7) or 13(8) by consideration of written submissions only.

**2 Procedure at inquiry**

- (1) 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

- (1) 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.

In the case of proceedings under regulation 13, 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 registered building consent and related consents under Part 3 of the Town and Country Planning Act 1999 and replace the Registered Buildings Regulations 2005.

The main changes from the 2005 Regulations are—

- (a) references to the planning committee are substituted with references to the Department. The function of the Planning Committee is now the subject of a delegation under the Government Departments Act 1987.
- (b) 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 the Act,);
- (c) the persons appointed to deal with appeals or certain applications under the regulations are now called planning inspectors; and

the power to designate to voluntary organisations is omitted.