

1967/9



THE TOWN AND COUNTRY PLANNING REGULATIONS 1960, AMENDMENT NO. 2

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 7th day of February 1967

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to the Town and Country Planning Act 1953, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

1. Title	16. Preparation for appeal
2. Interpretation	17. Arrangements for hearing appeal
3. Errors and omissions	18. Distribution of appeal decision
4. Revocation	19. Amendment of documents to give effect to decisions
5. Preparation of district scheme by sections	20. Approval of district scheme
6. Requirements for applications under regulation 6	21. Procedure for review of district scheme
7. Inviting proposals for inclusion in district scheme	22. Variations of district schemes
8. Planning data—general requirements	23. Applications for consent to change of use, specified departures, and conditional uses
9. Nature of planning data	24. Exercise of Board's powers by councils
10. Provision for public works	25. Decisions under section 38 of the Act
11. Public notification of district scheme	26. Objectionable changes of use
12. Opposition to and support of objections	27. Public works of regional significance
13. Hearing of objections	28. Forms
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REGULATIONS

1. **TITLE**—(1) These regulations may be cited as the Town and Country Planning Regulations 1960, Amendment No. 2, and shall be read together with and deemed part of the Town and Country Planning Regulations 1960* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

*S.R. 1960/109
Amendment No. 1: S.R. 1966/149

2. INTERPRETATION—Subclause (1) of regulation 2 of the principal regulations is hereby amended—

(a) By revoking the definitions of the terms “amend”, “appeal” “Board”, “change”, “departure”, “district planning map”, and “variation”:

(b) By inserting, after the definition of the term “District Commissioner”, the following definition:

“‘District planning map’ means a map or maps prepared in accordance with regulation 15 (1) (c) hereof:”.

3. ERRORS AND OMISSIONS—The principal regulations are hereby amended by revoking regulation 4, and substituting the following regulation:

“4. If there is any omission from or any inaccuracy in any information required to be supplied or in any step required to be taken in any action, procedure, document, or plan in pursuance of these regulations or any district scheme, the Council or the Board, as the case may be, may either—

“(a) Waive compliance with the requirement in respect of any such omission or inaccuracy; or

“(b) Direct that any such omission or inaccuracy be rectified upon such terms as to adjournment, service of documents, costs, or other thing as shall, in the opinion of the Council or the Board, be appropriate to the circumstances.”

4. REVOCATION—Regulation 5 of the principal regulations is hereby revoked.

5. PREPARATION OF DISTRICT SCHEME BY SECTIONS—Regulation 6 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

“(1) **Application for Minister’s approval**—Where a Council resolves to apply for approval to a district scheme being prepared by sections under section 20 of the Act, application shall be made to the Minister for approval and the application shall be in form A set out in the First Schedule hereto or to the like effect.”

6. REQUIREMENTS FOR APPLICATIONS UNDER REGULATION 6—The principal regulations are hereby amended by revoking regulation 7, and substituting the following regulation:

“7. (1) **Statement, plans, etc.**—Every application made under regulation 6 hereof shall be in writing signed by the Clerk, and shall be accompanied by a plan in duplicate showing the part or parts of the district for which the district scheme is proposed to be prepared.

“(2) **Reasons to be shown and proposals defined**—Every application shall show—

“(a) The special reasons why the Council considers that the district scheme should not be prepared for the whole of its district:

“(b) What sections the Council proposes and their intended sequence.”

7. INVITING PROPOSALS FOR INCLUSION IN DISTRICT SCHEME—(1) Regulation 9 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

“(1) **Public notification**—The Council shall give public notification of the preparation of the district scheme and the invitation to submit full information as to proposals, including public works, for the district scheme in form B set out in the First Schedule hereto or to the like effect:

“Provided that, where it is intended to prepare the district scheme by sections, the public notification may be given before or after the Council has obtained the approval of the Minister to the preparation of the district scheme by sections:

“Provided also that nothing in this subclause shall apply to any variation in a district scheme made under section 22A of the Act, or to any change or review of a district scheme made under any of the provisions of sections 29, 30, and 30A of the Act, or to any district scheme started afresh in compliance with section 28B (1) (b) of the Act.”

(2) Regulation 9 of the principal regulations is hereby further amended—

- (a) By inserting in subclause (2), after the words “by letters sent to” and the words “the district which”, the words “the District Commissioner”;
- (b) By omitting from subclause (2) the words “four months”, and substituting the words “two months”;
- (c) By revoking subclause (3).

3. PLANNING DATA—GENERAL REQUIREMENTS—Regulation 11 of the principal regulations is hereby amended by revoking subclause (3), and substituting the following subclause:

“(3) **Date to be shown**—Every part of the planning data shall show the date of its compilation, and the details of matter recorded shall be shown as they exist as near to the date of submission to the Minister of the planning data as is reasonably practicable.”

9. NATURE OF PLANNING DATA—Regulation 12 of the principal regulations is hereby amended by omitting the words “The data” where they appear at the commencement of that regulation, and substituting the words “The matters”.

10. PROVISION FOR PUBLIC WORKS—(1) Regulation 17 of the principal regulations is hereby amended by revoking paragraph (b) of subclause (1), and substituting the following paragraphs:

- “(b) Supply two copies of the district scheme to the District Commissioner of Works:
- “(bb) Supply a copy of the district scheme to each of the following:
 - “(i) The Regional Planning Authority (if any):
 - “(ii) Each local authority as defined in the Act:
 - “(iii) The Council for every adjoining district which has any community of interest with the district in any matter that could be affected by the scheme.”.

(2) Regulation 17 of the principal regulations is hereby further amended—

- (a) By omitting from subclause (2) the word “thereon”, and substituting the words “on the cover or front page of the scheme statement, the code of ordinances, and the district planning map”;
- (b) By revoking subclause (3):
- (c) By omitting from subclause (4) the expression “section 21 (6)”, and substituting the expression “section 21”.

11. PUBLIC NOTIFICATION OF DISTRICT SCHEME—

(1) Regulation 18 of the principal regulations is hereby amended—

- (a) By omitting from subclause (1) the expression “section 21 (6)”, and substituting the expression “section 21”;
- (b) By omitting from subclause (2) the words “its cover or front page if bound together or otherwise on each separate part of it”, and substituting the words “the cover or front page of the scheme statement, the code of ordinances, and the district planning map”.

(2) Regulation 18 of the principal regulations is hereby further amended by revoking subclause (4), and substituting the following subclause:

“(4) **Inspection of scheme and variations**—The places at which the district scheme and any variations thereof may be inspected shall include every public library and branch thereof in the area affected.”

12. OPPOSITION TO AND SUPPORT OF OBJECTIONS—Regulation 20 of the principal regulations is hereby amended by adding to subclause (4) the words “A copy of each such notice shall be served forthwith on the objector by the opposer or supporter of the objection as the case may be”.

13. HEARING OF OBJECTIONS—(1) Regulation 21 of the principal regulations is hereby amended by revoking subclause (3).

(2) Regulation 21 of the principal regulations is hereby further amended by revoking subclause (5), and substituting the following subclause:

“(5) **No right of cross examination**—No cross examination shall be allowed at the hearing of any objection, but the Council or the committee may ask questions relating to the objection.”

14. DECISION UPON OBJECTION—Regulation 23 of the principal regulations is hereby amended by omitting from subclause (1) the words “each hearing”, and substituting the words “the hearing”.

15. APPEAL—(1) Regulation 24 of the principal regulations is hereby amended by inserting in subclause (4), after the words “every document”, the words “and plan”.

(2) Regulation 24 of the principal regulations is hereby further amended by revoking subclause (5), and substituting the following subclause:

“(5) **Identification of property affected**—The appeal and each copy thereof shall contain sufficient information to identify any property affected.”

(3) Regulation 24 of the principal regulations is hereby further amended—

- (a) By omitting from subclause (6) the words “with plan and supporting documents on the Council, the Commissioner of Works, the District Commissioner, the Regional Planning Authority (if any), and any other local authority affected by the appeal”, and substituting the words “on the applicant (if any), the Council, the Commissioner of Works, the District Commissioner, the Regional Planning Authority (if any), and any other local authority which the appellant may reasonably consider to be affected”;
- (b) By adding to subclause (7) the words “or direct that the date of the appeal and the purport thereof be publicly notified”.

16. PREPARATION FOR APPEAL—Regulation 25 of the principal regulations is hereby amended—

- (a) By revoking paragraph (a) of subclause (1):
- (b) By omitting from subclause (2) the words “serve copies of the reply on the appellant”, and substituting the words “within seven days of so lodging the reply, serve copies of the reply on the appellant, the applicant (if any), the Regional Planning Authority (if any)”.

17. ARRANGEMENTS FOR HEARING APPEAL—Regulation 26 of the principal regulations is hereby amended by inserting in subclause (1), after the word “appellant”, the words “the applicant (if any)”.

18. DISTRIBUTION OF APPEAL DECISION—Regulation 27 of the principal regulations is hereby amended by inserting in paragraph (a), after the word “other”, the word “person”.

19. AMENDMENT OF DOCUMENTS TO GIVE EFFECT TO DECISIONS—The principal regulations are hereby amended by revoking regulation 28.

20. APPROVAL OF DISTRICT SCHEME—Regulation 29 of the principal regulations is hereby amended—

- (a) By inserting in subclause (4), after the word “shall”, the words “in accordance with section 28 (2) of the Act”;
- (b) By omitting from subclause (5) the words “deposited for public inspection shall be”, and substituting the words “distributed under section 28 (3) of the Act shall be certified correct and”;
- (c) By inserting in subclause (7), after the word “distribute”, the words “as soon as possible certified”.

21. PROCEDURE FOR REVIEW OF DISTRICT SCHEME—Regulation 30 of the principal regulations is hereby amended—

- (a) By revoking the proviso to subclause (2):
- (b) By omitting from subclause (2) the words “this together with the planning data previously prepared shall be the planning data for the review of the scheme”, and substituting the words “a copy of this up-to-date planning data shall be supplied to the Minister when the proposed review is submitted to him. This planning data together with the planning data previously prepared shall be the planning data for the review of the district scheme”:
- (c) By omitting from subclause (3) the words “As part of the review, all sections of a district scheme that are then operative may”, and substituting the words “As part of the review, all contiguous sections of a district scheme that are then operative shall”:
- (d) By omitting from subclause (6) the words “and the last newspaper notification under that regulation shall be deemed to be the last public notification referred to in the proviso to subsection (3) of section 30 of the Act”.

22. VARIATIONS OF DISTRICT SCHEMES—The principal regulations are hereby amended by revoking regulation 31, and substituting the following regulation:

“31. (1) **Variations after disposal of objections—**If before a district scheme becomes operative the council desires to vary it in a respect to which neither regulation 19 (2) hereof nor section 26A of the Act applies at that time, the Council may either begin afresh or follow the procedure for variations set forth in section 22A of the Act:

“Provided that, in respect of a modification to which this regulation relates, the Council shall have no obligation to invite information and proposals under regulation 9 hereof.

“(2) **Merging of variations with district scheme—**Except as may be expressly provided in the Act, every variation of a district scheme under section 22A of the Act shall merge in and become part of the scheme at the earliest time when the variation and the scheme are both at the same stage of procedure:

“Provided that, where the variation includes matter to be substituted for matter in the scheme, being matter against which an objection or an appeal that would not be satisfied by the variation has been made but not disposed of, that objection or appeal shall be deferred and dealt with as an objection or appeal against the variation.”

23. APPLICATIONS FOR CONSENT TO CHANGE OF USE, SPECIFIED DEPARTURES, AND CONDITIONAL USES—The principal regulations are hereby amended by revoking regulation 32, and substituting the following regulation:

“32. (1) **Form of applications—**Applications for consent to change of use under section 38A of the Act, applications for consent to a specified departure under section 35 of the Act, and applications for consent to a conditional use under section 28c of the Act shall be in form N set out in the First Schedule hereto or to the like effect.

“(2) **Service of application**—The Council or any committee or authorised officer thereof shall, within seven days of receipt of the application, direct the applicant to serve copies of the application and the proposed public notice on such persons and bodies as the Council, committee, or officer considers to have a greater interest in the application than the community generally has.

“(3) **Particulars to be publicly notified**—After lodging the application with the Council, the applicant shall publicly notify full particulars thereof, including any special conditions, restrictions, and provisions proposed. The public notification shall be in form O set out in the First Schedule hereto or to the like effect.

“(4) **Period for objections**—The public notification shall require the Minister and any person or body objecting to the application to submit his objection to the Council by a date to be specified in the public notification, which date shall be not less than 21 days after the date of the completion of the public notification.

“(5) **Distribution of copies of application**—The applicant shall, not later than the date of the completion of the public notification, serve a copy of the public notice on the Council and a copy of the notice and of the application on the Commissioner of Works, the District Commissioner of Works, and on the persons and bodies directed to be served pursuant to subclause (2) of this regulation.

“(6) **Statutory declaration required**—Before the application is considered by the Council the applicant shall, within three months of the date of the completion of the public notification, submit to the Council a statutory declaration to the effect that the provisions of subclauses (3) and (5) of this regulation have been complied with, and setting out such details as to service of the public notice and of the application as the Council may require.

“(7) **Consideration by Council**—The Council shall, as soon as conveniently may be after receiving the statutory declaration required by subclause (6) of this regulation, consider the application.

“(8) **Procedure for hearing**—The provisions of regulations 21 and 22 hereof, relating to the hearing of objections and to witnesses, shall apply to the hearing of objections to any application under this regulation; and the Council shall advise the applicant of the time and place of the hearing. The Council or any committee appointed by the Council shall at the hearing of any objection under this regulation have power to summon witnesses and to hear evidence on oath.

“(9) **Distribution of decision**—As soon as the Council has considered the application and any objections thereto it shall serve notice of its decision on the applicant, the owner, the occupier, and each objector:

“Provided that, where any person or body has been represented in respect of the application by a solicitor or agent, notice of the decision may be served on that solicitor or agent alone.

“(10) **Time of decision**—The application shall be deemed to be granted or refused, as the case may be, for the purpose of an appeal by any person when notice of the decision is served on or sent to that person.

“(11) **Costs**—The reasonable costs of or incidental to any application under this regulation, and to the public notification and distribution of the consent and copies thereof, shall be payable by the applicant.”

24. EXERCISE OF BOARD'S POWERS BY COUNCILS—The principal regulations are hereby amended by revoking regulation 33, and substituting the following regulation:

“33. As soon as possible after every application for a specified departure has been finally determined, the Council shall, unless the application has been wholly refused, distribute details of the departure to the persons described in subsection (3) of section 28 of the Act.”

25. DECISIONS UNDER SECTION 38 OF THE ACT—Regulation 34 of the principal regulations is hereby amended by revoking paragraphs (a) and (b), and substituting the words “to the applicant and to the owners and occupiers of the land affected”.

26. OBJECTIONABLE CHANGES OF USE—The principal regulations are hereby amended by revoking regulation 35.

27. PUBLIC WORKS OF REGIONAL SIGNIFICANCE—Regulation 37 of the principal regulations is hereby amended—

- (a) By omitting from subclause (1) the expression “subsections (3) and (4)”, and substituting the expression “subsection (2)”;
- (b) By omitting from subclause (3) the expression “section 10 (2)” and substituting the expression, “section 10 (3)”.

28. FORMS—The First Schedule to the principal regulations is hereby amended—

- (a) By revoking form A, and substituting the form A set out in the Schedule hereto;
- (b) By omitting from form B the words “four months”, and substituting the words “two months”;
- (c) By omitting from form F the words “accordingly at least three days before that date”, and substituting the words “in writing on form G set out in the First Schedule to the Town and Country Planning Regulations 1960 before (*Insert date to accord with provisions of section 23 (2) of the Town and Country Planning Act 1953*):
- (d) By inserting in form H, after the words “[State particular documents if required]”, the following words:
 - “Your attention is drawn to regulation 22 (3) of the Town and Country Planning Regulations 1960 which provides that any witness who, after being duly summoned to attend before a Council or a committee of a Council,—
 - “(a) Fails without sufficient cause to appear; or
 - “(b) Refuses to be sworn or to give evidence or to produce any document required by the summons served on him to be produced—
 - commits an offence against these regulations and shall be liable on summary conviction to a fine not exceeding £5”;
- (e) By omitting from form J the words “I attach a plan showing the properties affected and illustrating the matters herein referred to”;
- (f) By revoking form K, and substituting the form K set out in the Schedule hereto:

- (g) By omitting from form L the words “and in every public library in the district”:
- (h) By omitting from form L the words “these places are” and substituting the words “that office is”:
- (i) By inserting forms N and O as set out in the Schedule hereto.

SCHEDULE

FORMS TO BE INSERTED IN FIRST SCHEDULE TO THE PRINCIPAL REGULATIONS

Reg. 6 (1) “Form A

The Town and Country Planning Act 1953

Application for Approval to Prepare District Scheme by Sections
..... **District Scheme**

THE Council hereby applies for approval to the preparation of the Council’s district scheme by (*State number*) sections as shown by distinctive colouring on the map of the district accompanying this application, each section to be known by the locality name endorsed within its boundaries on that map.

It is the Council’s present intention to prepare the sections in the following order: [*State order.*]

The Council’s reasons for this application are:.....

Dated at this day of 19.....

.....
For the Council.

Reg. 29 (2) “Form K

The Town and Country Planning Act 1953

Statutory Declaration as to Procedure
..... **District Scheme**

I,, do solemnly and sincerely declare:

(1) That I am the Mayor
Chairman of

(2) That to the best of my knowledge and belief in the preparation of the aforesaid district scheme all the requirements of the Town and Country Planning Act 1953 and of the amendments thereto and regulations thereunder have been complied with, and I am not aware of any reason why that scheme should not be approved by the Council.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

.....
Mayor/Chairman.

Declared at this day of 19....., before me.

.....
Justice of the Peace.
Solicitor, etc.

SCHEDULE—*continued*

“Form N

Reg. 32 (1)

The Town and Country Planning Act 1953

Application for Consent to Change of Use
Application for Consent to Specified Departure
Application for Consent to Conditional Use

To the Clerk,
..... Council.

This application is made under section of the Town and Country Planning Act 1953.

I hereby apply for [*State fully nature of application*].

The property in respect of which this application is made is situated at No. Street (Road) [*State locality*], and the legal description is I am the [*State whether owner, lessee, etc.*] of the property.

Special conditions, restrictions, or provisions proposed for the application are

Name of owner:..... Address:.....

Name of occupier:..... Address:.....

Names of persons particularly affected: Addresses:

1.

2.

Dated at this day of 19....

Signature:.....

(*To be signed for or on behalf of applicant*)

Full name of applicant:.....

Address for service:.....

“Form O

Reg. 32 (3)

The Town and Country Planning Act 1953

..... Council

Notice of Application for Consent to Change of Use
Notice of Application for Consent to Specified Departure
Notice of Application for Consent to Conditional Use

NOTICE is hereby given that application has been made by [*Name*] of [*Locality*] for consent to

The property is on the [*N.S.E.W.*] side of [*Road*] at [*Locality—for Counties*] (*or*) The property is situated at No. [*Street for Boroughs and Cities*]; and is located in the Zone.

The legal description of the land is

The application may be examined at the office of the Council, [*Street and Town*] during normal office hours and any person or body affected may object to the application by notice in writing delivered to the Clerk, Council, P.O. Box [*Town*] not later than 4 p.m. on [*Insert date being not less than 21 days after the date of the second advertisement*].

Every objector shall state the grounds of the objection and whether the objector wishes to be heard by the Council in support of his objection.

Date: Signed:

This is the [*first*]
[*second*] publication of this notice.

The first publication was made on"

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations make various amendments to the Town and Country Planning Regulations 1960. The analysis to these regulations gives a general indication of the amendments.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 9 February 1967.
These regulations are administered in the Ministry of Works.