

THE TOWN AND COUNTRY PLANNING (APPEALS) REGULATIONS

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SECTION 14-THE TOWN AND COUNTRY PLANNING (APPEALS) REGULATION

*Government
Notice
50 of 1963*

Regulations by the Minister

1. These Regulations may be cited as the Town and Country Planning (Appeals) Regulations. Title

2. These Regulations shall apply to all appeals to the Tribunal made under the provisions of sections *eleven, twenty-nine* and *thirty-one* of the Act. Application

3. In these Regulations, unless the context otherwise requires- Interpretation

"appellant" means any applicant or person or any local or township authority who appeals to the Tribunal;

"interested party" means the appellant, respondent or any objector;

"objector" means any person, other than an appellant or a respondent, who wishes to exercise his right to be heard in any appeal under the provisions of section *eleven* (1) (a) of the Act;

"president" means the president of the Tribunal appointed under the provisions of section *seven* (1) of the Act;

"respondent" means the Minister or planning authority against whose decision, enforcement notice or order an appeal is made to the Tribunal;

"secretary" means the secretary to the Tribunal appointed under the provisions of section *seven* (5) of the Act;

"vice-president" means the vice-president of the Tribunal appointed under the provisions of section *eight* (1) of the Act.

4. (1) Every appeal to the Tribunal shall be instituted by serving on the secretary a written notice of appeal in quadruplicate signed by the appellant or his legal representative. Such notice of appeal shall include the residential or business and postal address of the appellant at which notices may be served.

Notice of appeal and
appellant's case

(2) When an appellant gives notice of appeal, he shall at the same time lodge with the secretary a statement in writing (hereinafter called the "appellant's case") in quadruplicate, setting forth the grounds of his appeal and all the facts which he considers material and relevant thereto and his contentions in law based thereon.

(3) Upon serving notice of appeal on the secretary, the appellant shall forthwith serve a copy of such notice and of the appellant's case upon the respondent.

5. Where an appeal has been made under the provisions of section *twenty-nine* of the Act and it appears to the president or the vice-president that permission for the development or subdivision could not have been granted otherwise than subject to the conditions imposed having regard to the provisions of section *twenty-five* of the Act and of the appropriate development order and to any directions given under that order, he shall by notice served on the appellant and respondent give the reasons for his decision.

Appeal not entertained

6. As soon as possible after the receipt of the notice of appeal, the president or the vice-president shall cause to be published in a newspaper circulating in the area where the premises at which the subject of the appeal are situated an advertisement in the form set out in Part I of the Schedule calling upon any objector to serve on the secretary, within twenty-eight days of the date of publication of the advertisement, written notice of his intention to be heard on the hearing of the appeal therein referred to.

Publication of
advertisement calling
for objections

7. (1) Every notice of intention to be heard shall be in quadruplicate and shall contain, in addition to the residential or business and postal address of the objector at which notices may be served, a statement (hereinafter called the "objector's case") setting forth the grounds of the objector for wishing to be heard and all the facts which he considers material and relevant thereto and his contentions in law based thereon.

Objector's case

(2) Upon serving notice of intention to be heard on the secretary, the objector shall forthwith serve a copy of such notice upon the appellant and upon the respondent.

8. (1) Within fourteen days from the date of receipt of the copy of the appellant's case, or such longer period as the president or the vice-president in writing may agree, the respondent shall lodge with the secretary a statement in writing (hereinafter called the "respondent's case") in quadruplicate setting forth-

Respondent's case

(a) the reasons for the decision appealed against;

(b) which of the allegations in the appellant's case he admits as correct and which he denies;

(c) all other facts which he considers relevant and material to the determination of the appeal; and

(d) his contentions in law.

(2) Upon lodging the respondent's case with the secretary, the respondent shall forthwith serve a copy thereof on the appellant.

(3) As soon as possible after the receipt of the respondent's case, the secretary shall serve notice on every objector informing him that he may during normal office hours at the office of the secretary inspect and take copies of the notice of appeal, the appellant's case and the respondent's case.

9. The secretary shall, when the president or the vice-president has appointed the place and date of hearing of an appeal, cause notice thereof to be served on the appellant, the respondent and all objectors, if

Place and date of hearing

any, and shall forthwith cause an advertisement thereof in the form set out in Part II of the Schedule to be published in a newspaper circulating in the area where the premises which are the subject of the appeal are situated.

10. (1) The appellant may, not less than seven days before the date appointed for the hearing of the appeal, serve on the secretary a written notice signed by himself, the respondent and all objectors, if any, requesting that the appeal be heard without appearances by the parties thereto on the notice of appeal, the appellant's case, the respondent's case and the objector's case.

Hearing on written
statements

(2) If the president or the vice-president considers that such request is reasonable, the appeal may be determined on such notice of appeal, the appellant's case, the respondent's case and the objector's case or the Tribunal may, before determining the matter under appeal, require any interested party to submit within a time to be specified by the Tribunal any further information it may consider necessary.

(3) Where any interested party without reasonable cause fails to submit within the time specified the further information required under the provisions of sub-regulation (2), the Tribunal may proceed to determine the matter of the appeal on such evidence as is before it.

(4) Regulations 11, 12 (1), 13 and 18 shall not apply to an appeal heard under the provisions of this regulation.

11. (1) The Tribunal shall afford the appellant, the respondent and any objector or their legal representatives a full opportunity of being heard and of calling such evidence and producing such documents at the hearing of the appeal as may be deemed relevant and material.

Hearing of appeal in
public

(2) The provisions of rule 9 of Order V of the High Court Rules shall apply, *mutatis mutandis*, to the hearing of any appeal to the Tribunal.

Cap. 27

(3) Where an appellant or an objector is not legally represented and the Tribunal considers that he is unable to do his case justice, it shall assist him to represent adequately his case by asking questions of any of the interested parties or by asking any witnesses such questions as it may

deem necessary.

(4) In the absence of any or all of the interested parties or their legal representatives, the Tribunal may nevertheless proceed to determine the appeal on such evidence as is available to it.

12. (1) The Tribunal may, either at the request of any interested party or of its own volition, inspect the site to which the appeal relates.

Inspection of site

(2) The president or the vice-president at his discretion may request the Minister to appoint such a person as he considers suitable to inspect and report on the site to which the appeal relates and the adjacent area not less than fourteen days before the appeal is heard, and such report shall, if the appeal is heard in public, form part of the record of the proceedings, and any interested party shall be entitled to comment thereon, and for this purpose the secretary shall by notice served submit a copy of such report to all the interested parties not less than seven days before the appeal is heard.

13. If for any reason it appears desirable to the Tribunal to adjourn an appeal or application, it shall have full power to do so upon such terms and for such time as seems fit.

Adjournment of appeal

14. The determination of every appeal shall be pronounced either immediately after the termination of the hearing or as soon as is reasonably practicable thereafter at some subsequent date.

Determination of appeal

15. (1) A decision of or an order made by the Tribunal shall contain reasons for its decision and for any conditions included therein, and a copy thereof shall be sent by registered post to the appellant and the respondent and to every objector as soon as possible thereafter.

Notification of decision

(2) Any decision of or order made by the Tribunal shall, on the copy sent to the appellant, include a statement to the effect that the appellant, if dissatisfied with the decision of the Tribunal, may, within twenty-eight days of such decision, appeal to the High Court against such decision.

16. A notice shall be sufficiently served on the Tribunal if it is served

Service of notice on

on the secretary at the official address of the Tribunal.

Tribunal

17. Any costs and charges imposed by the Tribunal may be recovered by civil action.

Costs and charges

18. (1) All applications, including applications for an extension of time within which to appeal, shall be made to the Tribunal by notice and, upon serving such notice upon the Tribunal, the applicant shall serve a copy of such notice upon the respondent.

Applications

(2) The notice shall state shortly the reasons upon which the application is based and shall contain the residential or business and postal address of the applicant and the respondent.

(3) The secretary shall notify the applicant and the respondent of the date of hearing of the application. The applicant and the respondent shall be entitled to appear and be heard on such hearing.

SCHEDULE

PRESCRIBED FORMS

PART I

(Regulation 6)

FORM OF ADVERTISEMENT OF PUBLIC INQUIRY THE TOWN AND COUNTRY PLANNING ACT HEARING IN PUBLIC OF AN APPEAL

.....Development Plan

NOTICE IS HEREBY GIVEN THAT

of

is appealing to the Town and Country Planning Tribunal against the refusal/conditions of approval/approval of the*Planning Authority/Minister of Provincial and Local Government in respect of (describe application for planning permission) at (address of land to which appeal relates).

Any person whose interest in any land may be affected by the decision of the Tribunal has the right to appear and be heard at this hearing and any person so wishing to appear and be heard shall within twenty-eight days from the date of publication of this notice serve notice

in writing on the Tribunal of his intention to appear and be heard and such notice shall include written grounds in quadruplicate for wishing to be heard. At the same time as such person serves notice on the Tribunal he shall serve a similar notice on the appellant and the*Planning Authority/Minister of Provincial and Local Government, P.O. Box.....and such notice shall include a copy of his grounds for wishing to be heard.

Any other person who so wishes may attend the hearing but shall not be heard.

Notices and other documents may be served on the above-named appellant at the following address

(Signed).....

Secretary ,

Town and Country Planning Tribunal,
P.O. Box RW.27, Lusaka.

*Where necessary insert the Natural Resources Board.

PART II

(Regulation 9)

FORM OF ADVERTISEMENT OF PUBLIC INQUIRY THE TOWN AND COUNTRY PLANNING ACT

HEARING IN PUBLIC OF AN APPEAL

.....Development Plan

NOTICE IS HEREBY GIVEN that the appeal by

.....of.....

against the decision of the*Planning Authority/

Minister of Provincial and Local Government in respect of his application for permission to develop/subdivide land situated at

.....

will be heard in public ata/p.m. on.....

theday of.....19.....

at

Any person who has previously submitted representations or objections to the Tribunal in respect of this appeal has the right to appear and be heard.

Any other person may attend this hearing but shall not be heard.

(Signed).....

Secretary ,

Town and Country Planning Tribunal,
P.O. Box RW.27, Lusaka.

*Where necessary insert the Natural Resources Board.