WELSH STATUTORY INSTRUMENTS

2005 No. 1270 (W.90)

COUNTRYSIDE, WALES

The Countryside Access (Means of Access, Appeals etc.) (Wales) Regulations 2005

Made - - - -	*4 May 2005*
Coming into force - -	*6 May 2005*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 32, 38(6) and 44(2) of the Countryside and Rights of Way Act 2000 ("the Act")(**1**), hereby makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Countryside Access (Means of Access, Appeals etc.) (Wales) Regulations 2005 and they come into force on 6 May 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"appeal form" ("*ffurflen apêl*") means the document, obtainable from the National Assembly, which must be completed by a person who wishes to bring an appeal under section 38(1) of the Act;

"appeal land" ("*tir apêl*") means the land which is the subject of the appeal;

"appeal period" ("*cyfnod apêl*") means the period specified in regulation 4(2) or, as the case may be, regulation 4(3);

"the Appeals Procedures Regulations" ("*y Rheoliadau Gweithdrefnau Apelau*") means the Countryside Access (Appeals Procedures) (Wales) Regulations 2002(**2**);

"document" ("dogfen") includes a photograph, map or plan;

"electronic communication" ("*cyfathrebiad electronig*") has the meaning given in section 15(1) of the Electronic Communications Act 2000(**3**);

(**1**) 2000 c. 37.
(**2**) S.I. 2002/1794 (W.169), as amended by S.I. 2003/142 (W.14) and S.I. 2005/1154 (W.71).
(**3**) 2000 c. 7.

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales; and

"relevant local access forum" ("*fforwm mynediad lleol perthnasol*") means the local access forum established under section 94 of the Act for the area in which the appeal land is situated.

(2) Unless otherwise stated, words or phrases in these Regulations have the meaning given to them in the Act or, where those words and phrases have been given a different meaning in the Appeals Procedures Regulations, in those Regulations.

Use of electronic communication

3.—(1) Any requirement imposed under these Regulations as to the giving or sending by one person to another of a notice or other document may be met by means of an electronic communication if the—

(a) use of such a communication results in the information contained in that notice or document being available to the other person in all material respects as it would appear in a notice or document given or sent in printed form; and

(b) other person has consented to the information being received by such means.

(2) Where, under paragraph (1), an electronic communication is used for the purposes of giving or sending a notice or document, any requirement for—

(a) the notice or document to be given or sent by a particular time will be met in respect of an electronic communication only if the conditions mentioned in paragraph (1) are met by that time; and

(b) more than one copy to be sent on any single occasion may be complied with by a single such communication.

(3) For the purposes of paragraph (1)(a), "in all material respects" means in all respects material to an exact reproduction of the content of the information as it would appear in a notice given or sent in printed form.

Manner in, and period within, which an appeal is to be brought

4.—(1) Subject to paragraph (4), an appeal to the National Assembly under section 38(1) of the Act (appeals against notices under section 36(3) or 37(1) of the Act concerning works with respect to means of access) may only be brought if notice is given to the National Assembly by sending or delivering a—

(a) completed appeal form to the National Assembly before the end of the appeal period; and

(b) copy of that completed appeal form to the access authority at the same time as that notice is sent or delivered to the National Assembly under sub-paragraph (a).

(2) Where an appeal is brought against a notice given under section 36(3) of the Act, the appeal period is the period specified in that notice within which the works specified in that notice are required to be carried out.

(3) Where an appeal is brought against a notice given under section 37(1) of the Act, the appeal period is the period specified in that notice after which the access authority intends to carry out the works specified in that notice.

(4) If a person who wishes to bring an appeal sends or delivers to the National Assembly written notice of that wish so that it is received by the National Assembly before the end of the appeal period, then, provided that person sends or delivers to the National Assembly a completed appeal form within such further period as the National Assembly may, in writing, require, that appeal form is to be treated as if it had been received before the end of the appeal period.

(5) An appeal form may be completed in either the English language or the Welsh language, but, if the appellant wishes the appeal to be dealt with in whole or in part through the medium of a language other than that in which the appeal form has been completed, the appeal form should contain, or be accompanied by, a request to that effect.

Amendment of the Appeals Procedures Regulations

5. In regulation 2(1) of the Appeals Procedures Regulations (Interpretation)—

(a) in the definition of "appeal" ("*apêl*"), delete "38(3)" and substitute "38(1)"; and

(b) in the appropriate place in alphabetical order, insert—

> ""relevant local access forum" ("*fforwm mynediad lleol perthnasol*") means the local access forum established under section 94 of the Act for the area in which the land which is the subject of the appeal is situated;"; and

(c) in the definition of "respondent" ("*yr atebydd*"), after "decision", insert " or, in the case of an appeal under section 38(1) of the Act, the access authority whose notice".

6. Delete regulation 3 of the Appeals Procedures Regulations (Action by the National Assembly on receipt of an appeal form) and substitute—

> "**3.** The National Assembly must, as soon as reasonably practicable after it receives a completed appeal form,—
>
> (a) except in the case of an appeal under section 38(1) of the Act, send a copy of the completed appeal form to the respondent; and
>
> (b) in the case of an appeal under section 38(1) of the Act, send a questionnaire to the respondent requesting the information required by the National Assembly to enable it to consider the appeal.".

7. After regulation 4(2) of the Appeals Procedures Regulations (Response by a respondent to an appeal), insert—

> "(3) In the case of an appeal under section 38(1) of the Act, the respondent must, in addition to complying with paragraph (1), and within the period specified in that paragraph, ensure that—
>
> (a) the National Assembly receives—
>
> (i) the completed questionnaire which the National Assembly sent to the respondent under regulation 3(b) (which must state the date on which it is sent to the National Assembly) together with a copy of each document referred to in it,
>
> (ii) the name and address of any person to whom a copy of a notice has been given under section 37(3) of the Act or paragraph (3)(b),
>
> (iii) the name and address of any person who made representations to the respondent in respect of the respondent's decision to which the appeal relates,
>
> (iv) the address of the relevant local access forum, and
>
> (v) details of the times during, and places at, which the access authority intends to make documents available for inspection; and
>
> (b) it sends to every owner or occupier of the land (other than the person to whom a notice under section 36(3) was given), a copy of that notice.".

8. In regulation 5 of the Appeals Procedures Regulations (Notifying the parties of the appeal procedure)—

(a) delete paragraphs (2) and (3) and substitute—

"(2) Notice under paragraph (1)—

(a) must not be given before the expiry of 35 days from the date on which the National Assembly sent a copy of the completed appeal form to the respondent in accordance with regulation 3; or

(b) in the case of an appeal under section 6 of the Act, must not be given before the expiry of three months from the date of issue of the provisional map to which the appeal relates (if the expiry of this period is later than that specified in sub-paragraph (a); or

(c) in the case of an appeal under section 38(1) of the Act, must be given as soon as practicable after the National Assembly receives from the respondent the documents and information the respondent is required to provide to it under regulation 4.

(3) The notice given under paragraph (1) must be dated and must state—

(a) in all cases, whether the appeal is to take the form of—

(i) a local inquiry,

(ii) a hearing, or

(iii) neither (a) nor (b) and will therefore be determined on the basis of written representations; and

(b) in the case of an appeal under section 38(1) of the Act—

(i) whether the appeal relates to a notice given under section 36(3) or, as the case may be, 37(1) of the Act, and

(ii) a description of the works specified in that notice.".

9.—(1) In regulation 6(1)(a) of the Appeals Procedures Regulations (Notice to the public), after "30(3)", insert—

"or 38(1)".

(2) At the end of regulation 6(1)(d), delete the full stop and add—

";

(e) in the case of an appeal under section 38(1) of the Act, give notice to—

(i) the relevant local access forum,

(ii) any person to whom a copy of a notice has been given under section 37(3) of the Act or regulation 4(3)(b),

(iii) any person who made representations to the respondent in relation to the matter which is the subject of the appeal, and

(iv) any other person to whom the National Assembly considers it appropriate to give notice.".

(3) In regulation 6(2),—

(a) in the first sentence, delete "paragraph (1)(c) or (1)(d)" and substitute "paragraph (1)(c), (d) or (e)";

(b) in sub-paragraph (a), after "appellant", add " and, in the case of a reference under section 29(2) of the Act, or an appeal under section 30(3) or 38(1) of the Act, the name of the respondent;";