WELSH STATUTORY INSTRUMENTS

2003 No. 142 (W.14)

COUNTRYSIDE, WALES

The Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003

Made - - - -	*28th January 2003*
Coming into force - -	*1st March 2003*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by sections 11, 23(1) and (2), 32 and 44 of the Countryside and Rights of Way Act 2000(**1**) and all other powers enabling it in that behalf:

Part I

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003 and come into force on 1st March 2003.

(2) These Regulations apply to Wales.

Interpretation

2.—(1) In these Regulations:

"the Act" ("*y Ddeddf*") means the Countryside and Rights of Way Act 2000;

"agent" ("*asiant*") means any person acting on behalf of another person with that person's authority;

"appeal" ("*apêl*") has the meaning given in regulation 16;

"appeal form" ("*ffurlen apêl*") means a document which, when completed, contains the information specified in regulation 16(5);

(**1**) 2000 c. 37. The powers under sections 11 and 32 are to make provisions by regulations. Section 23(1) and (2) provide for steps to be "prescribed". "Prescribed" means prescribed by regulations and "regulations" means, as respects Wales, regulations made by the National Assembly for Wales.

"appeal period" ("*cyfnod apêl*") means the period of 6 weeks from the date of the decision giving rise to the appeal or, where that decision is a decision to give a direction, from the date of the direction;

"appellant" ("*apelydd*") means the person bringing an appeal in accordance with regulation 16;

"the Council" ("*y Cyngor*") means the Countryside Council for Wales;

"electronic communication" ("*cyfathrebiad electronig*") has the meaning assigned to that term in section 15(1) of the Electronic Communications Act 2000(**2**);

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

"person" ("*person*") and "persons" ("*personau*") include individuals, corporations and unincorporated bodies;

"relevant local access forum" ("*fforwm mynediad lleol perthnasol*") means a local access forum established under section 94 of the Act whose area of operation includes the land to which a direction or proposed direction relates;

"right of access" ("*hawl mynediad*") means the right of the public, in relation to access land, conferred by section 2(1) of the Act; and

"working day" ("*diwrnod gwaith*") means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and a notice given after 4.30pm on a working day is to be treated as given on the next working day.

(2) Unless the context otherwise requires any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(3) In reckoning any period which is expressed in these Regulations to be a period from a given date, that date is to be excluded and, where the day or the last day on which anything is required by, or in pursuance with, these Regulations to be done is a Sunday, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, the requirement is to apply as if the reference to that day were a reference to the first day thereafter which is not one of the classes of days before-mentioned.

Part II

DISCRETIONARY EXCLUSION OR RESTRICTION OF ACCESS

Exclusion or restriction of access at the discretion of the entitled person

3.—(1) An entitled person who wishes to exclude or restrict access to an area of access land under section 22 of the Act (exclusion or restriction of access at the discretion of owner and others) must, in order to do so, comply with the requirements of this regulation.

(2) The entitled person must give notice in writing to the relevant authority, which must include:

(a) the name, address and postcode of the entitled person;

(b) if the entitled person is giving notice through an agent, the name, address and postcode of that agent;

(c) a statement of the nature of the entitled person's interest in the land;

(**2**) 2000 c. 7.

(d) a description (whether by map or otherwise) of the location and extent of the land which is sufficiently detailed to enable the relevant authority to identify the land;

(e) a statement whether the entitled person wishes to exclude access or, alternatively, to restrict it and, if to restrict it, details of the restriction; and

(f) the dates on which the exclusion or restriction is to apply and, if the entitled person wishes the exclusion or restriction to last for less than the whole of any day, the times between which the exclusion or restriction are to operate on that day.

(3) Unless paragraph (4) or (6) applies, notice must be given in writing so that it is received by the relevant authority at least 5 days before any day on which any exclusion or restriction is to operate.

(4) This paragraph applies if:

(a) the entitled person has given notice in writing to the relevant authority which includes the information referred to in sub-paragraphs (a) to (e) of paragraph (2) but which does not include the information referred to in sub-paragraph (f) of that paragraph; and

(b) at least 5 days has elapsed since that notice was received by the relevant authority.

(5) If paragraph (4) applies, the entitled person may exclude or restrict access in accordance with the notice referred to in paragraph (4)(a) and the further notice referred to in this paragraph by giving the relevant authority notice of the information referred to in sub-paragraph (f) of paragraph (2), in writing or orally (including by telephone), so that it is received by the relevant authority on or before the last working day before the exclusion or restriction is intended to apply.

(6) This paragraph applies if the relevant authority:

(a) has received notice, whether in writing or not, which includes the information referred to in sub-paragraphs (a) to (f) of paragraph (2);

(b) decides that it was not reasonably practicable for the entitled person to comply with the requirements of paragraph (3) or (4) of this regulation; and

(c) communicates that decision to the entitled person or, where the entitled person gave notice through an agent, that agent.

(7) Where paragraph (6) applies, the exclusion or restriction is to take effect no earlier than the time when the relevant authority communicates the decision referred to in paragraph (6)(c) to the entitled person or the entitled person's agent, as the case may be.

(8) As soon as possible after reaching a decision in accordance with paragraph (6)(b), a relevant authority must, unless it has already done so by the communication referred to in paragraph (7), confirm that decision in writing to the entitled person.

(9) An entitled person who has given notice in accordance with paragraph (2) but who no longer wishes the exclusion or restriction to which it relates to take effect may, subject to paragraph (10), give the relevant authority notice in writing of that fact, and, if it is received by the relevant authority at least 2 working days before the day on which the exclusion or restriction was to apply, the original notice will then be of no effect.

(10) Paragraph (9) does not apply in relation to any land if the entitled person has, since 1st January of that year, already given 5 notices to the relevant authority in question under that paragraph in relation to that land or to land which includes that land.

Restriction of access with dogs

4.—(1) An owner of access land who wishes to restrict the right of access to an area of that access land under section 23 of the Act (restrictions on dogs at the discretion of owner) must, in order to do so, comply with the requirements of this regulation.

(2) The owner must give notice to the relevant authority, which must include:

(a) the name, address and postcode of the owner;

(b) if the owner is giving notice through an agent, the name, address and postcode of that agent;

(c) a statement of the nature of the owner's interest in the land;

(d) a description (whether by map or otherwise) of the location and extent of the land which is sufficiently detailed to enable the relevant authority to identify the land;

(e) a statement whether the restriction is being imposed under section 23(1) of the Act or, alternatively, section 23(2) of the Act; and

(f) the dates on which the restriction is to apply and, if the owner wishes the restriction to last for less than the whole of any day, the times between which the restriction will operate on that day.

(3) If the restriction is being imposed under section 23(1) of the Act then, unless paragraph (5) applies, notice must be given in writing so as to be received by the relevant authority at least 28 days before any day on which a restriction is to operate.

(4) If the restriction is being imposed under section 23(2) of the Act then, unless paragraph (5) applies, notice must be given in writing so that it is received by the relevant authority at least 5 working days before any day on which a restriction is to operate.

(5) This paragraph applies if the relevant authority decides that it was not reasonably practicable for the owner to comply with the requirements of paragraph (3) or (4) (as the case may be) and communicates that decision to the owner or, where the owner gave notice through an agent, that agent.

(6) Where paragraph (5) applies, the restriction is to take effect no earlier than the time when the relevant authority communicates the decision referred to in paragraph (5) to the owner or the owner's agent, as the case may be.

(7) As soon as possible after reaching a decision in accordance with paragraph (5), a relevant authority must, unless it has already done so by the communication referred to in paragraph (5), confirm that decision in writing to the owner.

(8) An owner who has given notice in accordance with paragraph (2) but who no longer wishes the restriction to which it relates to take effect (or, if the restriction has already taken effect, does not wish it to continue) may give the relevant authority notice in writing of that fact and—

(a) if it is received by the relevant authority before the restriction takes effect, the original notice will then be of no effect;

(b) if it is received by the relevant authority after the restriction has taken effect, the restriction ceases to have effect.

Part III

EXCLUDING OR RESTRICTING ACCESS BY DIRECTION OF THE RELEVANT AUTHORITY

Applications for directions excluding or restricting access

5.—(1) A person interested in any access land who wishes to apply for a direction excluding or restricting access under section 24(1) of the Act (land management) or section 25(3) of the Act (avoidance of risk of fire or of danger to the public) must apply to the relevant authority in writing.

(2) An application under paragraph (1) must include:

(a) the name, address and postcode of the applicant;

(b) if the application is made through an agent, the name address and postcode of that agent;

(c) a statement of the nature of the applicant's interest in the land (including, if that interest consists of a right of common or similar right over land, a description of the extent of that right);

(d) a statement of whether the application is being made under section 24(1) of the Act or, alternatively, under section 25(3) of the Act;

(e) a description (whether by map or otherwise) of the location and extent of the land which is detailed enough to enable the relevant authority to identify the land;

(f) details of the nature and purpose of the exclusion or restriction;

(g) the specified period during which the applicant proposes that the exclusion or restriction is to operate; and

(h) the reasons, if any, why the purposes for which the direction is sought cannot be achieved by exercise of the applicant's right, if any, to exclude or restrict access to the land under section 22 of the Act.

(3) An applicant must, within such reasonable time as the relevant authority may require, supply such further information in relation to the application as the relevant authority may reasonably require by notice in writing to the applicant.

Consultation by a relevant authority before giving a direction excluding or restricting access

6.—(1) This regulation applies where the relevant authority is considering whether to give a direction under:

(a) section 24(1) of the Act (land management);

(b) section 25(1) of the Act (avoidance of risk of fire or of danger to the public); or

(c) section 26 of the Act (nature conservation and heritage preservation),

which will have the effect of excluding or restricting access indefinitely or during a period which exceeds, or may exceed, 6 months.

(2) Before giving a direction to which this regulation applies, the relevant authority must send a notice complying with the requirements of paragraph (4), together with a statement setting out the terms of the proposed direction, to each of the organisations listed in Schedule 1 to these Regulations and must, if it is reasonably practicable to do so, publish the draft direction on a web-site.

(3) The relevant authority must, in addition to the requirements set out in paragraph (2):

(a) send to the relevant local access forum a copy of:

(i) a statement setting out the terms of the proposed direction;

(ii) if the question of whether to give the direction is being considered as a result of receiving an application, that application and any further information supplied by the applicant in support of it;

(iii) if the question of whether to give the direction is being considered as a result of advice given to the relevant authority by the relevant advisory body, the substance of that advice;

(iv) such other information relevant to proposed direction as it thinks fit; and

(b) send to the applicant or the applicant's agent, as the case may be, copies of any documents sent to the local access forum, other than those documents received by the relevant authority from the applicant or the applicant's agent.

(4) A notice complying with the requirements of this paragraph must:

(a) state any reference number allocated to the matter by the relevant authority;