WELSH STATUTORY INSTRUMENTS

2002 No. 1794 (W.169)

COUNTRYSIDE, WALES

The Countryside Access (Appeals Procedures) (Wales) Regulations 2002

Made - - - -	*9th July 2002*
Coming into force - -	*1st August 2002*

The National Assembly for Wales ("the National Assembly"), in exercise of the powers conferred upon it by sections 11, 32, 38(6) and 44 of the Countryside and Rights of Way Act 2000(**1**), hereby makes the following Regulations:

Part I

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Countryside Access (Appeals Procedures) (Wales) Regulations 2002 and shall come into force on 1st August 2002.

(2) These Regulations apply to Wales.

Interpretation

2.—(1) In these Regulations, words or phrases shall have the meaning given to them by the Act and:

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

"appeal" ("*apêl*) means an appeal to the National Assembly under sections 6(1), 30(3) or 38(3) of the Act;

"appeal form" ("*ffurflen apêl*") means the document through which an appeal is brought;

"appellant" ("*apelydd*") means a person who brings an appeal and, where two or more persons join in bringing an appeal, refers to all those persons jointly;

(**1**) 2000 c. 37. Section 45(1) defines "regulations" in Part 1 of the Act (as respects Wales) as regulations made by the National Assembly for Wales.

"appointed person" ("*person penodedig*") means a person appointed by the National Assembly under section 8 of the Act;

"assessor" ("*asesydd*") means a person appointed by the National Assembly under paragraph 4(3) of Schedule 3 to the Act;

"conclusive map" ("*map terfynol*") means a map issued by the Council in conclusive form under section 9 of the Act;

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

"electronic form" ("*ffurf electronig*") means a form capable of being stored on, transmitted to and from, and read by means of a computer;

"inquiry" ("*ymchwiliad*") means a public local inquiry;

references to an "interest" ("*buddiant*") in land are to be interpreted in accordance with section 45(1) of the Act;

"interested person" (*personau â diddordeb*") means a person (other than an appellant or a respondent) who has made representations to the National Assembly in relation to an appeal, unless it appears to the National Assembly that the representation in question was made frivolously or vexatiously;

"legible form" ("*ffurf ddarllenadwy*") means, in relation to a document sent by means of an electronic communication, a form in which it is capable of being read on a computer screen;

"open country" ("*tir agored*") has the meaning given by section 1(2) of the Act;

"outline statement" ("*datganiad amlinellol*") means a statement outlining the case which a person wishes to put forward in relation to an appeal;

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

"persons entitled to take part" ("*personau â hawl i gymryd rhan*") means those persons specified as such in regulations 13 and 23, as appropriate;

"pre-inquiry meeting" ("*cyfarfod cyn-ymchwiliad*") means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously and, where two or more such meetings are held, reference to the conclusion of a pre-inquiry meeting is a reference to the conclusion of the final meeting;

"provisional map" ("*map dros dro*") means a map issued by the Council in provisional form under section 5(d) or 5(e) of the Act;

"the Provisional Maps Regulations" ("Rheoliadau Mapiau Dros Dro") means the Countryside Access (Provisional and Conclusive Maps) (Wales) Regulations 2002(**2**)**;**

"registered common land" ("*tir comin cofrestredig*") has the meaning given by section 1(3) of the Act;

"relevant time limits" ("*terfynau amser perthnasol*") means the time limits set by these Regulations or, where the National Assembly has exercised its power under regulation 31 to extend the time prescribed by these Regulation, those limits as so extended;

"the respondent" ("*yr atebydd*") means the person whose decision is the subject of the appeal;

"section 4(2) land" ("*tir adran 4(2)*") means the registered common land and open country in respect of which the Council is required to prepare maps in accordance with section 4(2) of the Act;

"starting date" ("dyddiad cychwyn") has the meaning given in regulation 5(4); and

(**2**) S.I.2002/1796 (W.171)

"statement of case" ("datganiad o achos") means a written statement containing full particulars of the case which a person proposes to put forward in relation to an appeal, a list of documents which that party intends to rely on and any documents and/or maps which the National Assembly considers it necessary to request that person to provide.

(2) In these Regulations, unless otherwise specified, any reference 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 shall be deemed to relate to the first day thereafter which is not one of the days before-mentioned.

Part II

INITIAL STAGES OF APPEALS

Action by the National Assembly on receipt of an appeal form

3. The National Assembly must, as soon as reasonably practicable after it receives a completed appeal form, send a copy of it to the respondent.

Response by a respondent to an appeal

4.—(1) The respondent must, within 14 days of receiving from the National Assembly a copy of an appeal form, send to the National Assembly and to the appellant:

(a) a statement containing an indication as to whether it will oppose the appeal and, if so, its grounds for doing so;

(b) copies of any relevant correspondence between the appellant and the respondent;

(c) in the case of an appeal under section 6 of the Act, a copy of an extract showing that part of the provisional map to which it relates;

(d) copies of any representations made to the respondent by any person other than the appellant in respect of the decision on the part of the respondent to which the appeal relates; and

(e) any further information required by the National Assembly to be provided.

(2) Where the respondent has complied with the requirements of paragraph (1), the respondent must, before the expiry of the relevant period specified in regulation 5(2), send to the National Assembly and to the appellant:

(a) a statement confirming whether they will oppose the appeal;

(b) a statement as to whether they wish to be heard by a person appointed by the National Assembly in connection with the appeal (rather than the appeal be determined on the basis of written representations) and, if so, whether they wish to be heard at a local inquiry or, alternatively, at a hearing; and

(c) any further information required by the National Assembly to be provided.

Notifying the parties of the appeal procedure

5.—(1) The National Assembly must, no earlier than the end of the period specified in paragraph (2), give notice to the appellant and to the respondent of the form which the appeal is to take.

(2) Notice under paragraph (1) must not be given before:

(a) the expiry of 21 days from the date specified in the notice or notices given or published under regulation 6(1)(a) or (b) as being the date by which representations to the National Assembly could be made; or

(b) in the case of an appeal under section 6 of the Act, the expiry of three months from the date of issue of the provisional map to which the appeal relates,

whichever is the later.

(3) The notice given under paragraph (1) must be dated and must state whether the appeal is to take the form of:

(a) a local inquiry;

(b) a hearing; or

(c) neither (a) nor (b), and will therefore be determined on the basis of written representations.

(4) The date of the notice given under paragraph (1) is the "starting date" for the purposes of these Regulations in relation to the appeal to which it refers and the notice must contain a statement to that effect.

(5) If the appeal is to take the form of a local inquiry, and the National Assembly intends to hold a pre-inquiry meeting, the notice given under paragraph (1) must also comply with the requirements of regulation 18(2)(a).

Notice to the public

6.—(1) The National Assembly must, at the same time as it gives notice to the appellant and to the respondent under regulation 5(1), or as soon as practicable thereafter:

(a) publish notice of the appeal in at least one daily newspaper circulating throughout that part of Wales which includes the land to which the appeal relates and in such other newspapers or publications circulating in that part of Wales as the National Assembly thinks fit; and

(b) where practicable, publish notice of the appeal on a web-site maintained by or on behalf of the National Assembly; and

(c) in the case of an appeal under section 6 of the Act, send notice of the appeal to the organisations listed in Schedule 1 to the Provisional Maps Regulations.

(2) A notice published under paragraph (1)(a) or (b) or sent under paragraph (1)(c) must be dated and must state:

(a) the name of the appellant;

(b) sufficient information to identify the land in respect of which the appeal has been brought;

(c) if the appeal is brought under section 6 of the Act, on which of the grounds specified in section 6(3) it has been brought;

(d) the reference number allocated to the appeal;

(e) the starting date;

(f) the means by which members of the public may inspect, and take a copy of, documents relating to the appeal;

(g) that representations, which may be made either in the English language or the Welsh language, relating to the appeal may be made in writing or in electronic form to the National Assembly by such date as is specified in the notice, which must not be earlier than 6 weeks after the date on which the notice is published in accordance with paragraph (1)(a) or (b), and that copies of such representations will be provided to the appellant and to the respondent;

(h) the address to which written communications to the National Assembly are to be sent;

(i) whether the appeal is to take the form of a local inquiry or a hearing or is to be determined on the basis of written representations;

(j) if the appeal is to take the form of a local inquiry, that a person who makes representations in accordance with paragraph (2)(g) will be notified of the date and place of the inquiry and may attend, but will only be permitted to take part in, the inquiry with the permission of the person appointed to conduct it; and

(k) if the appeal is to take the form of a hearing, that a person who makes representations in accordance with paragraph (2)(g) will be notified of the date and place of the hearing but will only be permitted to attend and take part in the hearing with the permission of the person appointed to conduct it.

(3) If the appeal is to take the form of a local inquiry, and the National Assembly intends to hold a pre-inquiry meeting, the notice published under paragraph (1)(a) or (b) or sent under paragraph (1)(c) must also comply with the requirements of regulation 18(2)(b).

(4) Any notice published or sent in accordance with paragraph (1)(a), (b) or (c) may, in addition to such information as is required to be included in such a notice by this regulation, include such further information as the National Assembly shall think fit.

Part III

APPEALS DETERMINED ON THE BASIS OF WRITTEN REPRESENTATIONS

Application

7. Regulations 8 and 9 apply to appeals which are to be determined on the basis of written representations.

Exchange of evidence

8.—(1) In addition to any documents already sent to the National Assembly by the appellant in accordance with regulation 6 of the Provisional Maps Regulations (in the case of an appeal under section 6 of the Act), and by the respondent in accordance with regulation 4 of these Regulations, the appellant and the respondent must, within 6 weeks of the starting date, send to the National Assembly two copies of any further written representations or other documents on which they wish to rely or, if they do not wish to rely on any such further representations or other documents, a notice to that effect.

(2) The National Assembly must, as soon as practicable after receiving any further representations, other documents or notices pursuant to paragraph (1), send a copy of those representations, documents or notices to the appellant or the respondent, as appropriate.

(3) The appellant and the respondent must, within 9 weeks of the starting date, send to the National Assembly two copies of any further representations, other documents or notices on which they wish to rely or, if they do not wish to rely on any such further representations or other documents, a notice to that effect.

(4) Where representations have been made to the National Assembly by anyone other than the appellant and the respondent, the National Assembly must, as soon as practicable after receiving those representations, send a copy of them to the appellant, and to the respondent, who must, if they wish to submit any comments on those representations to the National Assembly, send two copies of their comments to the National Assembly within 9 weeks of the starting date.