WELSH STATUTORY INSTRUMENTS

2002 No. 1772 (W.168)

COUNTRYSIDE, WALES

The Wildlife and Countryside (Sites of Special Scientific Interest, Appeals) (Wales) Regulations 2002

Made - - - -	*9th July 2002*
Coming into force - -	*31st July 2002*

The National Assembly for Wales ("the National Assembly"), in exercise of the powers conferred on the Secretary of State by sections 28F(6) and 28L(8) of the Wildlife and Countryside Act 1981(**1**) and paragraphs 11(2) and 17(3) of Schedule 11 to the Countryside and Rights of Way Act 2000(**2**) and which are now exercisable by the National Assembly(**3**), hereby makes the following Regulations:

Citation, commencement, and application

1.—(1) These Regulations may be cited as the Wildlife and Countryside (Sites of Special Scientific Interest, Appeals) (Wales) Regulations 2002.

(2) These Regulations come into force on 31st July 2002.

(3) These Regulations apply to Wales.

Interpretation

2.—(1) In these Regulations—

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

"the 1981 Act" ("*Deddf 1981*") means the Wildlife and Countryside Act 1981;

"appointed person" ("*person penodedig*") means a person appointed for the time being by the National Assembly under section 28F(8) or section 28L(10) of the 1981 Act to consider the written representations relating to an appeal or, if the appeal is to take the form of a local inquiry or hearing, to conduct the inquiry or hearing, and to determine the appeal if authorised to do so;

"a consent appeal" ("*apêl cydsyniad*") means an appeal under sections 28F(1) or 28F(2) of the 1981 Act;

(**1**) 1981 c. 69; section 28 was replaced by sections 28 to 28R under section 75(1) of and Schedule 9, paragraph 1 to the Countryside and Rights of Way Act 2000 (c. 37).
(**2**) 2000 c. 37.
(**3**) The powers of the Secretary of State in so far as exercisable in relation to Wales have been transferred to the National Assembly for Wales: *see* Article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), as amended by section 99 of the Countryside and Rights of Way Act 2000.

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

"a deemed refusal appeal" ("*apêl gwrthodiad tybiedig*") means a consent appeal under section 28F(2) of the 1981 Act;

"electronic communication" ("*cyfathrebu electronig*") means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by means of a telecommunications system (within the meaning of the Telecommunications Act 1984(**4**) or by other means but while in an electronic form;

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

"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;

"a notice of appeal" ("*hysbysiad apêl*") means a notice by which a consent appeal, a management notice appeal or a stop notice appeal, as the case may be, is brought;

"a management notice appeal" ("*apêl hysbysiad reoli*") means an appeal under section 28L(1) of the 1981 Act;

a "regulation 7(1)(b) party" ("*parti rheoliad 7(1)(b)*") means a person to whom a notice is required to be sent by regulation 7(1)(b) of these Regulations;

"the starting date" ("*y dyddiad dechrau*") has the meaning given in regulation 9(3);

"a stop notice appeal" ("*apêl hysbysiad stop*") means an appeal under paragraph 11(1) of Schedule 11 to the 2000 Act.

(2) In these Regulations, "the decision notice" ("*yr hysbysiad o benderfyniad*") means—

(a) in the case of a consent appeal, the notice giving the consent of the Council subject to conditions or for a limited period under section 28E(4) of the 1981 Act or the notice given by the Council under section 28E(5) or section 28E(6) of the 1981 Act, as the case may be;

(b) in the case of a management notice appeal, the notice given by the Council under section 28K of the 1981 Act;

(c) in the case of a stop notice appeal, the notice given by the Council under paragraph 9(3) of Schedule 11 to the 2000 Act;

to which the appeal relates.

Contents of a notice of appeal

3. A notice of appeal must—

(a) state the full name and address of the appellant and of any person authorised to act on behalf of the appellant in relation to the appeal;

(b) except in the case of a deemed refusal appeal, be accompanied by a copy of the decision notice;

(c) in the case of a consent appeal relating to a refusal to give consent for an operation, give particulars of the operation for which consent has been refused (unless such particulars are given in the decision notice);

(d) in the case of a management notice appeal in relation to which the grounds of appeal include a ground that some owner or occupier of land other than the appellant should take all or any of the measures specified in the decision notice, or should pay all or part of their cost, state the full name and address of any such person;

(e) state the grounds of the appeal;

(**4**) 1984 c. 12.

(f) if the appellant wishes to be heard by a person appointed by the National Assembly in connection with the appeal (rather than that the appeal be determined on the basis of written representations), say so and further state whether the appellant wishes to be heard at a local inquiry or, alternatively, at a hearing and, if a hearing, whether the appellant wishes the hearing to be held in private if the person hearing the appeal agrees; and

(g) if the appellant and the Council have agreed in writing that the time by which the notice of appeal must be received should be longer than that specified by the 1981 Act or, in the case of a management notice appeal, that the period which is to apply under Regulation 6(2)(a)(i) is to be longer than two months, be accompanied by a copy of the document recording that agreement.

4. A notice of appeal may be in either the English language or in the Welsh language but if the appellant wishes the appeal to be dealt with in whole or in part through the medium of the language other than that in which the notice of appeal is expressed it should incorporate or be accompanied by a request to that effect.

Starting an appeal

5. An appeal is started by sending a notice of appeal to the National Assembly.

Action by the National Assembly on receipt of a notice of appeal

6.—(1) The National Assembly must, as soon as reasonably practicable after receiving a notice of appeal, send a copy of it to the Council, together with a copy of any other document which accompanied it.

(2) Paragraph (1) does not apply—

(a) to a notice of appeal received by the National Assembly:

(i) in the case of any appeal other than a deemed refusal appeal, after the expiry of the period of two months (or such longer period as has been agreed in writing by the appellant and the Council) beginning with the date of the decision notice; or

(ii) in the case of a deemed refusal appeal, after the expiry of the period of six months (or such longer period as has been agreed in writing by the appellant and the Council) beginning with the date on which the appellant sent to the Council notice of a proposal to carry out the operation for which consent is treated as having been refused;

(b) to a notice of appeal in respect of which the appellant has failed, in a material respect, to comply with the requirements of regulation 3, but in such a case the National Assembly may give notice to the appellant of the nature of that failure and of the steps necessary to rectify it and if the appellant, within 14 days of receipt of such notice, takes the steps required, this sub-paragraph will no longer apply to the notice of appeal in question.

Action by the Council on receipt of a copy of a notice of appeal

7.—(1) The Council must, within 14 days of receiving from the National Assembly a copy of a notice of appeal, give notice in writing—

(a) in the case of a consent appeal, to any person (other than the appellant) who made representations to the Council in respect of the decision on the part of the Council to which the appeal relates (or, in the case of a deemed refusal appeal, in respect of any decision which the Council might have taken if the appellant had not treated the Council as having refused consent);

(b) in the case of a management notice appeal in relation to which the grounds of appeal include a ground that some owner or occupier of land other than the appellant should take all or any of the measures specified in the decision notice, or should pay all or part of their cost, to any such person;

(c) to any other person who appears to the Council to have a sufficient interest in the subject matter of the appeal.

(2) A notice under paragraph (1) must—

(a) identify the site of special scientific interest to which the appeal relates;

(b) be dated;

(c) be accompanied by a copy of the notice of appeal and of any decision notice;

(d) state that, within 28 days beginning with the date of the notice, the recipient may—

(i) make representations in writing, which may be in either the English language or the Welsh language, to the National Assembly with respect to the appeal and that, in that event, copies of those representations will be provided to the appellant and to the Council; and

(ii) request in writing to the National Assembly to be notified of the decision on the appeal;

(e) state that if a local inquiry is to be held, or a hearing is to be held which is to be wholly or partly in public, a recipient who makes representations in accordance with paragraph (2)(d)(i) will be notified of the date of the inquiry or hearing.

(3) A notice under paragraph (1) which is sent to a regulation 7(1)(b) party must be accompanied by a statement that if that party wishes to be heard by a person appointed by the National Assembly in connection with the appeal, (rather than that the appeal be determined on the basis of written representations), any representations made to the National Assembly by that party should be accompanied by a statement to that effect and if so by a further statement as to whether that party wishes to be heard at a local inquiry or, alternatively, at a hearing .

Response by the Council to an appeal

8. The Council must, within 28 days of receiving from the National Assembly a copy of a notice of appeal, send to the National Assembly, to the appellant and to any regulation 7(1)(b) party—

(a) a statement whether it opposes the appeal and, if so, of its grounds for doing so;

(b) in the case of a consent appeal, a copy of any relevant notice of a proposal to carry out the operation (together with accompanying plans and documents) given to the Council under section 28E(1) of the 1981 Act;

(c) copies of any relevant correspondence between the appellant and the Council;

(d) copies of any representations made to the Council by any person other than the appellant in respect of the decision on the part of the Council to which the appeal relates (or, in the case of a deemed refusal appeal, in respect of any decision which the Council might have taken if the appellant had not treated the Council as having refused consent);

(e) a statement of the names and addresses of any persons to whom the Council have sent a notice under regulation 7(1) and the date on which such notice was sent; and

(f) if the Council wishes to be heard by a person appointed by the National Assembly in connection with the appeal, a statement to that effect and if so, whether the Council wishes to be heard at a local inquiry or, alternatively, at a hearing and, if a hearing, whether the Council objects to the hearing being held in private if the appellant so requests.