

# Welsh Statutory Instrument 2001 No. 4002 (W.330)

## The Countryside Access (Local Access Forums) (Wales) Regulations 2001

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### STATUTORY INSTRUMENTS

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#### 2001 No. 4002 (W.330)

#### COUNTRYSIDE, WALES

#### The Countryside Access (Local Access Forums) (Wales) Regulations 2001

*Made*

*13th December 2001*

*Coming into force*

*1st January 2002*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by sections 94 and 95 of the Countryside and Rights of Way Act 2000<sup>[1]</sup> and all other powers enabling it in that behalf :

#### **Citation, commencement and application**

1. - (1) These Regulations may be cited as The Countryside Access (Local Access Forums) (Wales) Regulations 2001 and shall come into force on 1st January 2002.

(2) These Regulations apply to Wales.

#### **Interpretation**

2. - (1) Unless otherwise stated, in these Regulations:

"access land" ("*tir mynediad*") has the meaning given in section 1(1) of the Act;

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

"annual report" ("*adroddiad blynyddol*") means the report prepared by the relevant authority under regulation 16(1);

"appointing authority" ("*awdurdod penodi*") has the meaning given in section 94(2) of the Act but includes, where the context so requires, one or more appointing authorities acting jointly with respect to a forum established under regulation 3(5) in accordance with such arrangements as are agreed between the relevant appointing authorities for that purpose;

"forum" ("*fforwm*") means a local access forum established under section 94(1) of the Act and includes a joint access forum similarly established;

"local rights of way" ("*hawliau tramwy lleol*") has the meaning given in section 95(3) of the Act;

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

"person presiding" ("*y person sy'n llywyddu*") has the meaning given in regulation 15(3).

(2) Unless the context otherwise requires, in these Regulations 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.

### **Establishment of a forum**

**3.** - (1) Subject to paragraph (3), an appointing authority must establish a forum or forums for the whole of the area for which it is the appointing authority.

(2) An appointing authority may either establish a single forum for the whole of the area for which it is the appointing authority or, alternatively, a number of forums, each for such part of the area for which it is the appointing authority as it thinks fit.

(3) The duty imposed on an appointing authority by paragraph (1) does not apply to the area for which it is the appointing authority or to a part of that area if there is in force in relation to that area or that part of that area a direction given by the National Assembly under section 94(8) of the Act.

(4) The appointing authority must discharge the duty imposed by paragraph (1) within one calendar year of the date on which these Regulations come into force.

(5) An appointing authority may, with respect to any area for which it is the appointing authority or part of that area, discharge the duty imposed by paragraph (1) by appointing a forum jointly with one or more other appointing authorities, in accordance with such arrangements as it may make with such other appointing authority or authorities, in respect of an area which includes that area or part of that area.

(6) Where the appointing authority considers it appropriate to establish a forum for part of its area, it must, in considering the area which that forum is to cover, consult with such local authorities and other bodies as it thinks fit.

### **Membership of a forum**

**4.** - (1) A forum must consist of a Chair and Deputy Chair, appointed in accordance with regulation 12, and a Secretary, together with not less than 10 and not more than 20 other members (or such other number of members outside that range as the National Assembly

may authorise in writing).

(2) A forum is to be regarded as having been established on the date specified by the appointing authority in the letters of appointment it sends to persons who are to be appointed as members of that forum, that date being the date of the first meeting of the forum.

(3) A person's membership of a forum continues until the expiry of the period of 3 years from the date of the first meeting of the forum, or such shorter period as is specified by the appointing authority in the letters of appointment referred to in paragraph (2), unless that person's membership terminates in accordance with regulation 14.

(4) A person who ceases to be a member of a forum is eligible for re-appointment.

5. - (1) An appointing authority may, in addition to appointing members in order to fill casual vacancies in the membership of a forum, at any time appoint further members to a forum provided the total number of members, excluding the Chair and Deputy Chair, does not as a result exceed 20 (or such other number as may be authorised by the National Assembly pursuant to regulation 4(1)).

(2) When a casual vacancy arises in the membership of a forum, the appointing authority may refrain from appointing a member to fill that vacancy provided the membership of the forum, excluding the Chair and Deputy Chair, does not as a result fall below 10 (or such other number as may be authorised by the National Assembly pursuant to regulation 4(1)).

(3) Before an appointing authority exercises its power under paragraph (1) to appoint a further member or members of a forum in addition to any required to fill a casual vacancy, or its power under paragraph (2) to refrain from appointing a member to fill a casual vacancy in the membership of a forum, it must consult the forum and such other bodies as it thinks fit.

6. - (1) Where the area of a forum falls entirely within the area of the appointing authority, that authority must appoint one (but may not appoint more than one) member to a forum who is either an officer or member of the appointing authority.

(2) Where the area of a forum falls within the area of more than one appointing authority and there are -

(a) two appointing authorities, each appointing authority in respect of that forum must appoint one (but may not appoint more than one) member of the forum who is either an officer or member of that appointing authority;

(b) more than two appointing authorities, the appointing authorities in respect of that forum must appoint, in accordance with arrangements as shall have been agreed by those appointing authorities at the time the forum is established, no more than a total of two members of the forum who are either officers or members of appointing authorities.

7. When considering what persons to appoint as members of a forum, an appointing authority:

(a) must consult such individuals and organisations having an interest in the functions of the forum as it thinks fit;

(b) must place an advertisement in a newspaper circulating in the locality of the

forum giving persons an opportunity of expressing an interest in becoming a member of a forum;

(c) may invite any organisation having an interest in the functions of the forum to nominate a person for consideration by the appointing authority for membership of the forum;

(d) must have regard to the desirability of appointing persons who reside in, or are otherwise particularly familiar with, or who have any other interests especially relevant to, the area of the forum;

(e) must ensure that the membership of the forum achieves a reasonable balance between the interests of users of local rights of way or the rights of access conferred by section 2(1) of the Act and of owners and occupiers of access land or land over which local rights of way subsist;

(f) must have regard to the need to ensure, so far as is reasonably practicable, a fair balance between persons of different genders, races, ages, disabilities and other characteristics.

**8.** An appointing authority must not appoint as a member of a forum any person who appears to the authority to have or to be likely to have such pecuniary or other interest in the matters on which the forum is required to advise as is likely to have a substantially adverse effect on the ability of that person properly and effectively to discharge the function of a member of the forum.

**9.** Before appointing a person as a member of a forum the appointing authority must require that person to provide it with such information as it may reasonably require for the purpose of assessing that person's suitability to be a member of that forum.

#### **Administration of a forum**

**10.** - (1) The appointing authority must in relation to each forum appoint a person (who shall not be a member of the forum) to act as its Secretary and to be responsible for the administration of a forum.

(2) Notwithstanding the generality of paragraph (1), the duties of the Secretary include -

(a) arranging meetings and the drawing-up, keeping, production and submission to the next meeting, of minutes;

(b) managing any financial resources provided to the forum for its use in the exercise of its functions;

(c) ensuring that -

(i) notice of a proposed meeting;

(ii) a copy of the agenda drawn up by the Secretary in consultation with the Chair and Deputy Chair and specifying the principal business proposed to be transacted at a meeting; and

(iii) any other papers relevant to a meeting;

are delivered, either in person or by post to such address as a member may specify for the purpose, to each member of the forum so as to be received (or in the case of

delivery by post so as to be delivered in the normal course of posting) at least seven clear days before the date of a meeting;

(d) drawing to the attention of the forum the provisions of any national codes of practice, guidance issued by the Countryside Council for Wales or the National Assembly for Wales and statutory requirements to which the forum is to have regard when exercising its functions;

(3) The Secretary must be present at all meetings of a forum and may attend meetings of any committee established under regulation 13.

(4) In the event of the temporary incapacity of the Secretary the appointing authority must appoint an Acting Secretary to discharge the duties of the Secretary during the period of that incapacity.

**11.** The appointing authority must defray all reasonable expenses incurred by a forum in discharging its functions including such expenses (other than loss of earnings and other costs directly related to a person's employment) reasonably and necessarily incurred by the Chair, Deputy Chair and members of the forum in attending meetings.

### **Appointment of Chair and Deputy Chair**

**12.** - (1) The Secretary must -

(a) at the first meeting of the forum held after the meeting at which the appointment of all members of the forum takes effect (whether upon establishment of the forum or upon the appointment of members after the membership of all members ceases under regulation 4(3)), ensure that the first item of business to be conducted is the election of the Chair and Deputy Chair; and

(b) on a subsequent vacancy in the post of Chair or Deputy Chair, ensure that the first item of business to be conducted at the next meeting of the forum is the election of a Chair and/or Deputy Chair, as required.

(2) The Chair and Deputy Chair shall be members of the forum to which they are to be elected Chair and Deputy Chair and shall be elected by the other members of the forum by secret ballot.

(3) The Secretary must preside at any meeting of the forum until the Chair and Deputy Chair have been elected and must conduct the election of the Chair and Deputy Chair.

(4) If the result of the first or any subsequent ballot is that a candidate receives the votes of more than one-half of the members voting the Secretary must declare that person elected.

(5) If the result of the first or any subsequent ballot is that no candidate receives the votes of more than one-half of the members voting the Secretary must conduct a further ballot excluding the candidate who received the lowest number of votes at the previous ballot.

(6) In the event that on any ballot there is an equality of votes between two candidates and the number of votes which they each receive is less than that received by any other candidate the Secretary must determine by lot which of them is to be excluded from any further ballot.

### **Establishment of a committee by a forum**

**13.** - (1) The members of a forum may, with the agreement of the Chair, establish such committee or committees of members as they think fit.

(2) Subject to anything contained in these Regulations to the contrary, where a committee is established, the manner in which it is chaired, the appointment of its members, and its terms of reference are to be decided by the members of the forum which established it.

### **Termination of membership**

**14.** - (1) A person's membership of a forum, including that of the Chair and Deputy Chair, terminates on the happening of any of the following events:

- (a) the expiration of the term of membership;
- (b) the death of the member;
- (c) the receipt by the Secretary of written notice of resignation of a member;
- (d) the giving by the appointing authority of written notice to a member that, in the opinion of the authority, the circumstances are such that had the authority been considering whether to appoint that person as a member of the forum it would have been prevented from doing so by the provisions of regulation 8;
- (e) the giving by the appointing authority, after having consulted the forum as to the proposed action, of written notice to a member of specified circumstances which, in the opinion of the authority, make it desirable in the interests of the effective conduct of the functions of the forum that the person in question should cease to be a member;
- (f) the election of the member as a member of the appointing authority or the appointment of the member as an officer of the appointing authority or, where a forum has been established by more than one appointing authority, of any of those authorities;
- (g) the failure of a member to attend any meeting of a forum, or meeting of any committee of the forum, over a continuous period of 12 months unless the member has, following a written request to the appointing authority made within that period and specifying the reasons for the request, been granted leave of absence by the appointing authority for such period as the appointing authority may think fit in which case the period of 12 months specified in this paragraph is not to include any period to which such leave of absence relates.

(2) The Secretary must notify the appointing authority of any vacancy in the membership of the forum of which the appointing authority are not or may not otherwise be aware and an appointing authority which becomes aware of any such vacancy must, subject to regulation 5, appoint a person to fill that vacancy.

(3) If a member of a forum is elected Chair or Deputy Chair of that forum the appointing authority must, subject to regulation 5, appoint a person as a member of the forum as if the person elected Chair or Deputy Chair had ceased to be a member of the forum.

### **Conduct of meetings of a forum**

**15.** - (1) The first meeting of a forum after the meeting at which the appointment of all members of the forum takes effect (whether upon establishment of the forum or upon the appointment of members after the membership of all members ceases under regulation 4(3)), is to take place at such time and place as may be decided by the appointing authority, its agenda is to be decided by the appointing authority, and the Secretary is to preside over it, but thereafter the forum may meet at such intervals as it considers appropriate, but must meet at least twice in each twelve-month period calculated by reference to the date on which it was established.

(2) Meetings of the forum may be held on such days and at such places as may be agreed by the members and shall be open to the public unless the person presiding rules that a particular item of business to be considered at a meeting makes it appropriate for the public to be excluded during consideration of that item of business.

(3) At any meeting of the forum, the person who is to preside (the "person presiding") is, subject to regulation 12(3), -

(a) if present, the Chair;

(b) if the Chair is absent, the Deputy Chair; or

(c) if the Chair and Deputy Chair are absent, such member as the members present choose.

(4) No business may be conducted by a forum unless the number of members present, excluding the person presiding, exceeds one-third of the total membership.

(5) Subject to anything contained in these Regulations to the contrary, or to any guidance given by the National Assembly under section 94(6)(c) of the Act, a forum may regulate its own procedure.

(6) The proceedings of any meeting shall not be invalidated if any person so entitled fails to receive any notice or other documents relevant to the meeting concerned which are otherwise required to be delivered or sent under these Regulations.

(7) The minutes of the proceedings of a meeting (which shall include the names of those members present and absent) shall be drawn-up, submitted for agreement at the next meeting and be signed by the person presiding at that next meeting.

(8) The Chair may invite observers and/or advisers to a meeting, and those invited may, if the person presiding considers it appropriate, contribute to the proceedings of the forum.

(9) A representative of the National Assembly and/or the Countryside Council for Wales, and any officer of an authority which (in respect of the forum concerned) is an appointing authority, may attend any meeting of the forum, or of a committee established by that forum, as an observer.

(10) When the person presiding considers it appropriate to put any question to a vote, the person presiding must formulate that question, in writing if requested, and any vote is to be by show of hands of those members present (except that the person presiding shall not be entitled to vote unless there is an equality of votes, in which case the person presiding is to have a casting vote).

### **Annual reports**

**16.** - (1) An appointing authority must, in relation to each forum for which it is the appointing authority, prepare and approve, as soon as reasonably practicable after 31 March in each year, an annual report.

(2) An annual report prepared under paragraph (1) must include -

(a) information relating to the performance of the forum's functions during the twelve-month period ending on the date referred to in paragraph (1); and

(b) a programme of works which has been agreed between the forum and the appointing authority which the forum plans to undertake during the twelve months commencing immediately after that date.

(3) A copy of the annual report must, when it has been approved, be made available for inspection by members of the public at the offices of the appointing authority during normal office hours free of charge.

(4) An appointing authority must, on application by any member of the public, provide that person with a copy of any annual report prepared and approved under this Regulation, or of any part thereof, on payment of the cost of postage and such further sum not exceeding 10 pence per page as the appointing authority may require.

**Notification of appointments etc.**

17. The appointing authority must:

(a) notify the Countryside Council for Wales (the Council) of the names and addresses of all persons appointed to be members (including Chairs and Deputy Chairs) of forums and of any changes in the membership of those forums;

(b) send to the Council a copy of each annual report when approved; and

(c) provide the Council on request with such other information as to the activities of any forum as the Council may reasonably require.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[2].

*D. Elis-Thomas*

The Presiding Officer of the National Assembly

13th December 2001

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**EXPLANATORY NOTE**

*(This note does not form part of the Regulations)*

Section 94(1) of the Countryside and Rights of Way Act 2000 ("the Act") requires a local access forum ("forum") to be established by local highway authorities or, where the area to be covered by a forum is the responsibility of a National Park, the National Park authority ("appointing authorities").

Where a forum is established for part of its area, the authority establishing it is under a duty to establish a further forum or forums for the remaining part or parts of that area.

A joint local access forum may be established by two or more appointing authorities if they consider it appropriate to do so.

Local access forums will advise bodies exercising functions conferred by the Act on issues concerning the improvement of public access to land and such other matters as may be prescribed by future Regulations.

Sections 94 and 95 of the Act empower the National Assembly for Wales to make regulations to provide for the establishment and operation of a forum.

In exercise of these powers, these Regulations provide the procedure to be followed by the appointing authority in establishing, and for the appointment of members to, a forum, and provide rules governing the procedures of forums.

Regulation 3 lays down the procedures under which appointing authorities are required to establish forums.

Regulation 4 fixes the limits to the size of forums.

Regulations 5 enables an appointing authority to vary the size of a forum during its term.

Regulations 6 to 9 set out the provisions relating to the appointment of members of forums.

Regulations 10 and 11 provide for the administration of a forum and for the appointment of a Secretary for this purpose and for the provision of financial support for the activities of forums.

Regulation 12 lays down the procedure for the election of a Chair and Deputy Chair of a forum.

Regulation 13 provides for the establishment by a forum of committees.

Regulation 14 deals with the circumstances under which a person's membership of a forum terminates and provides for the filling of casual vacancies.

Regulation 15 sets out the procedures and requirements to be followed with regard to the conduct of a forum's meetings.

Regulation 16 provides for annual reports to be prepared in relation to forums.

Regulation 17 provides for the provision to the National Assembly of information relating to the membership and activities of forums.

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*Notes:*

[1] 2000 c.37.[back](#)

[2] 1998 c.38.[back](#)

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[Cymraeg \(Welsh\)](#)

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ISBN 0 11090405 2

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*Prepared 22 January 2002*