

# Welsh Statutory Instrument 2003 No. 135 (W.9)

## **The Countryside Access (Dedication of Land as Access Land) (Wales) Regulations 2003**

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### STATUTORY INSTRUMENTS

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**2003 No. 135 (W.9)**

### **COUNTRYSIDE, WALES**

**The Countryside Access (Dedication of Land as Access Land) (Wales)  
Regulations 2003**

*Made*

*28th January 2003*

*Coming into force*

*1st March 2003*

The National Assembly for Wales ("the National Assembly") makes the

following Regulations in exercise of the powers conferred on it under sections 16 and 44 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 (Dedication of Land as Access Land) (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;

"amending dedication instrument" ("*offeryn cyflwyno sy'n diwygio*") means an instrument by which, in accordance with the provisions of these Regulations, the general restrictions to be observed by persons exercising the right of access may, in relation to land dedicated under section 16(1) of the Act for the purposes of Part I of the Act, be removed, relaxed or further relaxed.

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

"dedication instrument" ("*offeryn cyflwyno*") means an instrument by which, in accordance with the provisions of these Regulations, land may be dedicated under section 16(1) of the Act for the purposes of Part I of the Act; and

"electronic communication" ("*cyfathrebu electronig*") has the meaning assigned to that term in section 15(1) of the Electronic Communications Act 2000<sup>[2]</sup>.

### **Form and content of dedication instruments**

3. A dedication instrument must:

(a) be in writing, either in the English language or the Welsh language or, if prepared in bilingual form, in both;

(b) state that it is made under section 16(1) of the Act and that its effect, when it comes into force in accordance with regulation 5 of these Regulations, will be to dedicate the land to which it relates for the purposes of Part I of the Act;

(c) identify the land to be dedicated by reference to a plan or map annexed to the instrument:

(i) to a scale of not less than 1:10,000;

(ii) on which the boundaries of the land to be dedicated are clearly marked; and

(iii) on which the position of sufficient Ordnance Survey National Grid lines or identifiable geographical features are shown as to enable the general location of the land to be ascertained;

- (d) state the name, address and post code of all persons who are making the dedication;
- (e) state the nature of the interest which each person making the dedication has in the land being dedicated, and, if any such interest is a legal term of years absolute, the date when that term is to expire;
- (f) where the interest of any person making the dedication does not relate to the whole of the land being dedicated, identify the extent of the land to which that person's interest relates by reference to boundaries clearly marked on the plan or map annexed to the instrument pursuant to paragraph (c);
- (g) state the name, address and post code of all persons, other than those who are making the dedication, who are consenting to it;
- (h) state the nature of the interest which each person consenting to the dedication has in the land being dedicated and, where that interest does not relate to the whole of the land being dedicated, identify the extent of the land to which that interest relates either by description in words or by reference to the plan or map annexed to the instrument;
- (i) contain a declaration by or on behalf of the persons making the dedication that to the best of the knowledge and belief of those persons there are no persons other than those identified in accordance with paragraph (d) who are required by section 16(1) of the Act to join in the dedication and no persons, other than those identified in accordance with paragraphs (d) and (g) who are required by section 16(2) of the Act either to join in the dedication or consent to it;
- (j) state whether, in relation to any of the land to be dedicated, the persons making the dedication intend that there should be a removal or a relaxation of any of the general restrictions to be observed by persons exercising the right of access set out in paragraph 1, 4 or 5 of Schedule 2 to the Act and, if so:
- (i) identify, by reference to the paragraph number and, in the case of paragraph 1, the sub-paragraph letter, which of the restrictions are to be removed or, as the case may be, relaxed;
  - (ii) in the case of a restriction which is to be relaxed, the extent of the relaxation;
  - (iii) whether, in relation to each restriction which is to be removed or to be relaxed, the removal or relaxation is to apply to the whole of the land to be dedicated and, if not, to which part or parts of the land it is to apply; and
  - (iv) identify, by reference to boundaries clearly marked on the plan or map annexed to the instrument pursuant to paragraph (c), or a separate plan or map to no less a scale annexed to the instrument for the purposes of this paragraph, the part or parts of the land to which the removal or relaxation of the restrictions are to apply;

(k) contain a declaration of consent to the terms of the instrument signed by, or by some person authorised to sign on behalf of, each of the persons identified pursuant to paragraph (g); and

(l) contain, immediately before the place where it is to be signed when executed, a declaration that the provisions of regulation 4(4) have been complied with.

#### **Execution of a dedication instrument**

4. - (1) A dedication instrument is executed by being:

(a) signed by, or by some person authorised to sign on behalf of, the person or persons who are making the dedication; and

(b) dated with the date on which it is signed or, if it is signed by different persons on different days, the date on which it is signed by the last of those persons.

(2) If a person signs a dedication instrument on behalf of a person who is making the declaration, the signature must be preceded by a statement identifying the person on whose behalf the dedication instrument is being signed and a declaration that the person who is signing the dedication instrument is authorised to do so on behalf of that person.

(3) The date referred to in paragraph (1)(b) is, for the purposes of these Regulations, the date of execution of the dedication instrument.

(4) A dedication instrument may not be signed by any person pursuant to paragraph (1) unless a draft of the instrument was sent, so as to be received in every case not less than 3 months before it is so signed, to each of the following:

(a) the access authority or access authorities in respect of the land to which the draft instrument relates;

(b) the Council;

(c) the National Assembly;

(d) if any part of the land to which the draft instrument relates consists of woodland, the Forestry Commissioners; and

(e) where the interest in the land of any of the persons who are to make the dedication is, when the instrument is executed, subject to any charge by way of legal mortgage, the mortgagee.

#### **Effect of dedication instruments**

5. - (1) Subject to paragraph (3), a dedication instrument which has been executed in accordance with regulation 4 comes into force 6 months from its date of execution.

(2) A dedication instrument, when it has come into force in accordance with paragraph (1), has the effect of dedicating the land to which it relates for the

purposes of Part I of the Act.

(3) A dedication instrument does not come into force unless it has, in accordance with paragraph (4), been lodged with the access authority in respect of the land to which it relates, or if there is more than one such access authority, with one of them.

(4) A dedication instrument is lodged with an access authority by sending or delivering the original to that authority so that it is received by the access authority within 1 month of its date of execution and any dedication instrument received by an access authority after the expiry of that period is of no effect.

(5) In the event of an access authority receiving a dedication instrument after the expiry of the period referred to in paragraph (4), it must immediately inform each of the persons identified in it as the persons dedicating the land to which it relates that, by reason of a failure to lodge the dedication instrument within the period referred to in paragraph (4), it is of no effect.

#### **Notification of the lodging of a dedication instrument**

6. - (1) The persons by or on whose behalf a dedication instrument has been signed must ensure that as soon as possible after it is lodged with an access authority in accordance with regulation 5, copies are sent to each of the bodies or persons referred to in regulation 4(4)(a) to (e) (other than the access authority with whom the dedication instrument was lodged pursuant to regulation 5), and that each copy is accompanied by a statement identifying the access authority with whom the dedication instrument has been lodged and the date when it was so lodged.

(2) A failure to comply with the requirements of this regulation does not affect the validity of a dedication instrument.

#### **Removal or relaxation of restrictions on dedicated land**

7. - (1) Where a dedication instrument contains a statement pursuant to paragraph (j) of regulation 3, the general restrictions to be observed by persons exercising the right of access set out in paragraph 1, 4 or 5 of Schedule 2 to the Act apply subject to any removal or relaxation specified in the declaration pursuant to that paragraph.

(2) Where any person or persons could, in relation to any land to which a dedication instrument relates, dedicate that land (had it not already been dedicated) under section 16(1) of the Act, they may remove any such general restrictions as continue to apply in relation to that land, or relax or further relax them, as the case may be, by an amending dedication instrument.

(3) Subject to paragraphs (4) to (7), the provisions of these Regulations apply to amending dedication instruments as they apply to dedication instruments.

(4) Paragraph (b) of regulation 3 applies to an amending dedication instrument as if the reference to the statement required were a reference to a statement that it is made in accordance with paragraph (2) of this regulation and that its effect, when it comes into force in accordance with regulation 5 of these Regulations, will be that certain of the general restrictions to be observed by persons exercising access to the land to which it relates will be removed, relaxed or further relaxed in accordance with the terms of the amending dedication instrument.

(5) Paragraphs (g), (h) and (k) of regulation 3 do not apply to an amending

dedication instrument.

(6) References in these Regulations to land to be dedicated are to be construed, in relation to an amending dedication instrument, as references to the land in relation to which the general restrictions to be observed by persons exercising access to that land are to be removed, relaxed or further relaxed.

(7) The reference in regulation 5(2) to the effect of a dedication instrument when it comes into force is to be construed, in relation to an amending dedication instrument, as a reference to the taking effect of the removal, relaxation or further relaxation of the general restrictions to be observed by persons exercising access to land which are set out in the instrument.

#### **Use of electronic communication**

8. - (1) Subject to paragraph (2), any document required or authorised to be sent by one person to another under the provisions of these Regulations may be sent by post or by means of electronic communication and any reference in these Regulations, however expressed, to writing, other than the reference in regulation (3)(a), is to be construed as including a reference to a form capable of being stored on, transmitted to and from, and read by means of a computer.

(2) A dedication instrument may not be lodged with an access authority in accordance with regulation 5(4) by means of an electronic communication.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[3]

*D. Elis-Thomas*

The Presiding Officer of the National Assembly

28th January 2003

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### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 16 of the Countryside and Rights of Way Act 2000 ("the Act") enables a person who holds an interest in land (being a freehold interest or a leasehold interest of which not less than 90 years remain unexpired) to dedicate that land as "access land" for the purposes of Part I of the Act.

Land dedicated under section 16 of the Act will be subject to the public right of access in the same way as if the land had been included in a map prepared by the Countryside Council for Wales ("the Council") under Part I of the Act and will be subject to the same general restrictions (set out in Schedule 2 to the Act), except to the extent that those who dedicate the land remove or relax those restrictions by the terms of the dedication.

Under section 16 of the Act, the National Assembly for Wales ("the National Assembly") may prescribe the steps to be taken in order to dedicate land as access land.

Regulation 3 prescribes the form and content of the written instrument which must be executed in order to dedicate land, including what it must contain in order to identify the land to which it relates, the persons dedicating it, the other persons who, by reason of their interest in the land, consent to the dedication, and the extent of any removal or relaxation of general restrictions to be observed by persons exercising access right to it.

Regulation 4 prescribes how a dedication instrument is to be executed and requires those who do so to have given 3 months' notice to various bodies who are likely to have an interest in the proposal to dedicate the land before doing so.

Regulation 5 requires a dedication instrument, if it is to be effective, to be lodged within one month of being executed with the access authority for the land to which it relates (or one of them if there is more than one) and for the dedication to come into force six months after the execution of the dedication instrument.

Regulation 6 provides for copies of the dedication instrument to be sent to interested bodies other than the access authority with whom it has been lodged.

Regulation 7 provides for the removal or relaxation of general restrictions on access to take effect in accordance with the terms of a dedication instrument and for further removals or relaxations by means of an amending dedication instrument.

Regulation 8 provides for the use of electronic communication.

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*Notes:*

[1] 2000 c.37. Section 16(1) and 16(2) provide for steps to be "prescribed". Section 16(6) provides for regulations to be made for certain purposes. "Prescribed" means prescribed by regulations and "regulations" means, as respects Wales, regulations made by the National Assembly for Wales (*see* section 45(1)).[back](#)

[2] 2000 c.7.[back](#)

[3] 1998 c.38.[back](#)

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[Cymraeg \(Welsh\)](#)

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