

# Welsh Statutory Instrument 2003 No. 142 (W.14)

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

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**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*

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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);

"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;
- (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;
- (b) give particulars of the means by which members of the public may inspect, and take a copy of, the documents referred to in paragraph (3)(a);
- (c) state that representations in writing, which may be made either in the English language or the Welsh language, may be made to the relevant authority by such date as is specified in the notice, which must not be earlier than 2 weeks after the date on which the relevant authority complies with paragraph (2); and
- (d) state that copies of any representations received by the relevant authority may be made available to other parties to whom they relate.

### **Consultation in relation to directions revoking or varying existing directions**

7. Where the relevant authority is considering giving a direction which would have the effect of revoking or varying an existing direction and is required, before doing so, to consult any person under section 27(5) or 27(6) of the Act, it must, in addition to any other requirement contained in these Regulations, send a statement setting out the terms of the proposed direction, together with a notice complying with the requirements of regulation 6(4) to each such person.

### **Consideration of representations**

8. Where a relevant authority is required by these Regulations to give notice to any person that it is considering giving a direction, it must, before deciding whether to give a direction, consider any representations made by that person within the time permitted for making representations and may, if it thinks it appropriate, consider any other representations which it receives.

### **Decisions by a relevant authority whether to give a direction**

9. - (1) This regulation applies:

- (a) where an application for a direction has been made to the relevant authority; or
- (b) where the relevant authority has been advised to give a direction under section 26(1) of the Act by the relevant advisory body.

(2) Where this regulation applies, the relevant authority must, subject to paragraph (5), decide whether to give a direction, either in accordance with the application or advice referred to in paragraph (1) or with such modifications as it may determine, within the period specified in paragraph (3) or (4), as the case may be.

(3) Where the exclusion or restriction will operate during a period of 6 months or less then, then, subject to paragraph (4), the relevant authority must decide whether to give a direction within 6 weeks (or such longer period as the applicant or, as the case may be, the relevant advisory body agrees) of

receiving the application or advice.

(4) Where the exclusion or restriction will operate during a period of more than 6 months, or where the exclusion or restriction will operate for corresponding periods, of whatever length, in two or more different calendar years, the relevant authority must decide whether to give a direction within 16 weeks of receiving the application or advice.

(5) Where this regulation applies and the relevant authority receives the application or advice referred to in paragraph (1) -

(a) before the first date on which the right of access is to apply to all land to which the proposed direction relates; and

(b) the period within which the authority would be required, in accordance with paragraph (2), to decide whether to give a direction expires before that date,

then the relevant authority is not required to decide whether to give the direction within that period if it is not reasonably practicable to do so, but must instead do so as soon as reasonably practicable after the expiry of that period but in any event no later than the date referred to in sub-paragraph (a).

(6) If the relevant authority requires an applicant to supply further information under regulation 5(3), the period between the giving of notice of that requirement by the relevant authority and the receipt of the information in question is to be excluded when calculating any period within which the relevant authority is required to decide whether to give a direction.

#### **Form of directions excluding or restricting access**

**10.** - (1) A direction given under section 24(1), 25(1) or 26(1) of the Act by a relevant authority must:

(a) bear the date on which it is given;

(b) identify the provision of the Act under which it is given;

(c) describe (whether by map or otherwise) the location and extent of the land to which the exclusion or restriction is to apply;

(d) specify whether the effect of the direction is to exclude access to the land or, alternatively, to restrict it;

(e) in the case of a direction which restricts but does not exclude access, specify the extent of the restriction; and

(f) specify the period during which the exclusion or restriction is to apply or, if some person other than the person who gives the direction is to have the power to determine that period in accordance with section 24(2)(b)(i), 25(2)(b)(i), 26(2)(c)(i) or 28(2)(c)(i) of the Act, as the case may be, any conditions which apply to that power.

(2) A direction given under section 27(2) of the Act revoking or varying an existing direction must:

- (a) bear the date on which it is given;
- (b) identify the provision of the Act under which it is given;
- (c) have annexed to it a copy of the direction which it revokes or varies;
- (d) state whether its effect is to revoke the existing direction or to vary it; and
- (e) if its effect is to vary the existing direction, state how it is varied.

### **Giving a direction**

**11.** A direction which a relevant authority has decided to give is given when a person authorised by the relevant authority to do so signs and dates it.

### **Publication of decisions on directions**

**12.** - (1) A copy of any direction given or, where regulation 9 applies and the decision of the relevant authority is not to give a direction, a notice to that effect, must, as soon as possible after the direction has been given or the decision not to give a direction has been taken, as the case may be:

- (a) if it is reasonably practicable to do so, be published by the relevant authority on a web-site;
- (b) if the direction was given (or would have been given had the relevant authority not decided not to give a direction) as a result of an application, be sent to the applicant, or the applicant's agent, as the case may be;
- (c) if the direction was given (or would have been given had the relevant authority not decided not to give a direction) under section 26 of the Act, be sent to the relevant advisory body (unless the relevant authority is the Council and the direction was proposed to be made under section 26(3) (a) of the Act);
- (d) if a direction was given otherwise than on the application of the owner of the land to which it relates, and the identity of the owner is known to the relevant authority, be sent to the owner;
- (e) if a direction was given (or would have been given had the relevant authority not decided not to give a direction) following consultation with a relevant local access forum in accordance with regulations 6(3), be sent to that local access forum;
- (f) where a direction relates to land in respect of which the relevant authority is not also the access authority, and the direction is given under either section 24 or 25 of the Act, be sent to the access authority in respect of that land;
- (g) where the relevant authority was required, before giving the direction, to consult any person under section 27(5) or 27(6) of the Act, be sent to that person; and
- (h) where a direction is given by a relevant authority other than the Council, be sent to the Council.

(2) Where the relevant authority is required to send a copy of a direction which it has given, or to give notice that it has decided not to give a direction, to any person in accordance with paragraph (1)(b), (c) or (g), and the decision to give a direction in the terms in which it was given, or not to give a direction, as the case may be, was not in accordance with an application or other representation made by that person, the relevant authority must also, at the same time, send that person its reasons for that decision.

#### Part IV

### NOTIFICATION OF PERIODS OF EXCLUSIONS AND RESTRICTIONS

#### **Notification of an exclusion or restriction**

**13.** - (1) This regulation applies where:

- (a) an applicant for a direction under section 24(1) of the Act; or
- (b) a person specified in a direction given by the relevant authority under section 25(1) or 26(1) of the Act,

is required by the directions, in order for the exclusion or restriction to take effect, to notify the relevant authority of the commencement of that exclusion or restriction.

(2) Subject to paragraphs (3) and (4), the notification referred to in paragraph (1) must be given in writing so as to be received by the relevant authority at least 5 days (or such other number of days as has been specified in the direction) before the exclusion or restriction commences and must include:

- (a) that person's name, address and postcode;
- (b) if a reference number has previously been given by the relevant authority to that person for the purposes of notification under this regulation, that reference number; and
- (c) the dates and, if the exclusion or restriction will last for less than 24 hours on a given date, times during which the exclusion or restriction will operate.

(3) A person who has given notice pursuant to paragraph (2) may vary or withdraw that notice by giving further notice in writing to the relevant authority, provided such notice is received at least 2 working days before the day on which the exclusion or restriction to which it relates is to commence.

(4) The relevant authority may, where it considers it was not reasonably practicable for notice to be given in accordance with the requirements of this regulation, accept notice given by a person entitled to give such notice at any time before the commencement of the restriction to which it applies and, where it decides to do so, the relevant authority must send notification of that decision to the person who gave that notice as soon as practicable after reaching it.

Part V

INFORMING THE PUBLIC

**Informing the public of an exclusion or restriction**

14. - (1) This regulation applies -

(a) when an exclusion or restriction of access over access land is in operation and has been imposed under section 22(1), 23(1) or 23(2) of the Act or under a direction given under section 24(1), 25(1) or 26(1) of the Act; and

(b) there is a person responsible, in accordance with paragraph (2), for informing the public, in accordance with paragraph (3), of the exclusion or restriction in question and that person does not wish to permit persons to enter the land in contravention of that exclusion or restriction.

(2) The person responsible for informing the public in relation to an exclusion or restriction is -

(a) if it was imposed under section 22(1), the entitled person;

(b) if it was imposed under section 23(1) or (2) of the Act, the owner of the land;

(c) if it was imposed under a direction given by the relevant authority in consequence of receiving an application under section 24(1) or 25(3) of the Act, and is to operate during a period of 6 months or less, the person who made the application;

(d) if it was imposed under a direction given by the relevant authority in consequence of receiving an application under section 24(1) or 25(3) of the Act and is to operate during a period of more than 6 months, the relevant authority;

(e) if it was imposed under a direction given by the relevant authority under section 25 of the Act otherwise than in consequence of receiving an application, the relevant authority;

(f) if it was imposed under a direction given by the relevant authority under section 26 of the Act in consequence of receiving advice from the relevant advisory body under section 26(4) of the Act (other than advice given at the request of the relevant authority), the relevant advisory body; and

(g) if it was imposed under a direction given by the relevant authority under section 26 of the Act, but sub-paragraph (f) does not apply, the relevant authority.

(3) Where this regulation applies, the person responsible for informing the public of the exclusion or restriction must give any person who is on or about

to enter the land to which the exclusion or restriction applies for the purpose of exercising the right of access under the Act, such information as will inform that person of the existence, nature and duration of that exclusion or restriction, and the extent of the land to which it applies.

(4) Paragraph (3) only applies in relation to persons who appear to be on the land or about to enter it for the purpose of exercising the right of access which is excluded or restricted at that time.

(5) The information which is required to be given by paragraph (3) may be given orally.

(6) The duty to give information imposed by paragraph (3) does not apply if reasonable steps have been taken to communicate, by means of legible notices, the information specified in that paragraph to persons about to enter the land for the purpose of exercising the right of access under the Act.

(7) In determining whether steps taken to communicate information were reasonable, as required by paragraph (6), regard is to be had to any code of conduct issued by the Council under section 20(2) of the Act.

(8) The relevant authority in respect of any land to which an exclusion or restriction applies must, in addition to any other duty imposed by this regulation, publish, whenever practicable, details of that exclusion or restriction on a web-site.

(9) Where the relevant authority in respect of any land to which an exclusion or restriction applies is not the Council, that relevant authority must, as soon as practicable after receiving notice of an intended exclusion or restriction, give details of it in writing to the Council.

## Part VI

### DIRECTIONS BY THE SECRETARY OF STATE

#### **Application of these Regulations to directions by the Secretary of State**

**15.** - (1) Subject to paragraph (3), regulations 6, 8, and 10 to 13 apply to a direction given by the Secretary of State, or which the Secretary of State is considering giving, under section 28(1) of the Act.

(2) The regulations referred to in paragraph (1) apply to a direction given by the Secretary of State, or which the Secretary of State is considering giving, as if references in those regulations to:

- (a) "the relevant authority" were references to the Secretary of State;
- (b) section 24(1), 25(1) or 26(1) of the Act were, in each case, references to section 28(1) of the Act; and
- (c) a person specified under a direction given by a relevant authority as being able to notify the relevant authority of a period when access to land is to be excluded or restricted were references to a person authorised by the Secretary of State to give such notification.

(3) The provisions of any of the regulations referred to in paragraph (1) do not apply in relation to a particular direction given by the Secretary of State, or which the Secretary of State is considering giving, if the Secretary of State takes the view that it is impracticable or inappropriate that they should do so, either in whole or in part.

## Part VII

### APPEALS

#### **Appeal against a decision of a relevant authority**

**16.** - (1) For the purposes of these Regulations an "appeal" means:

(a) any appeal under section 30(3) of the Act (appeal by a person interested in land against a decision by a relevant authority not to act in accordance with an application or representations made by that person); and

(b) any reference under section 29(2) of the Act (reference by the relevant advisory body where the relevant authority decides not to act in accordance with advice given by that body).

(2) Subject to paragraph (3), an appeal may only be brought by sending or delivering to the National Assembly a completed appeal form which is received before the end of the appeal period.

(3) An appeal may also be brought by sending or delivering to the National Assembly a completed appeal form which is received after the end of the appeal period if the National Assembly considers that it was not reasonably practicable for the appellant to comply with the requirements of paragraph (2) and provided the completed appeal form is received within such further period after the end of the appeal period as the National Assembly considers reasonable in the circumstances.

(4) If a person who wishes to bring an appeal sends or delivers to the National Assembly written notice of that intention which is received before the end of the appeal period then, provided that person sends or delivers to the National Assembly a completed appeal form within such further period as the National Assembly may, by giving written notice to that person, require, that appeal form is to be treated as if it had been received before the end of the appeal period.

(5) The information which a completed appeal form must contain is:

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

(b) sufficient particulars of the land to which the appeal relates so as to enable that land to be identified on a map to be provided by the appellant;

(c) such particulars as will enable the National Assembly to understand the grounds on which the appeal has been brought;

(d) the nature of the interest of the appellant in the land which is subject

to the appeal; and

(e) whether 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) and, if so, whether the appellant wishes to be heard at a local inquiry or, alternatively, at a hearing.

(6) An appeal form may be in either the English language or 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 appeal form is expressed, the appeal form should incorporate or be accompanied by a request to that effect.

### **Giving effect to the decision on an appeal**

17. - (1) Where an appeal is against a decision by a relevant authority not to give a direction and the decision of the National Assembly in relation to that appeal is that the relevant authority should give a direction, the relevant authority must, as soon as possible, give a direction in accordance with the decision of the National Assembly and must comply with the requirements of regulation 12(1) (but not those of regulation 12(2)) in relation to it.

(2) Where on an appeal the National Assembly decides that the terms of a direction should be different from those of the direction originally given by the relevant authority, the relevant authority must, as soon as possible, prepare an amended direction in accordance with that decision, incorporating a statement that it is a direction amended by reason of that decision, and must comply with the requirements of regulation 12(1) (but not those of regulation 12(2)) in relation to it.

(3) A direction whose terms are required to be amended in accordance with a decision of the National Assembly on an appeal has effect as so amended from the date of that decision.

(4) Where the decision of the National Assembly, in relation to an appeal, is that a direction given by a relevant authority should be cancelled, the relevant authority must, as soon as possible, prepare a statement to that effect and comply with the requirements of regulation 12(1) (but not those of regulation 12(2)) in relation to it, as if the statement were a direction revoking that originally given.

(5) A direction which is cancelled in accordance with a decision of the National Assembly on an appeal ceases to have effect from the date of that decision.

(6) References in this regulation to decisions of the National Assembly include references to decisions by appointed persons authorised by the National Assembly to decide appeals.

### **Appeals procedures**

18. The Countryside Access (Appeals Procedures) (Wales) Regulations 2002[3] ("the Appeals Procedures Regulations") are amended in accordance with Schedule 2 to these Regulations.

Part VIII

MISCELLANEOUS

**Use of electronic communication**

19. 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, 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.

**Description of land**

20. Where these Regulations require any person to give notice to a relevant authority which includes a description of any land, and that relevant authority has previously allotted to that area of land a reference number for that purpose, the identification of that land by reference to that number is to be regarded as sufficient to comply with that requirement.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[4].

*D. Elis-Thomas*

Presiding Officer of the National Assembly

28th January 2003

**Schedule 1**

Regulation 6(2)

**ORGANISATIONS TO BE NOTIFIED PURSUANT TO REGULATION  
6(2)**

Any access authority in respect of land to which the proposed direction relates

British Association for Shooting and Conservation

British Mountaineering Council

Country Land and Business Association

The Countryside Agency (where the land in question has a border with England)

Farmers' Union of Wales

National Farmers' Union (Wales)

Open Spaces Society

Ramblers' Association

## Schedule 2

Regulation 18

### AMENDMENTS TO THE COUNTRYSIDE ACCESS (APPEALS PROCEDURES) (WALES) REGULATIONS 2002

1. In regulation 2(1), add to the definition of "appeal", after "Act":

" or a reference under section 29(2) of the Act."

2. Delete Regulation 4, and substitute:

" 4. - (1) Subject to paragraph (2), the respondent must, within 14 days of receiving from the National Assembly a copy of the appeal form, send to the National Assembly and to the appellant:

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

(b) a statement as to whether it 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) and, if so, whether it wishes to be heard at a local inquiry or, alternatively, at a hearing;

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

(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) In the case of an appeal under section 6 of the Act, the respondent:

(a) must, in addition, send to the National Assembly, within the period specified in paragraph (1), a copy of an extract showing that part of the provisional map to which the appeal relates;

(b) need not send the statements referred to in paragraph (1)(a) and (1)(b) within the period specified in paragraph (1) but must do so before the expiry of the period specified in regulation 5(2)(a) or 5(2)(b) (whichever is the later) and must, at the same time, send the National Assembly any further information which the National Assembly has, by that time, required the respondent to provide; and

(c) if it does not, within the period specified in paragraph (1) send the National Assembly the statements referred to in paragraph (1) (a) and (1)(b), must, instead, send the National Assembly, within that period, a statement containing an indication as to whether it will oppose the appeal and, if so, its likely grounds for doing so."

**3. Delete regulation 5(2)(a) and substitute:**

" (a) the expiry of 35 days from the date on which the National Assembly sent a copy of the completed appeal form to the respondent in accordance with regulation 3; or"

**4. In regulation 6(1) -**

(a) add, at the start of sub-paragraph (a):

" except in the case of an appeal under section 30(3) of the Act or a reference under section 29(2) of the Act,"

(b) add, after sub-paragraph (c):

" (d) in the case of an appeal under section 30(3) of the Act or a reference under section 29(2) of the Act, give notice to:

(i) the access authority;

(ii) the relevant local access forum;

(iii) any person who has made representations to the relevant authority in relation to the direction to which the appeal relates in accordance with the provisions of the Countryside Access (Exclusion or Restriction of Access) (Wales) Regulations 2003; and

(iv) any other person to whom the National Assembly considers it appropriate to give notice."

**5. In the opening words of regulation 6(2), add, after "under paragraph (1) (c)":**

" or (1)(d)".

**6. For regulation 6(2)(c), substitute:**

" (c) the grounds on which the appeal has been brought, or, in the case of an appeal brought under section 6 of the Act, a statement of which of the grounds specified in section 6(3) it has been brought under."

7. In regulation 6(4), for "in accordance with paragraph (1)(a), (b) or (c)", substitute:

" in accordance with paragraph (1)(a), (b), (c) or (d)."

8. In regulation 12(1)(c), add, after "interested person":

" and, in the case of an appeal under section 30(3) of the Act or a reference under section 29(2) of the Act, any person to whom notice was given under regulation 6(1)(d),"

9. Add, at the beginning of regulation 12(1)(d):

" except in the case of an appeal under section 30(3) of the Act or a reference under section 29(2) of the Act,".

10. Add, at the beginning of regulation 22(6)(a):

" except in the case of an appeal under section 30(3) of the Act or a reference under section 29(2) of the Act,".

11. For regulation 22(6)(b), substitute:

" (b) not less than 2 weeks before the date fixed for the holding of the inquiry, to send a notice of the inquiry to such persons or classes of persons as it judges appropriate but which must include, in the case of an appeal under section 30(3) of the Act or a reference under section 29(2) of the Act, any person to whom notice was given under regulation 6(1)(d)."

12. Substitute for the heading of regulation 36 (and for the corresponding entry in the Arrangement of Regulations):

**" Publication of decisions on appeals"**

13. Substitute for regulation 36:

" 36. The National Assembly must, unless it is not reasonably practicable to do so, publish, on a web-site which it maintains, notice of every decision made under these Regulations:

(a) in relation to an appeal under section 6 of the Act and continue to do so until the conclusive map to which the appeal relates is issued;

(b) in relation to an appeal under section 30(3) of the Act or a reference under section 29(2) of the Act and continue to do so for at least six months from the date of the decision."

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## EXPLANATORY NOTE

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

Under Chapter II of Part I of the Countryside and Rights of Way Act 2000 (sections 21 to 33 of the Act), the right of access conferred by section 2(1) of the Act to any land ("access land") may be excluded or restricted. Under sections 23 and 32 of the Act, the National Assembly for Wales ("the National Assembly") has the power to make regulations to provide for the steps to be taken to bring those exclusions or restrictions into operation.

Sections 29 and 30 of the Act provide for an appeal to be brought against certain decisions relating to exclusions and restrictions of access. Under sections 11 and 32 of the Act, the National Assembly has the power to make regulations providing for the procedures which are to apply to such appeals.

Regulation 3 sets out the steps which an "entitled person" (the owner of the land), has to take in order to exclude or restrict access in accordance with section 22 of the Act. The relevant person must give notice to the "relevant authority" (the Countryside Council for Wales or, where the land is in a National Park, the National Park authority). The relevant person can exclude or restrict access in accordance with section 22 of the Act for a maximum of 28 days in any calendar year.

Regulation 4 sets out the steps which an owner of land (defined in sections 21 and 45 of the Act) has to take in order to restrict access to that land with dogs under section 23 of the Act. Access to land with dogs can be restricted where this is necessary in connection with lambing or in connection with the management of grouse moors.

Regulations 5 to 12 set out the procedures which must be followed in relation to directions by relevant authorities excluding or restricting access under sections 24, 25 and 26 of the Act, for the purposes of land management, for the avoidance of fire risk or danger to the public and for purposes of nature conservation or heritage preservation, respectively.

Regulation 13 sets out requirements relating to notifications under directions which do not themselves specify the periods when the exclusion or restriction is to apply, but instead empower a person specified in the direction to fix that period by notifying the relevant authority.

Regulation 14 sets out the obligations on the part of relevant persons and authorities to inform the public of the existence of exclusions and restrictions.

Regulation 15 applies certain requirements relating to the form of directions, consultation and publicity to directions by the Secretary of State excluding or restricting access for purposes of defence or national security, subject to the discretion of the Secretary of State to disapply those requirements in particular cases where it is inappropriate or impracticable to apply them.

Regulations 16 to 18 make provision for appeals to the National Assembly, including the adaptation of The Countryside Access (Appeals Procedures) (Wales) Regulations 2002 ((S.I. 2002/1794) (W.169)) so as to apply to such appeals.

Regulation 19 enables electronic communications to be used for the purposes of complying with the requirements contained in these Regulations.

Regulation 20 enables land to be identified, when giving notice to the relevant authority under the Regulations, by reference numbers allocated by relevant authorities for that purpose.

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*Notes:*

[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.[back](#)

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

[3] S.I. 2002/1794 (W.169).[back](#)

[4] 1998 c.38.[back](#)

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