

Status: Point in time view as at 21/05/2016.

Changes to legislation: National Parks and Access to the Countryside Act 1949 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

FIRST SCHEDULE

PROVISIONS AS TO MAKING, CONFIRMATION, COMING INTO OPERATION AND VALIDITY OF CERTAIN INSTRUMENTS

^{X1}PART I

Editorial Information

X1 Pt. I so far as it relates to a public path order, a diversion order or an extinguishment order, repealed by Highways Act 1959 (c. 25), **Sch. 25** and London Government Act 1963 (c. 33, SIF 81:1), **Sch. 6 para. 70**

Orders designating National Parks, Public Path Orders, Diversion Orders and Extinguishment Orders, and Access Orders

- 1 (1) Before—
 - (a) an order designating a National Park,
 - (b) ^{F1}
 - (c) an access order,

is submitted to the Minister for confirmation, the authority by whom the order was made shall give notice in the prescribed form stating the effect of the order and that it has been made and is about to be submitted for confirmation, naming places in the locality to which the order relates where copies of the order and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Before the Minister makes an order varying an order designating a National Park, or . . . ^{F2} or an access order, he shall prepare a draft of the order and shall give notice stating that he proposes to make the order and the effect thereof, naming places in the locality to which the draft relates where a copy of the draft and of the map referred to therein may be inspected, and specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the draft may be made.
- (3) The notice to be given under either of the two foregoing sub-paragraphs shall be given—
 - (a) in the case of an order designating a National Park or an order varying such an order, by publication in the London Gazette, in two newspapers circulating in the country generally and in at least one local newspaper circulating in the [^{F3}every county or county borough which] includes any of the land to which the order relates;

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- (b) in the case of . . . ^{F2} or an access order, by publication in the London Gazette and in at least one local newspaper circulating in the locality in which the land to which the order relates is situated, and by serving a like notice on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any of that land, so however that—
- (i) except in the case of an owner, lessee or occupier being a local authority or statutory undertakers, the Minister may in any particular case direct that it shall not be necessary to serve notice as aforesaid; but
- (ii) if the Minister so directs in the case of any land, then in addition to publication the notice shall be addressed to “the owners and any occupiers” of the land (describing it) and a copy or copies of it shall be affixed to some conspicuous object or objects on the land;
- (c) ^{F4}

[^{F5}(3A) Where under this paragraph any notice is required to be given by any person in respect of any land which is already in a National Park for which a National Park authority is the local planning authority, that person shall serve a copy of that notice on that authority.]

- (4) Where under this paragraph any notice is required to be served on an owner of land and the land [^{F6}belongs to an ecclesiastical benefice][^{F6}is vested in the incumbent of a benefice of the Church of England], a like notice shall be served on the [^{F6}Church Commissioners][^{F6}Diocesan Board of Finance for the diocese in which the land is situated].

Textual Amendments

- F1** Para. 1(1)(b) repealed by [Highways Act 1959 \(c. 25\)](#), **Sch. 25** and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), **Sch. 6 para. 70**
- F2** Words repealed by [Highways Act 1959 \(c. 25\)](#), **Sch. 25** and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), **Sch. 6 para. 70**
- F3** Words in Sch. 1 para. 1(3)(a) substituted (1.4.1996) by [1994 c. 19, s. 20\(4\)](#), **Sch. 6 Pt. II para. 15(3)** (with [ss. 54\(5\)\(7\), 55\(5\)](#), [Sch. 17 para. 22\(1\), 23\(2\)](#)); [S.I. 1996/396, art. 3](#), **Sch. 1**
- F4** Para. 1(3)(c) repealed by [Highways Act 1959 \(c. 25\)](#), **Sch. 25** and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), **Sch. 6 para. 70**
- F5** Sch. 1 para. 1(3A) inserted (23.11.1995) by [1995 c. 25, s. 78](#), **Sch. 10 para. 2(9)(a)** (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#)); [S.I. 1995/2950, art. 2\(1\)](#)
- F6** Words in Sch. 1 para. 1(4) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\)](#), [s. 16\(2\)](#), **Sch. 5 para. 4**; [2006 No. 2](#), Instrument made by Archbishops

Modifications etc. (not altering text)

- C1** Para. 1(3)(b) amended by [Housing Repairs and Rents Act 1954 \(c. 53\)](#), [s. 50\(2\)\(e\)](#)

- 2 (1) If no representations or objections are duly made, or if any so made are withdrawn, the Minister may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications.
- (2) If any representation or objection duly made is not withdrawn, the Minister shall, before confirming or making the order, as the case may be, if the objection is made by a local authority cause a local inquiry to be held and in any other case either—
- (a) cause a local inquiry to be held, or

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- (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,
- and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications:

F7

[^{F8}(2A) In sub-paragraph (2) “ local authority ” does not include—

- (a) in relation to an order designating a National Park in England, a parish council, or
- (b) in relation to an order designating a National Park in Wales, a community council.]

(3) Notwithstanding anything in the foregoing provisions of this paragraph, the Minister shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—

- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days) within which and manner in which representations or objections with respect to the proposal may be made;
- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose; and
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

F9

(4) Where, in the case of an access order, it is [^{F10}represented by the Environment Agency (as respects England), the Natural Resources Body for Wales (as respects Wales), or a][^{F11}water undertaker] that any land comprised in the order as submitted to the Minister or in the draft order prepared by him, as the case may be (or, where notice of a proposed modification has been given under head (a) of the last foregoing sub-paragraph, any land to which the proposed modification relates), should be excluded from the operation of the order on the ground that by reason of—

- (a) the proximity of the land to any reservoir used for the purposes of [^{F12}the statutory undertaking carried on by that Authority or, as the case may be, undertaker], or
- (b) any other physical factor affecting the flow of water from the land into any such reservoir,

the operation of section sixty of this Act as respects that land would be likely to involve danger to the purity of the water supply which could not be prevented by the taking of any reasonable measures, sub-paragraph (2) of this paragraph, or head (c) of the last foregoing sub-paragraph, as the case may be, shall have effect in relation to that representation as if it provided for the consideration of the report therein referred to by the Minister . . . ^{F13}

(5) If, as the result of any representations or objections considered, or inquiry or other hearing held, in connection with the confirmation of an order designating a National

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Park or the making of an order varying such an order, the Minister is of opinion that [^{F14}Natural England,] the [^{F15}Natural Resources Body for Wales][^{F16}a National Park authority,], a [^{F17}county planning authority][^{F18}or, in Wales, the local planning authority] or any other person ought to be consulted before he decides whether to confirm or make the order either with or without modifications, he shall consult [^{F19}Natural England, the][^{F15}Natural Resources Body for Wales], authority or other person but, subject to the provisions of sub-paragraph (3) of this paragraph, shall not be under any obligation to consult any other person, or to afford any opportunity for further representations or objections or to cause any further inquiry or other hearing to be held.

Textual Amendments

- F7** Para. 2(2) proviso repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)
- F8** Sch. FIRST para. 2(2A) inserted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [ss. 60\(5\)](#), [107\(3\)\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F9** Words repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33, SIF 81:1\)](#), [Sch. 6 para. 70](#)
- F10** Words in Sch. 1 para. 2(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 25\(2\)](#) (with Sch. 7)
- F11** Words beginning “the National Rivers Authority” substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), [ss. 58\(7\)](#), [101\(1\)](#), [141\(6\)](#), [160\(1\)\(2\)\(4\)](#), [163](#), [189\(4\)–\(10\)](#), [190](#), [193\(1\)](#), [Sch. 25 para. 13\(3\)\(a\)](#), [Sch. 26 paras. 3\(1\)\(2\)](#), [17](#), [40\(4\)](#), [57\(6\)](#), [58](#)
- F12** Words beginning “the statutory undertaking” substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), [ss. 58\(7\)](#), [101\(1\)](#), [141\(6\)](#), [160\(1\)\(2\)\(4\)](#), [163](#), [189\(4\)–\(10\)](#), [190](#), [193\(1\)](#), [Sch. 25 para. 13\(3\)\(b\)](#), [Sch. 26 paras. 3\(1\)\(2\)](#), [17](#), [40\(4\)](#), [57\(6\)](#), [58](#)
- F13** Words omitted by virtue of [S.I. 1951/753 \(1951I, p. 1354\)](#), art. 7(2)
- F14** Words in Sch. 1 para. 2(5) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [s. 107](#), [Sch. 11 para. 25\(a\)](#); S.I. 2006/2541, art. 2 (with Sch.)
- F15** Words in Sch. 1 para. 2(5) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 25\(3\)](#) (with Sch. 7)
- F16** Words in Sch. 1 para. 2(5) inserted (1.4.1996) by [1995 c. 25, s. 78](#), [Sch. 10 para. 2\(9\)\(b\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#)); S.I. 1995/2950. art. 3
- F17** Words substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 17 para. 41](#)
- F18** Words in Sch. 1 para. 2(5) inserted (1.4.1996) by [1994 c. 19, s. 20\(4\)](#), [Sch. 6 Pt. II para. 15\(3\)](#) (with [ss. 54\(5\)\(7\)](#), [55\(5\)](#), [Sch. 17 para. 22\(1\)](#), [23\(2\)](#)); S.I. 1996/396, art. 3, [Sch.](#)
- F19** Words in Sch. 1 para. 2(5) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), [s. 107](#), [Sch. 11 para. 25\(b\)](#); S.I. 2006/2541, art. 2 (with Sch.)

- 3 As soon as may be after any such order as is mentioned in paragraph 1 of this Schedule has been confirmed or made by the Minister, the authority by whom the order was made, or, in the case of an order made by the Minister, the Minister, shall publish, in the manner required in relation to the class of order in question by sub-paragraph (3) of paragraph 1 of this Schedule, a notice in the prescribed form describing the effect of the order, stating that it has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected at all reasonable hours, and—

- (a) where under the said sub-paragraph (3) notice was required to be served, shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-

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paragraph or under sub-paragraph [^{F20}(3A) or] (4) of paragraph 1 of this Schedule; and

- (b) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph:

Provided that no such notice or copy need be served on a person unless he has sent to the authority or Minister (according as the notice or copy would require to be served by an authority or by the Minister) a request in writing in that behalf specifying an address for service.

Textual Amendments

F20 Words in Sch. 1 para. 3(a) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(9)(c)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**

[^{F21}3A An order designating a National Park shall have effect as from such time as may be determined by the Minister and specified in the notice of the confirmation of that order.]

Textual Amendments

F21 Sch. 1 para. 3A inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 2(9)(d)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**

4 (1) The Minister may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Part of this Schedule applies as appears to him to be expedient.

(2) ^{F22}

(3) In this Part of this Schedule the expression “prescribed” means prescribed by regulations made by the Minister.

Textual Amendments

F22 Sch. 1 Pt. I para. 4(2) repealed by **Highways Act 1959 (c. 25)**, **Sch. 25** and **London Government Act 1963 (c. 33, SIF 81:1)**, **Sch. 6 para. 70**

PART II. ^{F23}

Textual Amendments

F23 Sch. 1 Pt. II repealed by **Countryside Act 1968 (c. 41)**, **Sch. 5**

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PART III

Provisions as to validity of orders, and of certain maps and statements prepared under Part IV of this Act

- 8 If any person desires to question the validity of an order to which Part I . . . ^{F24} of this Schedule applies on the ground that it is not within the powers of this Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the making or confirmation of the order, he may, within six weeks after the date of publication of notice of the confirmation or making of the order in accordance with the foregoing provisions of this Schedule in that behalf, make an application to the High Court; and on any such application the court—
- (a) may by interim order suspend the operation of the order, either generally or in so far as it affects the applicant, until the final determination of the proceedings; and
 - (b) if satisfied that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the order either generally or in so far as it affects the applicant.

Textual Amendments

F24 Words repealed by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [Sch. 5](#)

- 9 (1) If any person desires to question the validity of a definitive map prepared under Part IV of this Act on the ground that the map is not within the powers of this Act, or on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the preparation of the map, or of any draft or provisional map on which that map is based, he may, within six weeks after the date of publication of notice of the preparation of the map in accordance with the provisions of the said Part IV in that behalf, make an application to the High Court; and on any such application the court, if satisfied that the map is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may make an order declaring that, notwithstanding anything contained in the said Part IV, the definitive map shall not be conclusive evidence of any such matter as may be specified in the order.
- (2) References in this paragraph to a definitive map, or to a draft or provisional map, shall be construed as including references to a revised map prepared in definitive form, or to a revised map prepared in draft or provisional form, as the case may be; references therein to a map shall be construed as including references to any statement required by the provisions of Part IV of this Act to be annexed to the map; and for the purposes of this paragraph a map shall be deemed to be based on another map if the particulars contained in the former map are required by the said provisions to be the particulars contained in the latter map as modified in accordance with those provisions.
- 10 Subject to the provisions of the two last foregoing paragraphs, an order, map, or statement to which either of those paragraphs applies shall not, either before or after it has been confirmed, made or prepared, be questioned in any legal proceedings whatsoever, and any such order map or statement shall become operative on the date

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on which notice of the confirmation, making or preparation thereof is published as mentioned in those paragraphs respectively.

- 11 Paragraphs 8 and 10 of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the ^{M1}Statutory Orders (Special Procedure) Act 1945 and shall have effect in relation to any other order which is subject to special parliamentary procedure by virtue of paragraph 2 . . . ^{F25} of this Schedule as if for the reference in the said paragraph 10 to the date therein mentioned there were substituted a reference to the date on which the order becomes operative under the said Act.

Textual Amendments

F25 Words repealed by [Countryside Act 1968 \(c. 41, SIF 46:1\)](#), [Sch. 5](#)

Marginal Citations

M1 [1945 c. 18](#).

[^{F26}SCHEDULE 1A

COASTAL ACCESS REPORTS

Textual Amendments

F26 [Sch. 1A](#) inserted (12.11.2009 for specified purposes, 12.1.2010 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(1)(c)(d)(2)(d), [Sch. 19](#) (with s. 308)

Introductory

- 1 In this Schedule—
- (a) “coastal access report” means a report submitted under section 51 pursuant to the coastal access duty;
 - (b) references to a fair balance are references to a fair balance between—
 - (i) the interests of the public in having rights of access over land, and
 - (ii) the interests of any person with a relevant interest in the land, (to which section 297(3) of the Marine and Coastal Access Act 2009 (general duties in connection with the coastal access duty) refers).

Advertising etc of coastal access reports

- 2 (1) Natural England must—
- (a) advertise a coastal access report, and
 - (b) take such steps as are reasonable to give notice of the report to persons within sub-paragraph (2).
- (2) Those persons are—
- (a) persons with a relevant interest in affected land;
 - (b) each access authority for an area in which affected land is situated;

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- (c) each local access forum for an area in which affected land is situated;
- (d) the Historic Buildings and Monuments Commission for England;
- (e) the Environment Agency;
- (f) such other persons as may be specified in regulations made by the Secretary of State.

- (3) The Secretary of State may by regulations make provision about—
- (a) the form and manner in which reports are to be advertised under sub-paragraph (1)(a);
 - (b) the form and manner in which notices are to be given under sub-paragraph (1)(b);
 - (c) the timing of any advertisement or the giving of any notice.

Objections by persons with relevant interest in affected land

- 3 (1) Any person who has a relevant interest in affected land may make an objection to Natural England about a coastal access report.
- (2) For the purposes of this Schedule an objection is not an admissible objection unless it—
- (a) satisfies the conditions in sub-paragraphs (3) and (4), and
 - (b) is made in accordance with any requirements imposed by regulations under sub-paragraph (7)(b).
- (3) The first condition is that the objection is made on the ground that the proposals in the report, in such respects as are specified in the objection, fail to strike a fair balance as a result of one or more of the following—
- (a) the position of any part of the proposed route;
 - (b) the inclusion of proposals under subsection (2) of section 55B or the nature of any proposal under that subsection;
 - (c) the inclusion of, or failure to include, an alternative route under section 55C(2) or the position of any such alternative route or any part of such a route;
 - (d) the inclusion of, or failure to include, proposals under one or more of paragraphs (a) to (c) of section 55D(2) or the nature of any proposal made under such a paragraph;
 - (e) the inclusion of, or failure to include, a proposal under section 55D(5) or the terms of any such proposal;
 - (f) the exercise of a discretion conferred by section 301(2) or (3) of the Marine and Coastal Access Act 2009, or failure to exercise a discretion conferred by section 301(3) of that Act, in relation to a river.
- (4) The second condition is that the objection specifies the reasons why the person making the objection is of the opinion that a fair balance is not struck as a result of the matter or matters within sub-paragraph (3)(a) to (f).
- (5) An objection under this paragraph may propose modifications of the proposals in the report if the person making the objection considers—
- (a) that those modifications would remedy, or mitigate the effects of, the failure to strike a fair balance to which the objection relates, and
 - (b) that the proposals as so modified would satisfy the requirements of sub-paragraph (6).

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- (6) Modified proposals satisfy the requirements of this sub-paragraph if what they propose—
- (a) is practicable,
 - (b) takes account of the matters mentioned in section 297(2), and (where appropriate) section 301(4), of the Marine and Coastal Access Act 2009 (matters to which Natural England and the Secretary of State must have regard when discharging the coastal access duty), and
 - (c) is in accordance with the scheme approved under section 298 of that Act (the scheme in accordance with which Natural England must act when discharging the coastal access duty) or, where that scheme has been revised, the revised scheme.
- (7) The Secretary of State may by regulations make provision about—
- (a) the steps to be taken by Natural England to make persons with an interest in affected land aware of their entitlement to make objections under this paragraph;
 - (b) the form and manner in which, and period within which, objections are to be made.

Referral of objections to the appointed person

- 4 (1) Natural England must send to the Secretary of State a copy of any objection received under paragraph 3 about a coastal access report.
- (2) The Secretary of State must refer any objection received under sub-paragraph (1) to a person appointed by the Secretary of State for the purposes of this Schedule (“the appointed person”).
- (3) An appointment under sub-paragraph (2)—
- (a) must be in writing;
 - (b) may relate to any particular objection specified in the appointment or to objections of a description so specified;
 - (c) may provide for a payment or payments to be made to the appointed person.
- (4) An appointment under sub-paragraph (2) may, by notice in writing given to the appointed person, be revoked at any time by the Secretary of State in respect of any objection if the appointed person has not, before that time, given the Secretary of State a report containing a recommendation under paragraph 11 in relation to the objection.
- (5) Where the appointment of the appointed person is revoked in respect of any objection, the Secretary of State must appoint another person under sub-paragraph (2) to deal with the objection afresh under this Schedule.
- (6) Nothing in sub-paragraph (5) requires any person to be given an opportunity to make fresh representations or comments or to modify or withdraw any representations or comments already made.

Determination of admissibility of objections

- 5 Where an objection is referred under paragraph 4(2), the appointed person must—
- (a) determine whether the objection is an admissible objection, and

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- (b) give notice of that determination, together with the reasons for it, to—
 - (i) the person who made the objection,
 - (ii) the Secretary of State, and
 - (iii) Natural England.

Admissible objections

- 6 (1) Where Natural England is notified under paragraph 5(b) that an objection is an admissible objection, it must send to the Secretary of State its comments on the objection.
- (2) A notice under paragraph 5(b) that an objection is an admissible objection may require Natural England to include in its comments under sub-paragraph (1)—
- (a) either—
 - (i) an outline of any relevant alternative modifications of the proposals in the coastal access report, or
 - (ii) if Natural England considers there are no such modifications, a statement to that effect;
 - (b) if an outline is included under paragraph (a)(i), an assessment of the effects of the relevant alternative modifications on the interests of the public in having rights of access over land and the interests of any person with a relevant interest in affected land;
 - (c) either—
 - (i) an outline of any relevant rejected proposals which were considered by Natural England in connection with the preparation of the coastal access report and of its reasons for rejecting them, or
 - (ii) if there are no such proposals, a statement to that effect;
 - (d) information of such other description as the appointed person may specify in the notice under paragraph 5(b), being information which the appointed person considers to be material for the purpose of making a determination under paragraph 10(2).
- (3) In this paragraph, a reference to relevant alternative modifications of the proposals is to modifications of the proposals which Natural England considers—
- (a) might reasonably be regarded as relevant for the purpose of determining—
 - (i) whether, in the respects identified in the objection, the proposals in the report strike a fair balance, or
 - (ii) whether any modification of those proposals would produce proposals that strike a fair balance or mitigate the effects of any failure to strike a fair balance,
 - (b) are materially different from any modifications included in the objection under paragraph 3(5), and
 - (c) would, if made, result in proposals which satisfy the requirements of paragraph 3(6)(a) and (c).
- (4) In this paragraph, a reference to relevant rejected proposals is to proposals which, if to be given effect to, would require modifications to be made of the proposals in the coastal access report which—
- (a) are materially different from—
 - (i) any modifications included in the objection under paragraph 3(5), and

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- (ii) any relevant alternative modifications outlined in Natural England's comments on the objection, and
- (b) would be relevant alternative modifications but for a failure to satisfy the requirement of paragraph 3(6)(a).

Representations about reports

- 7 (1) Representations about a coastal access report may be made by any person to Natural England.
- (2) The Secretary of State may by regulations make provision about—
- (a) the steps to be taken by Natural England to make persons aware of their entitlement to make representations under this paragraph;
 - (b) the form and manner in which, and period within which, representations are to be made.
- 8 (1) Natural England must send to the Secretary of State—
- (a) a copy of any representations made by a person within paragraph 2(2)(b) to (f) about a coastal access report,
 - (b) a summary of any other representations made about the report, and
 - (c) Natural England's comments on representations within paragraph (a) or (b).
- (2) In this paragraph references to representations are to representations made under paragraph 7 in accordance with any requirements imposed by regulations under paragraph 7(2)(b).

Reference of objection to the appointed person

- 9 (1) This paragraph applies where the Secretary of State is notified under paragraph 5(b) that an objection made about a coastal access report is an admissible objection.
- (2) The Secretary of State must send to the appointed person the relevant documents in relation to the objection.
- (3) The relevant documents are—
- (a) a copy of the coastal access report to which the objection relates,
 - (b) a copy of Natural England's comments on the objection received under paragraph 6,
 - (c) a copy of any representations received under paragraph 8(1)(a) about the coastal access report, so far as those representations appear to the Secretary of State to be relevant to the objection,
 - (d) if there are such representations, a copy of Natural England's comments on them received under paragraph 8(1)(c),
 - (e) if a summary of representations about the coastal access report has been received under paragraph 8(1)(b), a copy of any part of the summary which appears to the Secretary of State to be relevant to the objection, and
 - (f) if there is such a part, a copy of Natural England's comments on the representations to which the part relates received under paragraph 8(1)(c).

Consideration of objections by appointed person

- 10 (1) This paragraph applies where the appointed person—

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- (a) has determined that an objection about a coastal access report is an admissible objection, and
 - (b) has received, under paragraph 9, the relevant documents in relation to the objection.
- (2) The appointed person must determine whether the proposals set out in the report fail, in the respects specified in the objection, to strike a fair balance as a result of the matter or matters within paragraph 3(3)(a) to (f) specified in the objection.
- (3) If the appointed person is minded to determine that the proposals fail to strike a fair balance, the appointed person must comply with sub-paragraphs (4) and (5) before making such a determination.
- (4) The appointed person must publish a notice containing—
- (a) details of the objection and Natural England's comments on it under paragraph 6,
 - (b) a statement that the appointed person is minded to determine that the proposals fail to strike a fair balance, and
 - (c) an invitation to submit to the appointed person representations about—
 - (i) the objection (including any modifications of the proposals proposed by the objection),
 - (ii) any relevant alternative modifications contained in Natural England's comments on the objection under paragraph 6, and
 - (iii) any observations which the appointed person has made in the notice regarding any such relevant alternative modifications or any modifications proposed by the objection.
- (5) The appointed person must give a copy of that notice to—
- (a) Natural England;
 - (b) any person with a relevant interest in—
 - (i) affected land to which the objection relates, or
 - (ii) land which is not affected land but would be such land if any of the modifications referred to in sub-paragraph (4)(c)(i) or (ii) were made to the proposals;
 - (c) any person within paragraph 2(2)(b) to (f).
- (6) The Secretary of State may by regulations make provision about—
- (a) the form and manner in which notices are to be published or given under this paragraph,
 - (b) the timing of the publication or giving of notices under this paragraph, and
 - (c) the form and manner in which, and period within which, representations are to be made in response to an invitation in a notice under this paragraph.
- (7) The appointed person may require the Secretary of State, at the Secretary of State's expense—
- (a) to discharge the appointed person's duty to publish or give a notice under this paragraph;
 - (b) to receive on behalf of the appointed person any representations made in response to an invitation in a notice under this paragraph and forward such representations to the appointed person.

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Recommendations of the appointed person

- 11 (1) Where a determination is made in respect of an objection under paragraph 10(2), the appointed person must give the Secretary of State a report which—
- (a) sets out that determination, and
 - (b) makes one or more recommendations in accordance with this paragraph.
- (2) Sub-paragraph (3) applies if the appointed person concludes under paragraph 10(2) that the proposals do not fail, in the respects specified in the objection, to strike a fair balance as a result of any of the matters within paragraph 3(3)(a) to (f) specified in the objection.
- (3) The appointed person must recommend that the Secretary of State makes a determination to that effect.
- (4) Sub-paragraphs (5) and (7) apply if the appointed person concludes that the proposals fail, in the respects (or certain of the respects) specified in the objection, to strike a fair balance as a result of one or more of the matters within paragraph 3(3)(a) to (f) specified in the objection.
- (5) The appointed person must determine whether there are any modifications of the proposals which would meet the coastal access requirements.
- (6) For the purposes of this paragraph, modifications meet the coastal access requirements if they—
- (a) remedy the failure to strike a fair balance identified by the objection, and
 - (b) produce proposals which satisfy the requirements of paragraph 3(6).
- (7) The appointed person must—
- (a) recommend that the Secretary of State determines that the proposals fail, in one or more of the respects specified in the objection, to strike a fair balance but that there is no modification which would satisfy the coastal access requirements,
 - (b) recommend that, if minded to approve the proposals, the Secretary of State approves the proposals with modifications of a kind described in the recommendation, being modifications which the appointed person considers would meet the coastal access requirements, or
 - (c) recommend that, if minded to approve the proposals, the Secretary of State considers whether modifications of a kind described in the recommendation would meet the coastal access requirements.
- (8) Where a report contains a recommendation under sub-paragraph (7)(a), the appointed person may include in the report—
- (a) a recommendation that, if minded to approve the proposals, the Secretary of State should approve the proposals with modifications of a kind described in the recommendation, being modifications which the appointed person considers would mitigate the effects of the failure to strike a fair balance, or
 - (b) a recommendation that, if minded to approve the proposals, the Secretary of State should consider whether modifications of a kind described in the recommendation would mitigate the effects of the failure to strike a fair balance.
- (9) Sub-paragraph (10) applies where, in a case to which sub-paragraph (4) applies, the appointed person also determines that the proposals do not fail, in the respects (or

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certain of the respects) specified in the objection, to strike a fair balance by reason of one or more of the matters within paragraph 3(3)(a) to (f) specified in the objection.

- (10) The appointed person must recommend that the Secretary of State makes a determination to that effect (in addition to any recommendation under sub-paragraph (7) or (8)).
- (11) A report under this paragraph must also set out the appointed person's reasons for any recommendation contained in the report.

Information and documents

- 12 (1) The appointed person may give Natural England a notice requiring it to provide the appointed person with information or documents—
 - (a) which is or are in the possession of Natural England, and
 - (b) which the appointed person reasonably requires for the purpose of exercising functions under this Schedule.
- (2) Natural England must send the Secretary of State a copy of any information or document provided by it in response to a notice under sub-paragraph (1).
- (3) The appointed person may give the Secretary of State a notice requiring the Secretary of State to provide the appointed person with—
 - (a) a copy of any coastal access report specified in the notice which the appointed person reasonably requires for the purpose of exercising functions under this Schedule;
 - (b) any information in the possession of the Secretary of State which the appointed person reasonably so requires.

Holding of local inquiries and other hearings by appointed person

- 13 (1) Where the appointed person considers it necessary or expedient to do so, the appointed person may hold a local inquiry or other hearing in connection with the consideration of an objection under this Schedule.
- (2) Subject to sub-paragraph (3), the costs of a local inquiry or other hearing held under this paragraph are to be defrayed by the Secretary of State.
- (3) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) apply to local inquiries or other hearings held under this Schedule by the appointed person as they apply to inquiries caused to be held under that section by a Minister, but as if—
 - (a) in subsection (2) (evidence) the reference to the person appointed to hold the inquiry were a reference to the appointed person,
 - (b) in subsection (4) (recovery of costs of holding the inquiry)—
 - (i) references to the Minister causing the inquiry to be held were references to the appointed person, and
 - (ii) references to a local authority were references to Natural England, and
 - (c) in subsection (5) (orders as to the costs of the parties) the reference to the Minister causing the inquiry to be held were a reference to the appointed person.

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Supplementary provision about procedure in connection with objections

- 14 (1) Subject to the provisions of this Schedule, the Secretary of State may, by regulations, make provision about the consideration of objections by the appointed person.
- (2) Such regulations may, in particular, include—
- (a) provision enabling two or more objections, in the circumstances specified in the regulations, to be considered by the appointed person together;
 - (b) provision enabling the appointed person to conduct an inspection of any land;
 - (c) provision about the procedure for the conduct of local inquiries and other hearings.

Preliminary consultation

- 15 (1) The Secretary of State may, by regulations, make provision about the procedure to be followed where, before determining whether or not to approve the proposals in a coastal access report (with or without modifications), the Secretary of State wishes—
- (a) to identify or investigate possible modifications of the proposals to which it might be appropriate to give further consideration, and
 - (b) to consult persons for the purposes of identifying or investigating such modifications.
- (2) Regulations under this paragraph may, in particular, apply any provision of this Schedule (with or without modifications).

Determinations under section 52

- 16 (1) Before making a determination under section 52 in respect of a coastal access report, the Secretary of State must consider—
- (a) any objection about the report which the appointed person has determined is an admissible objection,
 - (b) Natural England's comments under paragraph 6 on any such objections,
 - (c) any report under paragraph 11 in respect of any such objection,
 - (d) any representations made about the coastal access report, or summary of such representations, and any comments on those representations, received under paragraph 8, and
 - (e) any information or document a copy of which is sent to the Secretary of State under paragraph 12(2).
- (2) The power under section 52 to approve proposals contained in a report submitted under section 51 pursuant to the coastal access duty includes a power to approve those proposals (with or without modifications) so far as they relate to one or more parts of the route only, and reject the remaining proposals.
- (3) Where a report required to be considered under sub-paragraph (1)(c) contains a statement of a finding of fact, the Secretary of State in making the determination is bound by that finding unless the Secretary of State is satisfied—
- (a) that the finding involves an assessment of the significance of a matter to any person with a relevant interest in land or to the public,
 - (b) that there was insufficient evidence to make the finding,

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- (c) that the finding was made by reference to irrelevant factors or without regard to relevant factors, or
 - (d) that the finding was otherwise perverse or irrational.
- (4) The Secretary of State may, by regulations, make provision about the procedure to be followed where the Secretary of State is minded to approve proposals with modifications other than modifications made in accordance with a recommendation under paragraph 11(7)(b) or (c) or (8)(a) or (b).
- (5) For the purposes of sub-paragraph (4) a modification is to be regarded as made in accordance with a recommendation under paragraph 11(7)(b) or (c) or (8)(a) or (b) if it is not materially different from a modification which could be so made.
- (6) Regulations under sub-paragraph (4) may, in particular, apply any provision of this Schedule (with or without modifications).
- (7) Any requirement imposed by virtue of sub-paragraph (4) is in addition to the duty to consult imposed by section 52(1).

Notice of determinations under section 52

- 17 (1) Where the Secretary of State makes a determination under section 52 in respect of a coastal access report, the Secretary of State must, as soon as reasonably practicable, comply with this paragraph.
- (2) The Secretary of State must—
- (a) take reasonable steps to give notice of the determination to persons with a relevant interest in affected land, or
 - (b) if the Secretary of State considers it appropriate, publish a notice of the determination in such manner as the Secretary of State considers likely to bring it to the attention of those persons.
- (3) The Secretary of State (in addition to complying with section 52(2)) must give notice of the determination to—
- (a) any body of a kind mentioned in section 52(2) in whose Park or area affected land is situated (but which is not required to be notified under section 52(2)),
 - (b) any London borough council for an area in which affected land is situated,
 - (c) any local access forum for an area in which affected land is situated,
 - (d) the Historic Buildings and Monuments Commission for England, and
 - (e) the Environment Agency.
- (4) Where the Secretary of State was required under paragraph 16(1)(a) to consider an objection when making the determination, a statement of the reasons for the determination (so far as relevant to the objection) must be included in—
- (a) any notice given or published under sub-paragraph (2),
 - (b) any notification of the determination under section 52(2), and
 - (c) any notice given under sub-paragraph (3).
- (5) Where the Secretary of State was required under paragraph 16(1)(c) to consider a report and the Secretary of State in making the determination does not follow a recommendation in the report, the statement of reasons required by sub-paragraph (4) must also include the reasons for not following the recommendation.

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Interpretation

- 18 In this Schedule—
- “admissible objection” is to be construed in accordance with paragraph 3(2);
 - “the appointed person” has the meaning given by paragraph 4(2);
 - “coastal access report” has the meaning given by paragraph 1(a);
 - “fair balance” is to be construed in accordance with paragraph 1(b);
 - “relevant alternative modifications” has the meaning given by paragraph 6(3);
 - “the relevant documents”, in relation to an objection, has the meaning given by paragraph 9(3).]

SECOND SCHEDULE

GENERAL RESTRICTIONS TO BE OBSERVED BY PERSONS HAVING ACCESS TO OPEN COUNTRY OR WATERWAYS BY VIRTUE OF PART V OF ACT

- 1 Subsection (1) of section sixty of this Act shall not apply to a person who, in or upon the land in question,—
- (a) drives or rides any vehicle;
 - (b) lights any fire or does any act which is likely to cause a fire;
 - (c) takes, or allows to enter or remain, any dog not under proper control;
 - (d) wilfully kills, takes, molests or disturbs any animal, bird or fish or takes or injures any eggs or nests;
 - (e) bathes in any non-tidal water in contravention of a notice displayed near the water prohibiting bathing, being a notice displayed, and purporting to be displayed, with the approval of the local planning authority;
 - (f) engages in any operations of or connected with hunting, shooting, fishing, snaring, taking or destroying of animals, birds or fish, or brings or has any engine, instrument or apparatus used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish;
 - (g) wilfully damages the land or anything thereon or therein;
 - (h) wilfully injures, removes or destroys any plant, shrub, tree or root or any part thereof;
 - (i) obstructs the flow of any drain or watercourse, opens, shuts or otherwise interferes with any sluice-gate or other apparatus, breaks through any hedge, fence or wall, or neglects to shut any gate or to fasten it if any means of so doing is provided;
 - (j) affixes or writes any advertisement, bill, placard or notice;
 - (k) deposits any rubbish or leaves any litter;
 - (l) engages in riotous, disorderly or indecent conduct;
 - (m) wantonly disturbs, annoys or obstructs any person engaged in any lawful occupation;
 - (n) holds any political meeting or delivers any political address; or
 - (o) hinders or obstructs any person interested in the land, or any person acting under his authority, in the exercise of any right or power vested in him.
- 2 In the application of the foregoing provisions of this Schedule to waterways,—

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- (a) for references to land there shall be substituted references to a waterway;
- (b) sub-paragraphs (a) and (b) of paragraph 1 of this Schedule shall not apply;
and
- (c) sub-paragraph (f) of the said paragraph 1 shall have effect as if the words from “or brings” to the end of the sub-paragraph were omitted.

Status:

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