

EXPLANATORY MEMORANDUM TO
THE COASTAL ACCESS REPORTS (CONSIDERATION AND MODIFICATION
PROCEDURE) (ENGLAND) REGULATIONS 2010

2010 NO. 2010/1976

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument contains a number of procedural provisions to enable representations and objections to be made about a coastal access report, drawn up by Natural England, which contains proposals for a long-distance route and associated coastal margin for a stretch of the English coast.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The new right of access to the English coast is provided for in Part 9 of the Marine and Coastal Access Act 2009 (“the 2009 Act”). The 2009 Act amends Part 4 of the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) to provide for the designation of a long-distance coastal route, and also Part 1 of the Countryside and Rights of Way Act 2000 (“the CROW Act”) to provide a right of access to the route and an associated margin of land linked to the route. Section 303(5) of the 2009 Act inserts a new section 3A (power to extend to coastal land etc: England) into the CROW Act, which allows the Secretary of State to make an order defining the descriptions of land in England which are coastal margin. The Access to the Countryside (Coastal Margin) (England) Order 2010 came into force on 6 April 2010.¹

4.2 Schedule 1A to the 1949 Act, as inserted by Schedule 19 to the 2009 Act, provides a process by which representations may be made about a Natural England coastal access report, and also that objections may be made about a report by people with a relevant interest in affected land. A person with a “relevant interest” - as set out in new section 55J(2) of the 1949 Act – means the owner of the land, a tenant, or other person in lawful occupation of the land. An objection will be referred to an “appointed person” (who it is envisaged will be an inspector from the Planning Inspectorate) who will consider the objection and report to the Secretary of State.

4.3 The Secretary of State must consider the appointed person’s report and recommendations before reaching a determination on Natural England’s report. Once Natural England’s report has been approved by the Secretary of State the right of access for that stretch of the English coast will come into force on an appointed date by way of an Order made by the Secretary of State under section 3A(10) of the CROW Act (inserted by section 303(5) of the 2009 Act).

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Part 9 of the 2009 Act aims to improve public access to and enjoyment of the English coastline, providing secure and consistent rights for people to enjoy the coast with confidence and certainty. It will do this by making a margin of land available for public access on foot around the coast of England. Within this margin people will be able to walk along the length of the English coast (subject to some exceptions), and in addition will have access to wider areas of suitable coastal land such as beaches, cliffs, rocks and dunes for open-air recreation on foot.

8. Consultation outcome

8.1 A 12 week consultation ran from 22 March to 14 June 2010 seeking views on the main measures intended to be contained in the instrument, including the form and manner by which Natural England's coastal reports were to be advertised and notices sent, and the form and manner in which objections and representations about such reports were to be made. The consultation also sought views on the procedures for the way that objections were to be considered by the appointed person including procedures for inquiries and hearings.

8.2 A total of 60 responses were received to the consultation from a range of individuals and organisations including local authorities, recreation organisations and landowners/managers and their representative organisations.

8.3 In the light of responses to the consultation paper a number of changes were made to the proposed instrument. The main changes were to include the Royal Society for the Protection of Birds (RSPB) and the British Association for Shooting and Conservation (BASC) to the list of persons under paragraph 2(2)(f) of Schedule 1A to the 1949 Act (so that any representations from either of these organisations about a Natural England coastal access report would be sent in full to the Secretary of State); to provide two separate forms, the wording of which are set out in the instrument, for people who wish to make both an objection and representation about a Natural England's report; to extend the period within which objections and representations may be made from six to eight weeks; and to require the appointed person to notify the relevant access authority, and any person with a relevant interest in land who would be affected by any modifications proposed in an objection, of any hearing, local inquiry or pre-inquiry meeting to be held by the appointed person.

8.4 An analysis of the consultation responses will be available at <http://www.defra.gov.uk/corporate/consult/coastal-access/index.htm>

9. Guidance

9.1 We will be looking to provide policy guidance to explain the objection and representations procedure under the 2009 Act including the role of the "appointed person" in relation to the Secretary of State.

10. Impact

10.1 There will be no regulatory requirements placed on business, charities or the voluntary sector as a result of implementation of the coastal access provisions in the 2009 Act. There

will however be some costs to persons and organisations, such as a business, charity or the voluntary sector, which has a relevant interest in land and which may be affected by the coastal access route and where they wish to make an objection about Natural England's coastal access report. There will be some costs for any person and organisation who wishes to make a representation about a report. The costs for participating in Natural England's consultation on the line of the route and some loss of production where the new right of access affects farmed land are estimated to be £8 million over 20 years. Offsetting these costs will be economic benefits to local coastal economies from the increased visitor spending in coastal areas that is expected to occur where improved access encourages additional visitors. For example, it has been estimated that the South West Coast Path brings over £300m per year spending into the regional economy. The coastal route will provide new opportunities for business, with tourism related businesses most likely to envisage new commercial opportunities from greater access. Analysis of results from studies done in coastal areas and on long distance paths have suggested that the uplift in spending is £6 – £9 per non-resident day visitor per day and £35 – £45 per tourist (overnight) visit per day.

10.2 The cost to the public sector of identifying and implementing the coastal route is estimated to be £53 million over a ten-year period. These costs will largely fall to Natural England but some of these costs, estimated at £3 million, will fall to the Department for Environment, Food and Rural Affairs for consideration of the objections procedure provided for in the instrument.

10.3 An Impact Assessment has not been prepared for this instrument

11. Regulating small business

11.1 The legislation applies to any small business whose land may be affected by the coastal access route and the associated coastal margin. There will only be some costs where that business wishes to participate in Natural England's consultation on the line of the coastal route, and where it wishes to make an objection or representation about Natural England's coastal access report.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people where a business wishes to make an objection or representation about Natural England's coastal access report, the approach taken is to provide standard forms on which an objection or representation can be made.

12. Monitoring & review

12.1 Natural England will monitor progress as implementation of the coastal route and associated coastal margin is rolled out throughout England. Under section 298 of the 2009 Act Natural England is required to set out in a scheme its approach to proposing the coastal route and margin, and for that scheme to be approved by the Secretary of State. The initial scheme was approved on 23 March 2010. Under section 299 of that Act Natural England must complete the first review of the scheme within three years of the date of approval of the scheme. Benefits and costs will also be monitored as implementation of the coastal route is rolled out and will be reviewed within 5 years of completion.

13. Contact

Richard Hepburn at the Department for Environment, Food and Rural Affairs [Tel: 0117 372 8204 or email: richard.hepburn@defra.gsi.gov.uk] can answer any queries regarding the instrument.