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STATUTORY INSTRUMENTS

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**2011 No. 2019**

**The Access to the Countryside (Appeals against Works Notices) (England) Regulations 2011**

**PART 2**

**Initial Stages of Appeal**

**Manner and period for appeal**

4.—(1) A section 38 appeal or a Schedule 20 appeal is to be made by giving notice of appeal to the Secretary of State.

(2) Notice of appeal under paragraph (1) is to be given—

- (a) by serving on the Secretary of State within the period specified in paragraph (3) a notice of appeal on a form obtained from the Secretary of State; and
- (b) by serving on the appropriate authority a copy of that notice of appeal at the same time as that notice is served on the Secretary of State under sub-paragraph (a).

(3) The period mentioned in paragraph (2)(a) is—

- (a) where the appeal is against a notice under section 36(3) of the 2000 Act, the period specified in that notice within which the works specified in that notice are required to be carried out;
- (b) where the appeal is against a notice under —
  - (i) section 37(1) of the 2000 Act, or
  - (ii) paragraph 3(3) of Schedule 20,the period specified in that notice after which the appropriate authority intends to carry out the works specified in that notice.

(4) Where the appropriate authority gives notice under—

- (a) section 36(3) of the 2000 Act, or
- (b) paragraph 3(3) of Schedule 20,

to the owner or occupier of any land, the appropriate authority must take such steps as are reasonable to give a copy of that notice to every other owner or occupier of the land.

(5) An appellant may, by giving notice in writing to the Secretary of State, withdraw his appeal at any time before it is determined.

(6) The Secretary of State must, as soon as practicable, send a copy of a notice under paragraph (5) to—

- (a) the appropriate authority;
- (b) every other owner or occupier of the appeal land whose address is known to the Secretary of State; and
- (c) the local access forum.

### **Notification of receipt of documents**

5.—(1) The Secretary of State must, as soon as practicable after having received all the information required in order to be able to entertain the appeal, notify the appropriate authority of this in writing.

(2) The notice to the appropriate authority under paragraph (1) must be accompanied by a questionnaire in respect of the information required by the Secretary of State to determine the appeal.

### **Preliminary information to be supplied by the appropriate authority**

6. The appropriate authority must ensure that, within two weeks of its receipt of the notification in accordance with regulation 5, the appellant receives—

- (a) the questionnaire mentioned in regulation 5(2) duly completed by the appropriate authority (which must also state the date on which it is sent to the Secretary of State) together with a copy of each document referred to in it;
- (b) the name and address of any person who made representations to the appropriate authority in respect of the notice appealed;
- (c) the address of the local access forum; and
- (d) details of the time during which and the place at which the appropriate authority intends to make documents available for the purpose of regulation 41 (inspection and copying of documents).

### **Notification of start of appeal etc**

7.—(1) The Secretary of State must, as soon as practicable after receiving the information to be supplied in accordance with regulation 6, give notice in writing to the appellant, the appropriate authority, any person who has made representations as mentioned in regulation 6(b) and the local access forum stating—

- (a) the start date;
- (b) whether the appeal will take the form of a hearing or inquiry or will be determined on the basis of written representations;
- (c) whether the appeal will be determined by the Secretary of State or an inspector;
- (d) the reference number allocated to the appeal;
- (e) the address (including e-mail address) to which written communications to the Secretary of State about the appeal are to be sent;
- (f) the time and place where documents relating to the appeal are to be made available by the appropriate authority under regulation 41;
- (g) the name of the appellant;
- (h) the location of the appeal land in sufficient detail to enable it to be identified;
- (i) that, as the case may be—
  - (i) the appeal is in respect of a notice given under section 36(3) of the 2000 Act concerning works which the owner or occupier is required to carry out for the purpose of remedying the failure to observe a restriction in an agreement under section 35 of that Act with respect to any means of access,
  - (ii) the appeal is in respect of a notice given under section 37(1) of the 2000 Act that the appropriate authority intends to take all necessary steps for carrying out the works specified in that notice with respect to any means of access, or

- (iii) the appeal is in respect of a notice given under paragraph 3(3) of Schedule 20 that the appropriate authority intends to take all necessary steps for carrying out the works specified in that notice for the purposes of Natural England’s discharging the coastal access duty,  
and in each case providing a brief description of those works;
  - (j) that the appropriate authority—
    - (i) has sent to the Secretary of State and to the appellant the name and address of any person, other than the appellant, who has made representations to the appropriate authority with respect to the notice appealed, and
    - (ii) is required to send a copy of those representations to the Secretary of State and to the appellant;
  - (k) that if any such person wishes his representations to be disregarded by the Secretary of State for the purposes of the appeal, he is to notify the Secretary of State in writing of this within four weeks of the start date;
  - (l) that any person who has made such representations may make further representations in writing to the Secretary of State in respect of the appeal provided that the Secretary of State receives them within four weeks of the start date;
  - (m) that any other person may also make representations to the Secretary of State in respect of the appeal provided that the Secretary of State receives them within four weeks of the start date; and
  - (n) that, if there is to be a hearing or an inquiry—
    - (i) the appellant and the appropriate authority are entitled to appear, and
    - (ii) the inspector may permit any other person to appear and such permission may not be unreasonably withheld.
- (2) The Secretary of State must ensure that a copy of the notice given under paragraph (1) is made available for inspection on a relevant website until the appeal is determined.

**Supply of further information by the appropriate authority**

8. The appropriate authority must ensure that, within two weeks of the start date, the Secretary of State and the appellant have received copies of—
- (a) any representations made to them as mentioned in regulations 6(b) and 7(1); and
  - (b) any correspondence between the appellant and the appropriate authority relating to the issue of the notice under sections 36(3) or 37(1) of the 2000 Act or paragraph 3(3) of Schedule 20, as the case may be.

**Submission of statements of case etc.**

- 9.—(1) The appropriate authority, the appellant and any other person who wishes to make representations to the Secretary of State must each ensure that, within six weeks of the start date, the Secretary of State receives the relevant documents.
- (2) For the purposes of paragraph (1), the relevant documents are—
- (a) in the case of the appropriate authority, two copies of its statement of case;
  - (b) in the case of the appellant, two copies of the appellant’s statement of case; and
  - (c) in the case of any other person, three copies of the representations in question.

### **Copies of documents**

10. The Secretary of State must, as soon as practicable after receiving copies of the documents referred to in regulation 9—

- (a) send to the appellant a copy of the statement of case submitted by the appropriate authority;
- (b) send to the appropriate authority a copy of the statement of case submitted by the appellant; and
- (c) send to the appellant and the appropriate authority a copy of any representations submitted by any other person mentioned in that regulation.

### **Comments on statements of case**

11.—(1) Where the appellant or the appropriate authority wish to make any comments on the other's statement of case or any representations made by any interested person, they must ensure that the Secretary of State receives those comments within nine weeks of the start date.

(2) The Secretary of State must, as soon as practicable after receiving the comments referred to in paragraph (1), send—

- (a) to the appropriate authority, a copy of the comments received from the appellant under paragraph (1); and
- (b) to the appellant, a copy of the comments received from the appropriate authority under paragraph (1).

### **Provision of further information**

12.—(1) The Secretary of State or the inspector may require such further information as either may specify from—

- (a) the appellant;
- (b) the appropriate authority; or
- (c) any interested person.

(2) All such information must be provided in writing within such period as the Secretary of State or the inspector may reasonably require.

(3) The Secretary of State must, as soon as practicable after receiving any further information required under paragraph (1), send a copy of the documents received—

- (a) in the case of information received from the appellant or the appropriate authority, to the other party; and
- (b) in the case of information received from any interested person, to the appellant and the appropriate authority.