

**EXPLANATORY MEMORANDUM TO**  
**THE ACCESS TO THE COUNTRYSIDE (MAPS)**  
**(ENGLAND) REGULATIONS 2013**

**2013 No. 1798**

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 consolidates (with amendment) the Access to the Countryside (Provisional and Conclusive Maps) (England) Regulations 2002 (S.I. 2002/1710) (the “2002 Regulations”), as amended<sup>1</sup>, so that only provisions of continued relevance in relation to conclusive maps remain. A conclusive map is a map which was issued by the Countryside Agency under section 9 of the Countryside and Rights of Way Act 2000 (c. 37). The instrument also revokes the following regulations:

- (a) the Access to the Countryside (Maps in Draft Form) (England) Regulations 2001 (S.I. 2001/3301);
- (b) the Access to the Countryside (Provisional and Conclusive Maps) (England) Regulations 2002 (S.I. 2002/1710);
- (c) the Access to the Countryside (Provisional and Conclusive Maps) (England) (Amendment) Regulations 2003 (S.I. 2003/32);
- (d) the Access to the Countryside (Correction of Provisional and Conclusive Maps) (England) Regulations 2003 (S.I. 2003/1591); and
- (e) the Access to the Countryside (Correction of Provisional and Conclusive Maps) (England) (Amendment) Regulations 2005 (S.I. 2005/2027).

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

3.1 None.

**4. Legislative Context**

4.1 A right of public access on foot for open-air recreation is provided for in Part 1 of the Countryside and Rights of Way Act 2000 (the “2000 Act”) to any land shown as open country and registered common land in England on the eight conclusive maps published by the Countryside Agency over 2004 and 2005. About 900,000 hectares of land in England were mapped.

4.2 The mapping procedure under the 2000 Act involved the issue of maps by the Countryside Agency in draft form in accordance with the Access to the Countryside (Maps in Draft Form) (England) Regulations (S.I. 2001/3301). Draft maps were subsequently confirmed by the Countryside Agency (with or without modifications) and issued in provisional form under section 5(d) or (e) of the 2000 Act, before being issued in conclusive form.

4.3 The 2002 Regulations, as amended, made provision for the publication of maps issued in provisional and conclusive form, including provision relating to appeals against the showing of any land on a provisional map as registered common land or open country. The Access to

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<sup>1</sup> The 2002 Regulations were amended by the Access to the Countryside (Provisional and Conclusive Maps) (England) (Amendment) Regulations (S.I. 2003/32).

the Countryside (Correction of Provisional and Conclusive Maps) (England) Regulations 2003 (S.I. 2003/1591), as amended, made provision for the correction of provisional and conclusive maps in certain circumstances. For example, where a conclusive map was issued but the map did not incorporate or accurately incorporate a modification which should have been incorporated in the provisional map issued by the Countryside Agency, the conclusive map could be corrected for the purpose of incorporating (or accurately incorporating) that modification so far as the correction consisted of the omission of land from the map.

4.4 Section 10 (2)(a) of the 2000 Act provides for a first review of each conclusive map in England to be undertaken by Natural England (as the successor body to the Countryside Agency) no more than fifteen years after the map was issued in conclusive form<sup>2</sup>. The review must consider both whether land shown on the existing conclusive map as open country or registered common land remains of that description, and whether other land should be shown as open country or registered common land. In England under section 10 (2)(b) of the 2000 Act subsequent reviews must take place no more than twenty years after the previous review<sup>3</sup>.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 In its response to the Red Tape Challenge scrutiny of environment regulations, the Department for Environment, Food and Rural Affairs announced its intention was to review and consolidate the five sets of regulations which applied (in relation to England) to the mapping of open country and registered common land under the 2000 Act.

7.2 This instrument retains (with amendment) those provisions which continue to be relevant to the previous mapping process such as the retention of conclusive maps by Natural England and the public inspection of conclusive maps and reduced scale maps. The instrument revokes those provisions of the mapping process undertaken by the Countryside Agency which are no longer used, because all of the required conclusive maps have been issued by the Countryside Agency, for example in relation to draft and provisional maps, the provisions relating to appeals against the showing of any land on a provisional map as registered common land or open country.

## **8. Consultation outcome**

8.1 The Department for Environment, Food and Rural Affairs sought the public's views on the regulations which applied to the mapping of open country and registered common land under the 2000 Act as part of the Red Tape Challenge scrutiny of environment regulations. In its response to the Red Tape Challenge it announced its intention on 19 March 2012 - <https://www.gov.uk/government/publications/red-tape-challenge-environment-theme-proposals-> to simplify the current mapping provisions under the 2000 Act and to remove any

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<sup>2</sup> The Countryside and Rights of Way Act 2000 (Review of Maps) (England) Regulations 2013 (S.I. 2013/514) extended the period for first review of the conclusive maps in England from no more than 10 years to no more than 15 years. The original time limit of no more than 10 years is preserved in relation to Wales.

<sup>3</sup> This period was extended, in relation to England, from no more than 10 years to no more than 20 years by the Countryside and Rights of Way Act 2000 (Review of Maps) (England) Regulations 2013 (S.I. 2013/514). The original time limit of no more than 10 years is preserved in relation to Wales.

procedures in these regulations which had been completed. No specific comments were raised in response to this announcement.

## **9. Guidance**

9.1 No guidance will be published but the Department for Environment, Food and Rural Affairs will bring the instrument to the attention of key stakeholders by means of an edition of its "Access" newsletter which is sent to local authorities, national park authorities and AONBs, local access forums and organisations and persons who are interested in access issues.

## **10. Impact**

10.1 There will be no impact placed on business, charities or the voluntary sector as a result of this instrument.

10.2 There will be no impact placed on the public sector as a result of this instrument.

10.3 A separate Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 This instrument applies to small business.

11.2 The right of public access on foot for open-air recreation under Part 1 of the 2000 Act applies to any land which has been mapped on a conclusive map as open country or registered common land. Under Part 1 of Schedule 1 to the 2000 Act there are seventeen categories of land - referred to as "excepted land" - that, because of their location or use, are not subject to the new right. This would apply to any small business where land used by a business was "land covered by buildings or the curtilage of such land" (paragraph 2 of Part 1 of the Schedule) or "land (other than coastal margin) within 20 metres of a dwelling" (paragraph 3 of Part 1 of the Schedule).

## **12. Monitoring & review**

12.1 This instrument will apply until such time as the conclusive maps are reviewed in accordance with section 10(2)(a) of the 2000 Act. It is envisaged that the instrument would cease to be of relevance once this review is complete.

12.2 The Department for Environment, Food and Rural Affairs will consider the scope and extent of any regulations necessary on the procedures to be followed on a review under section 10 of the 2000 Act and, in due course, it is envisaged the Department will carry out a public consultation on any necessary regulations.

## **13. Contact**

Richard Hepburn at the Department for Environment, Food and Rural Affairs Tel: 0117 372 3553 or email: richard.hepburn@defra.gsi.gov.uk can answer any queries regarding the instrument.