

# SUPPLEMENT TO THE BLUE BOOK 4TH EDITION

## COASTAL ACCESS LEGISLATION IN ENGLAND

### Version 5 - October 2020

Changes have been made to reflect progress with the English Coastal Path in various areas, see table on pages 11 to 13, and to bring the legislative provisions on pages 14 onwards up to date.

### HYPERLINKS

In this document ([link](#)) refers to a hyperlink to an internet site where the publication is available: any other similarly-formatted text refers to a link to elsewhere in the document (e.g. [Abbreviations](#)).

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#### Relevant parts of the following legislation (as amended):

- [National Parks and Access to the Countryside Act 1949](#)  
Includes current versions of sections 51-55 (pp 410-413 of the book).
- [Occupiers' Liability Act 1957](#)  
Current versions of the provisions at pp 417-418 of the book.
- [Occupiers' Liability Act 1984](#)  
Current versions of the provisions at pp 565-567 of the book.
- [Countryside and Rights of Way Act 2000](#)  
Includes the whole of Part 1, incorporating current versions of the provisions in Part I (sections 1 to 23) at pp 658-660 of the book and Schedules 1 and 2 (pp 670-673).
- [Marine and Coastal Access Act 2009](#)
- [The coastal margin order](#) (Access to the Countryside (Coastal Margin) (England) Order 2010)

## ABBREVIATIONS

Abbreviations are as listed at page liii of the book, with the addition of:

CMO 2010 <i>or</i> ‘the coastal margin order’	Access to the Countryside (Coastal Margin) England Order 2010 SI 2010 No 558 ( <a href="#">link</a> )
‘the 2000 Act’	Countryside and Rights of Way Act 2000 ( <a href="#">link</a> )
MACA 2009 <i>or</i> ‘the 2009 Act’	Marine and Coastal Access Act 2009 ( <a href="#">link</a> )
NE	Natural England
‘the reports regulations’	Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010 SI 2010 No 1976 ( <a href="#">link</a> )
SoS	Secretary of State for Environment, Food and Rural Affairs

## 14.2A Coastal access legislation in England

### 14.2A.1 The framework of the legislation

Legislation to provide for increased coastal access in England was introduced by MACA 2009. Sections 296-301 define a new coastal access duty applying to NE and the SoS; require NE to produce a scheme setting out the way it will implement the duty; and define what is meant by the coast. The legislation is a combination, with variations, of previous legislation providing for long-distance routes (see chapter 15.3) and access to open country and registered common land (see chapter 14.2). The intention is that there will be an English coastal long-distance route, associated with which will be a coastal margin of land to which the right of access on foot will apply; the extent of both will be defined in coastal route reports. Schedule 20 to the 2009 Act provides for the establishment and maintenance of the English coastal route.

The 2009 Act amends other Acts. NPACA 1949 ss 55A-55J and Sch 1A (added by the 2009 Act) deal with the production by NE of reports on the coastal route and associated coastal margin. The reports regulations deal with the procedure for coastal route reports, which are open to objections and representations, and have to be approved by the SoS.

CRWA 2000 and the Occupiers' Liability Act 1984 are amended to apply also to coastal margin, which is defined in the coastal margin order.

### 14.2A.2 Definitions used in the legislation or this text

Term	Legislation	Definition (terms in <i>italics</i> have their own definitions in the table)
Access authority	<a href="#">CRWA 2000 s 1(2)</a> as applied by <a href="#">NPACA 1949 s 55J</a>	See 14.4.
Access land	<a href="#">CRWA 2000 s 1(1)</a>	The land (including coastal margin, but excluding any land which is excepted land) to which the 2000 Act provides a right of access on foot.

Term	Legislation	<b>Definition</b> (terms in <i>italics</i> have their own definitions in the table)
Admissible objection	<a href="#">NPACA 1949 Sch 1A paras 3 and 18</a>	An objection to a <i>coastal access report</i> that is- (a) made in accordance with the requirements of the regulations; and (b) objects on the grounds that the proposals fail to strike a fair balance for one or more of the reasons set out in para 3(3) and states the reasons for so arguing.
Affected land	<a href="#">NPACA 1949 s 55J</a>	In relation to proposals in a <i>coastal access report</i> , land over which the <i>ordinary route</i> or an <i>alternative route</i> passes, any other land which is <i>coastal margin</i> or an <i>alternative route strip</i> but not <i>excepted land</i> .
Alternative route	<a href="#">NPACA 1949 s 55C</a>	A route to operate as a diversion from the <i>ordinary route</i> .
Alternative route strip	<a href="#">NPACA 1949 s 55J</a>	Land which would become <i>coastal margin</i> during the operation of the <i>alternative route</i> .
Appointed person	<a href="#">NPACA 1949 Sch 1A para 4(2)</a>	The person appointed by the SoS to whom any objections to a <i>coastal access report</i> must be referred.
Coastal access duty	<a href="#">MACA 2009 s 296(1)</a> as applied by <a href="#">NPACA 1949 s 55J</a>	The duty imposed on NE and the SoS to provide an <i>English coastal route</i> and associated <i>coastal margin</i> .
Coastal access report	<a href="#">NPACA 1949 Sch 1A para 1</a>	A report submitted by NE to the SoS under NPACA 1949 s 51 pursuant to the <i>coastal access duty</i> .
Coastal margin	<a href="#">CRWA 2000 s 1(2)</a>	Land of a description specified in Article 3 of the <i>coastal margin order</i> .
Coastal route strip	<a href="#">CRWA 2000 Sch 1 para 14(1)</a>	Land over which the line of an approved section of the <i>English coastal route</i> , or an <i>official alternative route</i> passes and land adjacent to and within 2 metres either side of such a line unless the approved proposals identify a physical feature as the boundary of the coastal route strip at that point.
English coastal route	<a href="#">NPACA 1949 s 55J</a>	The route secured pursuant to the <i>coastal access duty</i> .
Excepted land	<a href="#">CRWA 2000 Part 1</a> as applied by <a href="#">NPACA 1949 s 55J</a>	Land over which the <i>right of access</i> does not apply.

Term	Legislation	<b>Definition</b> (terms in <i>italics</i> have their own definitions in the table)
Fair balance	<a href="#">NPACA 1949 Sch 1A para 1(b) and 18</a>	A fair balance between the interests of the public in having <i>rights of access</i> over land and the interests of any person with a <i>relevant interest</i> in the land.
Local access forum	<a href="#">NPACA 1949 s 55J</a>	A local access forum established under CRWA 2000 s 94.
Official alternative route	<a href="#">NPACA 1949 s 55J</a>	An <i>alternative route</i> contained in approved proposals.
Ordinary route	<a href="#">NPACA 1949 s 55C</a>	The usual route of the <i>English coastal route</i> .
Owner (of land)	<a href="#">NPACA 1949 s 55J</a>	The person who holds an estate in fee simple absolute in possession in the land.
Relevant alternative modifications	<a href="#">NPACA 1949 Sch 1A paras 6(3) and 18</a>	Modifications that NE may be required by the <i>appointed person</i> to include in its comments on an objection to a <i>coastal access report</i> (unless it considers that there are no such modifications).
Relevant coastal margin	<a href="#">NPACA 1949 s 55J</a>	In relation to proposals in a <i>coastal access report</i> , either: <ul style="list-style-type: none"> <li>(a) land which would become <i>coastal margin</i> if proposals were to be approved without modification; or</li> <li>(b) where proposals have been approved, land which thereby becomes <i>coastal margin</i>; in each case disregarding the <i>alternative route strip</i> in relation to any <i>official alternative route</i>.</li> </ul>
Relevant documents	<a href="#">NPACA 1949 Sch 1A paras 9(3) and 18</a>	Documents (as specified by para 9(3)) that the SoS must send to the appointed person.
Relevant interest in land	<a href="#">NPACA 1949 s 55J(2); MACA 2009 s 297(4)</a>	A person has a relevant interest in land if the person- <ul style="list-style-type: none"> <li>(a) is the <i>owner</i>;</li> <li>(b) holds a term of years absolute in the land;</li> <li>(c) is in lawful occupation of the land</li> </ul>
Right of access	<a href="#">CRWA 2000 s 2</a>	The right of access on foot to the coastal margin.
Temporary route	<a href="#">NPACA 1949 s 55I</a>	A temporary diversion specified by NE under a direction given when a direction has been given by NE or the SoS excluding the <i>right of access</i> over the <i>ordinary route</i> or any <i>alternative route</i> .

### 14.2A.3 The coastal access duty

The coastal access duty<sup>1</sup> requires NE and the SoS so to exercise their functions as to achieve two objectives:

- (i) To provide a route for the whole of the English coast which—
  - (a) consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
  - (b) (except to the extent that it is completed by ferry) passes over land which is accessible to the public.
- (ii) In association with that route, to provide a margin of land along the length of the English coast that is accessible to the public for the purposes of its enjoyment by them in conjunction with that route or otherwise, except to the extent that the margin of land is relevant excepted land.

The duty may be discharged in stages, and within such timescale as appear to NE and the SoS to be appropriate.<sup>2</sup>

Land is regarded<sup>3</sup> as accessible to the public if it is either: (a) land to which there is access under CRWA 2000 (as amended by MACA 2009); (b) land to which there is access under other provisions as defined by CRWA 2000 s 15; or (c) excepted land to which there is access by virtue of any enactment or rule of law (for example a highway).

In discharging the coastal access duty, NE and the SoS must;<sup>4</sup>

- (i) have regard to—
  - (a) the safety and convenience of those using the English coastal route;
  - (b) the desirability of that route adhering to the periphery of the coast and providing views of the sea; and
  - (c) the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
- (ii) aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest (see 14.2A.2 — definitions) in the land.

The provisions are applied to the Crown and Crown land, including land which the monarch owns privately rather in right of the Crown.<sup>5</sup>

### 14.2A.4 The coastal access scheme

NE must<sup>6</sup> prepare a scheme setting out the approach it will take when discharging the coastal access duty. Such a scheme must be approved by the SoS. An initial scheme was approved on 23 March 2010. NE may revise a scheme and must do so at least once within three years of the approval of the initial scheme.<sup>7</sup> A revised scheme was approved in July 2013 ([link](#)).

### 14.2A.5 Coastal route reports

NE may prepare a coastal route report under the framework set out in [NPACA 1949 s 51](#) for long-distance routes regardless of whether the criteria specified in s 51 are satisfied.<sup>8</sup> The proposed route in a

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<sup>1</sup> [MACA 2009 s 296](#).

<sup>2</sup> Section 296(4).

<sup>3</sup> Section 296(5).

<sup>4</sup> [MACA 2009 s 297](#).

<sup>5</sup> [MACA 2009 s 308](#).

<sup>6</sup> [MACA 2009 s 298](#).

<sup>7</sup> [MACA 2009 s 299](#).

<sup>8</sup> [NPACA 1949 s 55A](#).

coastal route report may include part of an existing long-distance route.<sup>9</sup> If NE considers that any preliminary activity is necessary prior to the preparation of a report, it must consider whether it would be appropriate for the access authority to carry out that work, and if it does so, takes all reasonable steps to conclude an agreement with the access authority.<sup>10</sup>

The procedure for publicising reports is set out in [NPACA 1949 Sch 1A](#), supplemented by the coastal reports regulations. A report has to be advertised, and notice given to specified persons.<sup>11</sup> A right of objection is given to persons with a relevant interest,<sup>12</sup> but restrictions are placed on what is an admissible objection. The meaning of ‘relevant interest’ was considered in the hearings on objections to NE's Weymouth Bay proposals. The appointed person considered that people who had a private right of access along a track proposed to be followed by the route had a ‘relevant interest’. The SoS disagreed.<sup>13</sup> NE must send a copy of any objection to the SoS, who in turn must refer the objection to an appointed person.<sup>14</sup> The appointed person must determine whether the objection is an admissible objection and notify the objector, NE and the SoS.<sup>15</sup> NE must comment on admissible objections and may suggest alternatives.

Other people may make representations (but not objections) to NE.<sup>16</sup> NE must send these (or in some cases a summary) to the SoS with its comments.<sup>17</sup> Where an objection is determined to be an admissible objection, the SoS must send specified documents to the appointed person<sup>18</sup>: these include any representations relevant to the objection. The appointed person must determine whether the proposals strike a fair balance<sup>19</sup> and report to the SoS:<sup>20</sup> the report may propose modifications. The appointed person may require NE or the SoS to provide information, and may hold an inquiry or hearing.<sup>21</sup> Before making a determination under s 52, the SoS must consider the report and any objections and representations.<sup>22</sup> After making a determination, due notice must be given by the SoS.<sup>23</sup> The reports regulations amplify these provisions, and should be read with them. Defra has published guidance on the SoS's decision-making process, including the consideration of representations and objections ([link](#)).

The provisions in the 1949 Act for subsequent variation of an approved report are applied with variations.<sup>24</sup>

#### 14.2A.6 Coastal margin and excepted land

##### *Coastal margin*

The coastal margin order<sup>25</sup> defines land as coastal margin (to which the right of access on foot in CRWA 2000 will apply unless the land is excepted land) as being land in one or more of the following categories:

- Land crossed by the line of an approved section of the coastal route, or land which is adjacent to and

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<sup>9</sup> Section 55A(2).

<sup>10</sup> Section 55A(3)-(5).

<sup>11</sup> Sch 1A para 2.

<sup>12</sup> Para 3.

<sup>13</sup> But because the appointed person had determined the objection as admissible, the SoS nevertheless considered that person's recommendations and accepted that the route should be modified in accordance with them.

<sup>14</sup> Para 4.

<sup>15</sup> Para 5.

<sup>16</sup> Para 7.

<sup>17</sup> Para 8.

<sup>18</sup> Para 9.

<sup>19</sup> Para 10.

<sup>20</sup> Para 11.

<sup>21</sup> Paras 12 and 13.

<sup>22</sup> Para 16.

<sup>23</sup> Para 17.

<sup>24</sup> [Section 55H](#).

<sup>25</sup> Article 3.

within 2 metres either side of that line, and land which is seaward of a line of an approved section of the coastal route and which lies between the 2 metre seaward side of the land and the seaward extremity of the foreshore (i.e. including any beach), provided that the land in these categories, taken as a whole, is coastal land (i.e. presumably excluding any length of the coastal route that runs inland, e.g. to a river crossing point).

- Land which is on the landward side of the line of an approved section of the coastal route, which is foreshore, cliff, bank, barrier, dune, beach or flat, or which is land of any other kind treated by [CRWA 2000 s 15](#) as being accessible to the public apart from that Act, provided that the land in these categories, taken as a whole, is coastal land.
- Land crossed by the line of an official alternative to the coastal route, or land which is adjacent to and within 2 metres either side of that line, at the time when that alternative is in operation.
- Land crossed by the line of a temporary route for the coastal route, or land which is adjacent to and within 2 metres either side of that line to the extent that the landowner has agreed to that route (under [NPACA 1949 s 55I\(4\)\(d\)](#)).

Where the approved proposals provide for the route to be varied in case of erosion (see 14.2A.8), the reference to the line of an approved section for the purpose of defining coastal margin is a reference to the line as it has effect from time to time in accordance with the approved proposals.<sup>26</sup>

The landward boundary of the coastal margin may be varied from the above definition where the approved proposals contain a provision<sup>27</sup> for the landward boundary to coincide with a physical feature, regardless of whether the effect is to include or exclude land as coastal margin, e.g. the effect might be to create a route narrower than 4m wide.<sup>28</sup> Similarly, where the approved proposals provide for either the landward or seaward boundary to coincide with a physical feature,<sup>29</sup> that boundary takes precedence over the definition in the coastal margin order.<sup>30</sup>

CRWA 2000 was amended as follows:

- [s 1](#) was amended to extend the definition of access land to include coastal margin, and the definition of open country to exclude coastal margin.
- the definition in [s 2](#) of ‘relevant statutory prohibition’ (which overrides the right of access) was amended to apply to any enactment, including local or private Acts, in the case of coastal margin.
- [s 3](#) was amended so that it applies only to Wales, i.e. the Welsh Assembly Government continues to have a power to make an order extending the open country definition to apply to the coast.
- a new [s 3A](#) gives the Secretary of State power to make the coastal margin order in respect of land in England. It also provides for when land specified in a coastal route report as being coastal margin becomes subject to CRWA provisions regarding right of access.
- [s 10](#) was not amended but the effect of the exclusion of coastal margin from the definition of ‘open country’ in s 1 means that on a review of the statutory map (see chapter 14.2.6) land which is shown as open country but has since become coastal margin will have to be excluded.
- the power in [s 16](#) to dedicate land as access land has been extended to allow dedication of land as coastal margin if it is coastal margin or land adjacent to it.
- [s 19](#) was amended so that NE as well as the access authority has power to erect notices on coastal

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<sup>26</sup> Article 4.

<sup>27</sup> Under [NPACA 1949 s 55D\(2\)\(a\)](#).

<sup>28</sup> Article 5.

<sup>29</sup> Under section 55D(2)(b).

<sup>30</sup> Article 7.

margin.

- [s 20](#) was amended to require NE to inform people that rights conferred on coastal margin don't affect other rights that may exist.
- [s 21](#) was amended to make NE the relevant authority for coastal margin, with power to delegate to a national park authority or the Forestry Commission.

#### *Excepted land*

The provisions in [CRWA 2000 Sch 1 Part 1](#) relating to excepted land (see chapter 14.2.7) are applied also to coastal margin, but with the following amendments:

- arable land, golf courses, regulated caravan or camping sites and burial grounds are not excepted land when they form part of a coastal route strip<sup>31</sup> (i.e. the coastal route can run through these types of land, but there will be no adjacent coastal margin);
- land within 20 metres of a dwelling, flood and sea defence works, land within 20m of a building used for housing livestock and land habitually used for the training of racehorses are not excepted land when they are coastal margin;<sup>32</sup>
- land which is both coastal margin and either;
  - (a) a highway (including a footpath, bridleway or restricted byway) or
  - (b) is, or forms part of, a school playing field or is used or otherwise occupied for the purposes of a schoolis excepted land.<sup>33</sup>

The approved proposals may include a provision for the boundary of excepted land to be defined by reference to a physical feature, and where the boundary is so defined, that takes precedence over the definitions in Sch 1.<sup>34</sup>

### **14.2A.7 Liability and exclusions or restrictions on the right of access**

#### *Liability*

The application of the Occupiers' Liability Act 1957 (see chapter 14.2.17) to land to which the right of access under CRWA 2000 applies applies also to coastal margin by virtue of the application of the 2000 Act. The Occupiers' Liability Act 1984 is, however, amended<sup>35</sup> so that its application to the 2000 Act where land is coastal margin refers to risk resulting from the existence of any physical feature, whether of the landscape or otherwise. The liabilities of NE and the SoS are also restricted in respect of their preparation or approval of coastal access reports, or, in the case of NE, erecting, or failing to erect, signs or notices, or failing to exclude or restrict access.<sup>36</sup>

#### *Exclusions or restrictions on the right of access*

The general restrictions in [CRWA 2000 Sch 2](#) on the right of access (see chapter 14.2.3) apply also to coastal margin, except that Sch 2 has been amended to protect permitted fishing-related conduct; to exclude coastal margin from the summer restriction on dogs, but apply different rules to dogs on coastal margin; and exclude from right of access anyone obstructing user of coastal route.<sup>37</sup>

As indicated above, a report prepared under [NPACA 1949 s 55D](#) report may set out proposals for the

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<sup>31</sup> Paras 1, 7, 13A, 13C.

<sup>32</sup> Paras 2, 8(a), 10, 12.

<sup>33</sup> Paras 13B, 13D.

<sup>34</sup> [NPACA 1949 s 55D\(2\)\(c\)](#), CRWA 2000 Sch 1 para 14(2).

<sup>35</sup> Section 1(6AA).

<sup>36</sup> [MACA 2009 s 305](#).

<sup>37</sup> Paras 1(2) and 1(30), 6A and 6B.



boundaries of coastal margin, or of excepted land, to coincide with a physical feature. Such a report must also contain a map and a description of the landward boundary, and such proposals (if any) that NE considers appropriate for restrictions on access. NE must consult prior to preparing the report. Where proposals for restrictions on access are included in the approved proposals NE must make directions in accordance with the approved proposals.<sup>38</sup>

CRWA 2000 was also amended as follows:

- [s 22](#) was amended so that owners and other 'entitled persons' may not exclude access (see chapter 14.2.15) on coastal margin.
- [s 23](#) was amended so that owners may not restrict the use of dogs on coastal margin.
- [s 24](#) was amended so that the relevant authority (see chapter 14.2.16) can make a land management direction on coastal margin without an application, and can authorise a specified person to handle exclusions or restrictions.
- [s 25](#) was amended to limit its application to coastal margin and the approved coastal route.
- a new [s 25A](#) was added to give the relevant authority power to exclude or restrict access to salt marsh or flat for reasons of unsuitability for public access.
- [s 26](#) was amended to give the relevant authority power to delegate a decision to a specified person.
- the existing provisions in [s 27](#) requiring consultation with the local access forum and a review in certain cases were extended to apply to the new s 25A except where the direction was made in accordance with approved proposals.
- [s 31](#) was amended to restrict its application to coastal margin.

Defra has issued new guidance, or revised existing guidance issued under CRWA 2000, in respect of matters such as restrictions and dedication of land ([link](#)).

#### 14.2A.8 The coast, estuaries, and ferries

What constitutes 'the coast' is defined by the 2009 Act<sup>39</sup> as the coast of England adjacent to the sea, and including the coast of any English islands in the sea, other than excluded islands. An island is excluded if it is neither accessible on foot (by causeway or the foreshore) at least some of the time nor specified by order made by the SoS. The SoS may make such an order only if satisfied that the coast of the island is of sufficient length to enable the establishment of one or more long-distance routes along its length capable of affording the public an extensive journey on foot.<sup>40</sup> As with other legislation (e.g. WCA 1981) the 2009 Act does not apply to the Isles of Scilly, but may be applied with or without amendments, by order made by the SoS.<sup>41</sup> In July 2014 Parliament approved an order to extend the provisions to the Isle of Wight with effect from 1 October 2014.<sup>42</sup>

Further provision is made where the coast is interrupted by a river estuary.<sup>43</sup> In such cases NE may exercise its functions as if the references in the coastal access provisions to the sea included the relevant upstream waters of the river. These are defined as either the waters from the seaward limit of the estuarial waters of the river upstream to the first public foot crossing, or, if NE so decides, the waters from the seaward limit of the estuarial waters of the river upstream to such limit, downstream of the first public foot crossing, as may be specified by it. Criteria are specified for NE's decision-making in such cases.<sup>44</sup> A

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<sup>38</sup> [NPACA 1949 s 55F](#).

<sup>39</sup> Section 300.

<sup>40</sup> Subsection (5).

<sup>41</sup> Section 307.

<sup>42</sup> The English Coast (Isle of Wight) Order 2014 SI 2014 No 1940 ([link](#)).

<sup>43</sup> Section 301.

<sup>44</sup> Subsection (4).

public foot crossing is a bridge or tunnel over or through which the public have a right of way, or right of access, on foot. The reports produced by NE for stretches (see list in 14.2A.12 below) illustrate how NE has applied the criteria in different cases.

In relation to ferries, the existing provision<sup>45</sup> enabling a highway authority to provide a ferry for the purpose of a long-distance route is extended so that an authority may also provide a ferry as part of the English coastal route even if the approach to the ferry is not a highway.<sup>46</sup> The coastal route may utilise a ferry that only runs at certain times.<sup>47</sup>

### **14.2A.9 Coastal erosion**

If NE considers that a length of coastal route part will pass through an area that is or may be (a) subject to significant coastal erosion or encroachment by the sea, or (b) subject to significant physical change due to other geomorphological processes, the coastal route report may propose that the route be determined at any time as provided for in the proposals, rather than as shown on the map.<sup>48</sup> However the map must show the line of the route at the time of preparation of the report. The report may provide for the route to be determined by reference to the edge of a cliff or boundary of a field (as it exists from time to time).

### **14.2A.10 Alternative routes and temporary diversions**

The coastal route report may contain provision for official alternative routes to be identified either to provide an alternative at times of known restrictions or in response to high tide, flooding or erosion.<sup>49</sup>

A temporary diversion of the coastal route, or an official alternative route, may be given by direction by NE when either NE or the SoS restricts or excludes access.<sup>50</sup> Such a temporary diversion can only be over a highway or existing access land unless the owner of the land concerned has agreed to it.

### **14.2A.11 Establishment and maintenance of the coastal route**

Provisions for establishment and subsequent maintenance are set out in the 2009 Act.<sup>51</sup> NE and the access authority are given powers to enter into agreements with owners or occupiers for the carrying out of works of type defined by sub-para (3).<sup>52</sup> The agreement can provide for which party carries out the works, and for the contracting authority to pay for them. The contracting authority has default powers where an owner or occupier fails to comply with an agreement, and reserve powers, where agreement cannot be reached, for NE or access authority to undertake works after giving notice, subject to a right of appeal to the SoS.<sup>53</sup> NE has power to fund works, or works under CRWA 2000 on section 15 route land (see below).<sup>54</sup> However there does not appear to be any duty on NE, or any other party, to maintain the coastal route, other than the existing duty on a highway authority to maintain any highway maintainable at public expense over which the route passes.

NE may erect and maintain signs, after consulting owner and occupier, and may delegate that power to the access authority, but the power may not be exercised on a pavement (footway) or on a way that is a public right of way for mechanically-propelled vehicles.<sup>55</sup> NE has power to remove, or contribute to

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<sup>45</sup> In [NPACA 1949 s 53](#).

<sup>46</sup> [NPACA 1949 s 55G](#).

<sup>47</sup> [MACA 2009 s 296\(7\)](#).

<sup>48</sup> [NPACA 1949 s 55B](#).

<sup>49</sup> [NPACA 1949 s 55C](#).

<sup>50</sup> [NPACA 1949 s 55I](#).

<sup>51</sup> [MACA 2009 Sch 20](#).

<sup>52</sup> Para 2, with the nature of works specified in sub-para (3).

<sup>53</sup> Paras 3 and 4.

<sup>54</sup> Para 5.

<sup>55</sup> Para 6.

cost of removing signs erected under previous provisions or provisions for signing boundaries.<sup>56</sup> There is a power of entry for a person authorised by NE, or in some instances the access authority, for a range of purposes.<sup>57</sup>

Where the coastal route crosses land which is regarded as accessible to the public under [CRWA 2000 s 15](#), Sch 20 to the 2009 Act applies the means of access provisions in the 2000 Act (see chapter 14.2.21) to that land.<sup>58</sup>

#### 14.2A.12 Progress with creating the English Coastal Path

The table below and on the following pages lists those areas for which a report has been issued by Natural England. Preparatory work is under way in additional areas, for details see the website ([link](#)).

<b>Stretch (anti-clockwise from North Somerset) (Numbers refer to NE stretches as shown on overall progress map at October 2020 - <a href="#">link</a>)</b>	<b>Report published</b>	<b>Secretary of State's decisions</b>	<b>Right of access commenced</b>
1 Aust to Brean Down	25/07/2019	9/7/2020 (part)	
2 Brean Down to Minehead variation report	17/10/2013 24/9/2015	10/7/2014 15/1/2016	14/3/2016 SI 2016 No 213
3 Minehead to Combe Martin	20/06/2017		
4 Combe Martin to Marsland Mouth	15/01/2020		
5 Marsland Mouth to Newquay	09/10/2019	9/7/2020 (part)	
6 Newquay to Penzance	20/06/2019	6/3/2020 (part) 18/8/2020 (remainder)	
7 Penzance to St Mawes	19/09/2019	23/4/2020 (part)	
8 St Mawes to Cremyll	20/06/2019	6/3/2020 (part)	
9 Cremyll to Kingswear	15/01/2020		
10 Kingswear to Lyme Regis	30/03/2017		
11 Lyme Regis to Rufus Castle	01/07/2015		
12 Rufus Castle to Lulworth	22/03/2011	26/1/2012	29/6/2012 SI 2012 No 1559
14 Kimmeridge to Highcliffe	14/06/2017		
15 Highcliffe to Calshot	14/03/2018		
16 Calshot to Gosport	17/06/2019	23/1/2020 (part)	
18 Isle of Wight: Wootton Bridge to the Medina	18/3/2020		
19 Gosport to Portsmouth	20/06/2019	23/1/2020 (part)	
20 Portsmouth to South Hayling Island	19/07/2017		
21 South Hayling Island to East Head	03/10/2019	9/7/2020 (part)	
22 East Head to Shoreham	27/09/2017		
23 Shoreham to Eastbourne	27/09/2018	19/12/2019	
24 Eastbourne to Camber	27/02/2020		

<sup>56</sup> Para 8.

<sup>57</sup> Para 9.

<sup>58</sup> Para 1.

<b>Stretch (anti-clockwise from North Somerset) (Numbers refer to NE stretches as shown on overall progress map at October 2020 - <a href="#">link</a>)</b>	<b>Report published</b>	<b>Secretary of State's decisions</b>	<b>Right of access commenced</b>
25 Camber to Folkestone	19/9/2014	1/9/2015	18/7/2016 SI 2016 No 669
26 Folkestone to Ramsgate	28/10/2013	5/3/2015	18/7/2016 SI 2016 No 669
27 Ramsgate to Whitstable	01/03/2015	1/12/2016	
28 Isle of Sheppey	22/01/2020		
29 Whitstable to Iwade	21/06/2017		
30 Iwade to Grain	15/01/2020	18/8/2020 (part)	
31 Grain to Woolwich	05/06/2019	23/1/2020 (part) 23/4/2020 (reaminder)	
32 Tilbury to Southend	27/02/2020		
33 Southend to Wallasea Island	16/10/2019	23/4/2020 (part)	
34 Wallasea Island to Burnham-on-Crouch	29/01/2020		
35 Burnham-on-Crouch to Maldon	19/07/2017		
36 Maldon to Salcott	30/03/2017	25/1/2018	
37 Mersea Island	28/06/2017		
38 Salcott to Jaywick	14/10/2020		
39 Jaywick to Harwich	16/08/2017		
40 Harwich to Shotley Gate	22/01/2020		
41 Shotley Gate to Felixstowe Ferry	15/01/2020		
44 Aldeburgh to Hopton-on-Sea	29/01/2020		
45 Hopton-on-Sea to Sea Palling	29/09/2014	1/9/2015	23/10/2016 SI 2016 No 966
46 Sea Palling to Weybourne	22/07/2013	15/4/2014	11/12/2014 SI 2014 No 3128
47 Weybourne to Hunstanton	21/03/2018		
49 Sutton Bridge to Skegness	25/01/2018		
50 Skegness to Mablethorpe	24/03/2017	27/11/2017	26/2/2019 SI 2019 No 173
53 Easington to Filey Brigg	28/02/2018		
54 Filey Brigg to Newport Bridge	26/03/2015	22/12/2015	20/7/2016 SI 2016 No 670
55 Newport Bridge to North Gare	23/03/2016	1/7/2016	17/9/2019 SI 2019 No 1204
56 North Gare to South Bents	17/12/2012	18/7/2013	11/4/2014 SI 2014 No 846
57 South Bents to Amble	24/03/2017	27/11/2017	25/7/2018 SI 2018 No 815

<b>Stretch (anti-clockwise from North Somerset) (Numbers refer to NE stretches as shown on overall progress map at October 2020 - <a href="#">link</a>)</b>	<b>Report published</b>	<b>Secretary of State's decisions</b>	<b>Right of access commenced</b>
58 Amble to Bawburgh	31/07/2019	6/3/2020 (part) 9/7/2020 (remainder)	
59 Bamburgh to Scottish Border	15/01/2020		
60 Gretna to Allonby	01/07/2016		
61 Allonby to Whitehaven	17/12/2012	16/7/2013	11/4/2014 SI 2014 No 851
62 Whitehaven to Silecroft variation reports	15/10/2014	1/9/2015	
VR2 Coulderton to Nethertown	1/8/2018	19/12/2019	
VR6 Drigg	18/8/2018	6/3/2020	
VR7 Nethertown to Sellafield	26/6/2019	23/1/2020	
63 Silecroft to Silverdale	08/01/2020		
64 Walney Island	01/09/2016	27/3/2017	11/2/2020 SI 2020 No 140
65 Silverdale to Cleveleys	08/01/2020		
66 Cleveleys to Pier Head Liverpool	7/10/2020		

At October 2020, no reports have been published for the following stretches : 13 Lulworth Cove to Kimmeridge Bay; 17 Isle of Wight – East Cowes to Wootton Bridge; 42 Felixstowe Ferry to Bawdsey; 43 Bawdsey to Aldeburgh; 48 Hunstanton to Sutton Bridge; 51 Mablethorpe to Humber Bridge; 52 Humber Bridge to Easington; 67 Pier Head Liverpool to Welsh Border.

# NATIONAL PARKS AND ACCESS TO THE COUNTRYSIDE ACT 1949 (c. 97)

## 51. General provisions as to long-distance routes

- (1) Where it appears to Natural England, as respects any part of England, that the public should be enabled to make extensive journeys on foot or on horseback or on a bicycle not being a mechanically propelled vehicle along a particular route, being a route which for the whole or greater part of its length does not pass along roads mainly used by vehicles, Natural England may prepare and submit to the Minister a report under this section.
- (2) A report under this section shall contain a map showing the route, defining those parts thereof over which there exists a public right of way, and indicating in each case the nature of that right; and the report shall set out such proposals as Natural England may think fit—
  - (a) for the maintenance or improvement of any highway along which the route passes and which is a public path, a restricted byway or a way shown in a definitive map and statement as a restricted byway or byway open to all traffic;
  - (b) for the provision and maintenance of such new public paths as may be required for enabling the public to journey along the route;
  - (c) for the provision and operation of ferries where they are needed for completing the route; and
  - (d) for the provision of accommodation, meals and refreshments along the route.
- (3) A report under this section may also include such recommendations as Natural England may think fit for the restriction of traffic on existing highways along which the route passes.
- (4) Before preparing a report under this section Natural England shall consult every National Park authority, joint planning board, county council, and county district council through whose Park or area the route passes; and it shall be the duty of every such authority, board or council to furnish to Natural England such information as Natural England may reasonably require for the purposes of the report.
- (5) A report under this section shall contain an estimate, in such form as the Minister may require, of the capital outlay likely to be incurred in carrying out any such proposals contained therein as are mentioned in subsection (2) of this section, of the annual cost of maintaining any existing highways falling within paragraph (a) of that subsection and any new public paths provided for by the proposals, and of the annual expenditure likely to be incurred by local authorities and National Park authorities in connection with the provision and operation of ferries, and the provision of accommodation, meals and refreshments, so far as those matters are provided for by the proposals.
- (6) In this section—

“definitive map and statement” has the same meaning as in Part III of the Wildlife and Countryside Act 1981

“restricted byway” has the same meaning as in Part II of the Countryside and Rights of Way Act 2000.

*As amended by CA 1968 s 21, LGA 1972 Sch 30, EPA 1990 Sch 8 para 1(7), Environment Act 1995 Sch 10 para 2, Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 Sch 1 para 1(5), CRWA 2000 Sch 5 para 12 and Sch 7 para 1 and NERCA 2006 Sch 11 para 10.*

Text: [14.2A.5](#), 15.3 p 393

## 52. Approval of proposals relating to a long distance route

- (1) On the submission to the Minister of a report under the last foregoing section, the Minister shall consider any proposals contained in the report under subsection (2) of that section and may either approve the proposals, with or without modifications, or reject the proposals:

Provided that where the Minister does not propose to approve the proposals as set out in the report he shall, before coming to a determination as to what action to take under this subsection, consult with Natural England and such other authorities and persons as he may think fit.
- (2) As soon as may be after the Minister determines under the last foregoing subsection either to approve any proposals, with or without modifications, or to reject them, he shall notify his determination to Natural England and to every National Park authority, joint planning board, county council and county district council whose Park or area is traversed by the route to which the report relates.
- (3) Proposals approved by the Minister under subsection (1) of this section, either as originally set out in the

report or as modified by the Minister, are hereinafter referred to as ‘approved proposals relating to long distance routes’.

*As amended by Environment Act 1995 Sch 10 para 2, Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 Sch 1 para 1(5) and NERCA 2006 Sch 11 para 10.*

Text: 15.3 p 393

### **53. Ferries for purposes of long distance routes**

(1) Where approved proposals relating to a long distance route include proposals for the provision and operation of a ferry, the authority who are the highway authority for either or both of the highways to be connected by ferry—

- (a) shall have power to provide and operate the ferry and to carry out such work and do all such things as appear to them expedient for the purpose of operating the ferry;
- (b) may agree with any person or body of persons for the provision and operation of the ferry by him or them and for the making by the highway authority of such contributions as may be specified in the agreements:

Provided that nothing in this subsection shall—

- (i) be construed as conferring on such an authority an exclusive right to operate a ferry;
- (ii) authorise the doing of anything which, apart from this subsection, would be actionable by any person by virtue of his having an exclusive right to operate a ferry, unless he consents to the doing thereof;
- (iii) authorise the doing of anything on land, or as respects water over land, in which any other person has an interest, if apart from this subsection the doing thereof would be actionable at his suit by virtue of that interest and he does not consent to the doing thereof;

and before carrying out any work in the exercise of powers conferred by this subsection, being work on the bank or bed of any waterway, the highway authority shall consult with such authorities having functions relating to the waterway.

(2) A highway authority may acquire land compulsorily for the purpose of any of their functions under paragraph (a) of the last foregoing subsection.

*As amended by Local Government, Planning and Land Act 1980 Sch 7 para 34.*

Text: 2.7.5 p 35, [14.2A.8](#), 15.3 p 393

### **54. Accommodation, meals and refreshments along long distance routes**

(1) Where approved proposals relating to a long distance route include proposals for the provision, along any part of the route, of accommodation, meals and refreshments, any local planning authority through whose area, or in the neighbourhood of whose area, that part of the route passes shall have power to make such arrangements under this section as are requisite for giving effect to the last-mentioned proposals.

(2) The arrangements which may be made by an authority under this section are arrangements for securing, at places in their area convenient for persons using the part of the route in question, the provision, whether by the authority or other persons, of accommodation, meals and refreshments (including intoxicating liquor):

Provided that an authority shall not under this section provide accommodation, meals and refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.

(3) For the purposes of arrangements under this section a local planning authority may erect such buildings and carry out such work as may appear to them to be necessary or expedient.

(4) The foregoing provisions of this section shall not authorise an authority, on land in which any other person has an interest, without his consent to do anything which apart from this section would be actionable at his suit by virtue of that interest.

(5) A local planning authority may acquire land compulsorily for the purpose of any of their functions under this section.

Text: 15.3 p 393

### **55. Variation of approved proposals**

(1) Where proposals relating to a long distance route have been approved by the Minister under section fifty-

two of this Act, Natural England may from time to time prepare and submit to the Minister a report proposing any such variation of the approved proposals as Natural England may think fit.

- (2) Where, as respects any proposals approved as aforesaid, it appears to the Minister, after consultation with Natural England, expedient that the proposals should be varied in any respect and Natural England have not submitted to the Minister a report proposing that variation, the Minister may direct that the proposals shall be so varied.
- (3) Subsection (4) of section fifty-one of this Act, and subsections (1) and (2) of section fifty-two thereof, shall with the necessary modifications apply to a report or direction under this section; and subsection (5) of the said section fifty-one shall with the necessary modifications apply to any such report.
- (4) Where the Minister approves, with or without modifications, any proposals contained in a report under subsection (1) of this section, or gives a direction under subsection (2) of this section, the proposals for the variation of which the report was made or direction given shall thereafter have effect subject to the provisions of the report or direction; and references in this Act to approved proposals relating to a long distance route shall be construed accordingly.

*As amended by Development Commission (Transfer of Functions and Miscellaneous Provisions) Order 1999 Sch 1 para 1(5) and NERCA 2006 Sch 11 para 10.*

Text: 15.3 p 393

### **55A. Proposals relating to the English coastal route**

- (1) Pursuant to the coastal access duty, Natural England may prepare and submit a report under section 51 containing proposals for a route (whether or not the requirements of section 51(1) are satisfied).
- (2) For the purposes of subsection (1) it is immaterial whether the route or any part of it is already a route in approved proposals relating to a long-distance route.
- (3) In subsections (4) and (5) “preliminary activity” means activity which Natural England considers would facilitate the preparation by it of a report under section 51 pursuant to the coastal access duty.
- (4) Where Natural England considers it necessary or expedient for preliminary activity to be carried out as respects any land, it must—
  - (a) consider whether it would be appropriate for the access authority in relation to that land to carry out any of the preliminary activity, and
  - (b) if it concludes that it would be so appropriate, take all reasonable steps to enter into an agreement with the access authority for that purpose.
- (5) An access authority may, as respects any land in its area, enter into an agreement with Natural England under which the access authority undertakes to carry out preliminary activity.
- (6) In this section “the coastal access duty” means the duty imposed on Natural England and the Secretary of State by section 296(1) of the Marine and Coastal Access Act 2009.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.5](#)

### **55B. Route subject to erosion etc**

- (1) This section applies in relation to a report under section 51 prepared pursuant to the coastal access duty.
- (2) Where Natural England considers that the area through which the route passes is an area to which subsection (3) applies, the report may set out proposals for the route, or any part of it, to be determined at any time in accordance with provision made in the proposals (rather than as shown on a map).
- (3) This subsection applies to an area if it is or may be—
  - (a) subject to significant coastal erosion or encroachment by the sea, or
  - (b) subject to significant physical change due to other geomorphological processes.
- (4) The provision made by virtue of subsection (2) may, in particular, provide for the route to be determined by reference to the edge of a cliff or boundary of a field (as it exists from time to time).
- (5) Where the report contains proposals under subsection (2), the map included in the report in accordance with section 51(2) must show the route as determined, at the time the report is prepared, in accordance with those proposals.
- (6) Natural England must consult the Environment Agency before exercising its powers under subsection (2) in respect of an area which is or may be—



- (a) subject to significant coastal erosion or encroachment by the sea, or
- (b) subject to significant physical change due to other geomorphological processes in relation to which the Agency has functions.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.9](#)

### **55C. Alternative routes**

- (1) This section applies in relation to a report under section 51 prepared pursuant to the coastal access duty.
- (2) The report may include, in relation to the route (“the ordinary route”) or any part of it, a proposal under subsection (3) or (4).
- (3) A proposal under this subsection is a proposal for an alternative route which is to operate as a diversion from the ordinary route, or part, during one or both of the following—
  - (a) any specified period (or periods), and
  - (b) any period during which access to the ordinary route or part is excluded by reason of a direction under Chapter 2 of Part 1 of the CROW Act (exclusion or restriction of access).
- (4) A proposal under this subsection is a proposal for an alternative route which is to operate as an optional alternative to the ordinary route, or part, during any period for which the ordinary route, or part, might reasonably be regarded as unsuitable for use by reason of—
  - (a) flooding,
  - (b) the action of the tide
  - (c) coastal erosion or encroachment by the sea, or
  - (d) the effect of any other geomorphological process.
- (5) In subsection (3)(a) “specified” means—
  - (a) specified in, or determined in accordance with, the proposal, or
  - (b) determined in accordance with the proposal by—
    - (i) a person specified in the proposal, or
    - (ii) a person determined in accordance with the proposal, details of whom are notified to Natural England in accordance with the proposal.
- (6) Sections 51(2) and 55B apply in relation to an alternative route as they apply in relation to the ordinary route.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.10](#)

### **55D. Coastal margin**

- (1) This section applies in relation to a report prepared under section 51 pursuant to the coastal access duty.
- (2) The proposals set out in the report may include—
  - (a) a proposal for any part of the landward boundary of the relevant coastal margin to coincide with a physical feature identified in the proposal,
  - (b) where those proposals include an alternative route, a proposal for any part of the landward or seaward boundary of the alternative route strip to coincide with a physical feature so identified, or
  - (c) a proposal for the landward or seaward boundary of any area excluded from any description of excepted land to coincide with a physical feature so identified.
- (3) The report must contain—
  - (a) a map showing the landward boundary of the relevant coastal margin, or
  - (b) a description of that boundary which is sufficient to identify the relevant coastal margin.
- (4) Where a map is contained in a report pursuant to subsection (3)(a), Natural England must provide a person with a relevant interest in affected land, on request, with a copy of that map.
- (5) The report must set out such proposals (if any) as Natural England considers appropriate as to the directions to be made by it under Chapter 2 of Part 1 of the CROW Act for the exclusion or restriction of the right of access that would arise under section 2(1) of that Act in relation to any land if the proposals in the report were to be approved.
- (6) Before preparing the report, Natural England must (in addition to complying with section 51(4))—
  - (a) take reasonable steps to consult persons with a relevant interest in affected land,

- (b) consult any body of a kind mentioned in section 51(4) in whose Park or area affected land is situated (but which is not required to be consulted under section 51(4)),
  - (c) consult each London borough council for an area in which affected land is situated,
  - (d) consult each local access forum for an area in which affected land is situated,
  - (e) consult the Secretary of State in relation to any interests of defence or national security which may be affected by the proposals which Natural England is minded to include in the report,
  - (f) consult the Historic Buildings and Monuments Commission for England in relation to any interests in the preservation of any monument, structure or other thing, mentioned in section 26(3)(b) of the CROW Act which may be affected by those proposals, and
  - (g) consult the Environment Agency in relation to any interests in flood defence, or in the management of the effects of coastal erosion or encroachment by the sea, which may be affected by those proposals.
- (7) A body within subsection (6)(b), (c) or (d) must provide Natural England with such information as it may reasonably require for the purposes of the report.
- (8) Where the Secretary of State is consulted under subsection (6)(e), the Secretary of State must—
- (a) provide Natural England with such information as it may reasonably require as to any exclusion or restriction of the right of access to affected land under section 2(1) of the CROW Act which the Secretary of State proposes to make provision for under section 28 of that Act (defence and national security), and
  - (b) notify Natural England if the Secretary of State is of the opinion that this information, or any part of it, ought not to be disclosed by it on the grounds of the public interest in defence and national security.
- (9) Subject to subsection (10), the report must contain such of the information provided under subsection (8)(a) as Natural England considers relevant for the purposes of the report.
- (10) The report may not contain information which Natural England has been notified under subsection (8)(b) ought not to be disclosed by it.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.6](#), [14.2A.7](#)

### **55E. Consideration of reports made pursuant to the coastal access duty**

Schedule 1A contains—

- (a) provision about the procedure to be followed when a report is submitted under section 51 pursuant to the coastal access duty;
- (b) provision which, in relation to such reports, supplements the provision made by section 52.

*As inserted by MACA 2009 s 302.*

Text:

### **55F. Directions under Part 1 of the CROW Act**

- (1) This section applies where approved proposals relating to a long-distance route contain proposals as regards a direction to be made by Natural England under Chapter 2 of Part 1 of the CROW Act for the exclusion or restriction of the right of access that would otherwise arise under section 2(1) of that Act.
- (2) Natural England must make the direction in accordance with those proposals.
- (3) Subsection (2) is without prejudice to any power Natural England may have to revoke or vary the direction after it is made.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.7](#)

### **55G. Ferries for the purposes of the English coastal route**

- (1) This section applies where—
  - (a) pursuant to the coastal access duty, approved proposals relating to a long-distance route include proposals for the provision and operation of a ferry, and
  - (b) an approach route to the ferry is not a highway.
- (2) The reference in section 53(1) to the highway authority for either or both of the highways to be connected by the ferry is to be read as including the highway authority in whose area the approach route is situated.

- (3) In this section “approach route”, in relation to a ferry, means a part of the English coastal route to be connected to another part of that route by the ferry.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.8](#)

#### **55H. Variation pursuant to the coastal access duty**

- (1) In the case of a report made by Natural England under section 55(1) pursuant to the coastal access duty—
- (a) the procedural requirements apply with the necessary modifications, and
  - (b) section 55(3) does not apply.
- (2) The Secretary of State may by regulations provide—
- (a) that, in relation to a direction under section 55(2) pursuant to the coastal access duty, the procedural requirements apply with the modifications specified in the regulations, and
  - (b) that section 55(3) does not apply in relation to such a direction.
- (3) The Secretary of State may not make a direction under section 55(2) pursuant to the coastal access duty at a time when there are no regulations under subsection (2) in force.
- (4) For the purposes of this section—
- “modify” includes amend, add to or repeal, and “modification” is to be construed accordingly;
  - “the procedural requirements” means sections 51(4) and (5), 52(1) and (2), 55D(6) to (10) and 55E, Schedule 1A and regulations under that Schedule.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.5](#)

#### **55I. Temporary diversions**

- (1) This section applies where Natural England or the Secretary of State gives a direction by virtue of Chapter 2 of Part 1 of the CROW Act which excludes the right of access under section 2(1) of that Act, for any period (“the exclusion period”), in relation to any land over which (or any part of which) the English coastal route or any official alternative route passes.
- (2) This section does not apply if the direction by virtue of that Chapter is expressed to have effect indefinitely.
- (3) Natural England may give a direction under this section specifying a route (“the temporary route”) which is to apply for the duration of the exclusion period or such part of it as is specified in the direction.
- (4) The temporary route specified by Natural England may pass only —
- (a) over land which is access land for the purposes of Part 1 of the CROW Act,
  - (b) over land which, for the purposes of section 1(1) of that Act, is treated by section 15(1) of that Act as being accessible to the public apart from that Act,
  - (c) along a highway, or
  - (d) over any other land the owner of which has agreed to the temporary route (so far as it passes over that land).
- (5) Natural England must consult the Environment Agency before giving a direction where the temporary route specified passes over land of a type described in subsection (4)(d).
- (6) A direction under this section—
- (a) must be in writing, and
  - (b) may be revoked or varied by a subsequent direction under this section.

*As inserted by MACA 2009 s 302.*

Text: [14.2A.6](#), [14.2A.10](#)

#### **55J. Interpretation of sections 55A to 55J**

- (1) In sections 55A to 55I, Schedule 1A and this section—
- “access authority” has the same meaning as in Part 1 of the CROW Act;
  - “affected land” means—
- (a) land over which the route, or any alternative route, to which the proposals relate passes, and
  - (b) any other land which—
- (i) is relevant coastal margin, or an alternative route strip in relation to such an alternative route,

and

(ii) is not excepted land;

“alternative route” is to be construed in accordance with section 55C;

“alternative route strip”, in relation to an alternative route, means—

- (a) in a case where the proposal for the alternative route has not yet been approved under section 52, the land which would become coastal margin during the operation of that route if the proposals in the report were to be so approved (without modifications), and
- (b) in the case of an official alternative route, the land which would become coastal margin during the operation of that route;

“the coastal access duty” has the meaning given by section 55A;

“coastal margin” has the same meaning as in Part 1 of the CROW Act;

“the CROW Act” means the Countryside and Rights of Way Act 2000 (c. 37);

“the English coastal route” means the route secured pursuant to the coastal access duty;

“excepted land” has the same meaning as in Part 1 of the CROW Act;

“local access forum” means a local access forum established under section 94 of the CROW Act;

“official alternative route” means an alternative route which is contained in approved proposals relating to a long-distance route;

“owner”, in relation to land, means the person who holds an estate in fee simple absolute in possession in the land;

“relevant coastal margin”, in relation to proposals, means—

- (a) in a case where the proposals have not yet been approved under section 52, land which would become coastal margin if the proposals were to be approved (without modifications) under that section (disregarding the alternative route strip in relation to any alternative route), and
  - (b) in a case where the proposals have been so approved (with or without modifications), land which becomes coastal margin as a result of the proposals having been so approved (disregarding the alternative route strip in relation to any official alternative route).
- (2) For the purposes of sections 55A to 55I and Schedule 1A, a person has a relevant interest in land if the person—
- (a) is the owner of the land
  - (b) holds a term of years absolute in the land, or
  - (c) is in lawful occupation of the land.
- (3) Any power conferred by sections 55A to 55I or Schedule 1A to make regulations includes—
- (a) power to make different provision for different cases, and
  - (b) power to make incidental, consequential, supplemental or transitional provision or savings.

*As inserted by MACA 2009 s 302.*

Text:

## **SCHEDULE 1A COASTAL ACCESS REPORTS**

### *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;
  - (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).
- (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,
- (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
  - (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
    - (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—
- (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.

*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 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.

#### *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,
  - (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.

*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).

*As inserted by MACA 2009 Sch 19.*

Note: The regulations are the reports regulations.

Text: [14.2A.5](#)

## **OCCUPIERS' LIABILITY ACT 1957 (c. 31)**

### **1. Preliminary**

- (1) The rules enacted by the two next following sections shall have effect, in place of the rules of the common law, to regulate the duty which an occupier of premises owes to his visitors in respect of dangers due to the state of the premises or to things done or omitted to be done on them.
- (2) The rules so enacted shall regulate the nature of the duty imposed by law in consequence of a person's occupation or control of premises and of any invitation or permission he gives (or is to be treated as giving) to another to enter or use the premises, but they shall not alter the rules of the common law as to the persons on whom a duty is imposed or to whom it is owed; and accordingly for the purpose of the rules so enacted the persons who are to be treated as an occupier and as his visitors are the same (subject to subsection (4) of this section) as the persons who would at common law be treated as an occupier and as his invitees or licensees.
- (3) The rules so enacted in relation to an occupier of premises and his visitors shall also apply, in like manner and to the like extent as the principles applicable at common law to an occupier of premises and his invitees or licensees would apply, to regulate—
  - (a) the obligations of a person occupying or having control over any fixed or moveable structure, including any vessel, vehicle or aircraft; and
  - (b) the obligations of a person occupying or having control over any premises or structure in respect of damage to property, including the property of persons who are not themselves his visitors.
- (4) A person entering any premises in exercise of rights conferred by virtue of—
  - (a) section 2(1) of the Countryside and Rights of Way Act 2000, or
  - (b) an access agreement or order under the National Parks and Access to the Countryside Act 1949,
 is not, for the purposes of this Act, a visitor of the occupier of the premises.

As amended by CRWA 2000 s 13.

Text: 13.5.5 p 351, 14.2.17 p 381, [14.2A.7](#)

### **2. Extent of occupier's ordinary duty**

- (1) An occupier of premises owes the same duty, the 'common duty of care', to all his visitors, except in so far as he is free to and does extend, restrict, modify or exclude his duty to any visitor or visitors by agreement or otherwise.

- (2) The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for those purposes for which he is invited or permitted by the occupier to be there.
- (3) The circumstances relevant for the present purpose include the degree of care, and of want of care, which would ordinarily be looked for in such a visitor, so that (for example) in proper cases—
  - (a) an occupier must be prepared for children to be less careful than adults; and
  - (b) an occupier may expect that a person, in the exercise of his calling, will appreciate and guard against any special risks ordinarily incident to it, so far as the occupier leaves him free to do so.
- (4) In determining whether the occupier of premises has discharged the common duty of care to a visitor, regard is to be had to all the circumstances, so that (for example)—
  - (a) where damage is caused to a visitor by a danger of which he had been warned by the occupier, the warning is not to be treated without more as absolving the occupier from liability, unless in all the circumstances it was enough to enable the visitor to be reasonably safe; and
  - [(b) not included.]
- (5) The common duty of care does not impose on an occupier any obligation to a visitor in respect of risks willingly accepted as his by the visitor (the question whether a risk was so accepted to be decided on the same principles as in other cases in which one person owes a duty of care to another).
- (6) For the purposes of this section, persons who enter premises for any purpose in the exercise of a right conferred by law are to be treated as permitted by the occupier to be there for that purpose, whether in fact they have his permission or not.

Text: 13.5.5 p 349

## **OCCUPIERS' LIABILITY ACT 1984 (c. 3)**

### **1. Duty of occupier to persons other than his visitors**

- (1) The rules enacted by this section shall have effect, in place of the rules of the common law, to determine—
  - (a) whether any duty is owed by a person as occupier of premises to persons other than his visitors in respect of any risk of their suffering injury on the premises by reason of any danger due to the state of the premises or to things done or omitted to be done on them; and
  - (b) if so, what that duty is.
- (2) For the purposes of this section, the persons who are to be treated respectively as an occupier of any premises (which, for those purposes, include any fixed or moveable structure) and as his visitors are—
  - (a) any person who owes in relation to the premises the duty referred to in section 2 of the Occupiers' Liability Act 1957 (the common duty of care), and
  - (b) those who are his visitors for the purposes of that duty.
- (3) An occupier of premises owes a duty to another (not being his visitor) in respect of any such risk as is referred to in subsection (1) above if—
  - (a) he is aware of the danger or has reasonable grounds to believe that it exists;
  - (b) he knows or has reasonable grounds to believe that the other is in the vicinity of the danger concerned or that he may come into the vicinity of the danger (in either case, whether the other has lawful authority for being in that vicinity or not); and
  - (c) the risk is one against which, in all the circumstances of the case, he may reasonably be expected to offer the other some protection.
- (4) Where, by virtue of this section, an occupier of premises owes a duty to another in respect of such a risk, the duty is to take such care as is reasonable in all the circumstances of the case to give warning of the danger concerned or to discourage persons from incurring the risk.
- (5) Any duty owed by virtue of this section in respect of a risk may, in an appropriate case, be discharged by taking such steps as are reasonable in all the circumstances of the case to give warning of the danger concerned or to discourage persons from incurring the risk.
- (6) No duty is owed by virtue of this section to any person in respect of risks willingly accepted as his by that person (the question whether a risk was so accepted to be decided on the same principles as in other cases in which one person owes a duty of care to another).
- (6A) At any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is

exercisable in relation to land which is access land for the purposes of Part I of that Act, an occupier of the land owes (subject to subsection (6C) below) no duty by virtue of this section to any person in respect of—

- (a) a risk resulting from the existence of any natural feature of the landscape, or any river, stream, ditch or pond whether or not a natural feature, or
  - (b) a risk of that person suffering injury when passing over, under or through any wall, fence or gate, except by proper use of the gate or of a stile.
- (6AA) Where the land is coastal margin for the purposes of Part 1 of that Act (including any land treated as coastal margin by virtue of section 16 of that Act), subsection (6A) has effect as if for paragraphs (a) and (b) of that subsection there were substituted “a risk resulting from the existence of any physical feature (whether of the landscape or otherwise)”.
- (6B) For the purposes of subsection (6A) above, any plant, shrub or tree, of whatever origin, is to be regarded as a natural feature of the landscape.
- (6C) Subsection (6A) does not prevent an occupier from owing a duty by virtue of this section in respect of any risk where the danger concerned is due to anything done by the occupier—
- (a) with the intention of creating that risk, or
  - (b) being reckless as to whether that risk is created.
- (7) No duty is owed by virtue of this section to persons using the highway, and this section does not affect any duty owed to such persons.
- (8) Where a person owes a duty by virtue of this section, he does not, by reason of any breach of the duty, incur any liability in respect of any loss of or danger to property.
- (9) In this section—  
“highway” means any part of a highway other than a ferry or waterway;  
“injury” means anything resulting in death or personal injury, including any disease and any impairment of physical or mental condition; and  
“moveable structure” includes any vessel, vehicle or aircraft.

*As amended by CRWA 2000 s 13 and by MACA 2009 s 306.*

Text: 14.2.17 p 381, [14.2A.7](#)

### **1A. Special considerations relating to access land.**

In determining whether any, and if so what, duty is owed by virtue of section 1 by an occupier of land at any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to the land, regard is to be had, in particular, to—

- (a) the fact that the existence of that right ought not to place an undue burden (whether financial or otherwise) on the occupier,
- (b) the importance of maintaining the character of the countryside, including features of historic, traditional or archaeological interest, and
- (c) any relevant guidance given under section 20 of that Act.

*As inserted by CRWA 2000 s 13.*

Text: 13.5. p 349, 14.2.17 p 381

## **COUNTRYSIDE AND RIGHTS OF WAY ACT 2000 (c. 37)**

### **CHAPTER I : RIGHT OF ACCESS**

#### *General*

#### **1. Principal definitions for Part I**

- (1) In this Part “access land” means any land which—
- (a) is shown as open country on a map in conclusive form issued by the appropriate countryside body for the purposes of this Part,
  - (b) is shown on such a map as registered common land,
  - (c) is registered common land in any area outside Inner London for which no such map relating to registered common land has been issued,
  - (d) is situated more than 600 metres above sea level in any area for which no such map relating to open

country has been issued,  
(da) is coastal margin, or  
(e) is dedicated for the purposes of this Part under section 16,  
but does not (in any of those cases) include excepted land or land which is treated by section 15(1) as being accessible to the public apart from this Act.

(2) In this Part—

“access authority”—

(a) in relation to land in a National Park, means the National Park authority, and

(b) in relation to any other land, means the local highway authority in whose area the land is situated;

“the appropriate countryside body” means—

(a) in relation to England, Natural England, and

(b) in relation to Wales, the Natural Resources Body for Wales;

“coastal margin” means land which is of a description specified by an order under section 3A;

“excepted land” means land which is for the time being of any of the descriptions specified in Part I of Schedule 1, those descriptions having effect subject to Part II of that Schedule;

“mountain” includes, subject to the following definition, any land situated more than 600 metres above sea level;

“mountain, moor, heath or down” does not include land which appears to the appropriate countryside body to consist of improved or semi-improved grassland;

“open country” means land which—

(a) appears to the appropriate countryside body to consist wholly or predominantly of mountain, moor, heath or down, and

(b) is not registered common land or coastal margin or land dedicated as coastal margin for the purposes of this Part under section 16;

(3) In this Part “registered common land” means —

(a) land which is registered as common land under the Commons Registration Act 1965 (in this section referred to as “the 1965 Act”) and whose registration under that Act has become final, or

(b) subject to subsection (4), land which fell within paragraph (a) on the day on which this Act is passed or at any time after that day but has subsequently ceased to be registered as common land under the 1965 Act on the register of common land in which it was included being amended by reason of the land having ceased to be common land within the meaning of that Act,

but does not include land which is coastal margin or land which is dedicated as coastal margin for the purposes of this Part under section 16.

(4) Subsection (3)(b) does not apply where—

(a) the amendment of the register of common land was made in pursuance of an application made before the day on which this Act is passed, or

(b) the land ceased to be common land by reason of the exercise of—

(i) any power of compulsory purchase, of appropriation or of sale which is conferred by an enactment,

(ii) any power so conferred under which land may be made common land within the meaning of the 1965 Act in substitution for other land.

*As amended by NERCA 2006 Sch 11 para 154, MACA 2009 s 303(2), CMO 2010 Sch 1 para 24 and Natural Resources Body for Wales (Functions) Order 2013 SI 2013 No 755 Sch 2 para 401.*

Note : in the pilot areas under the Commons Act 2006 amendments referring to the 2006 Act have been made to subsection (3) and subsection (4) has been omitted: Commons Act 2006 Sch 5 para 7(2) and Commons Act 2006 (Commencement No. 6) (England) Order 2011 SI 2011 No 2460 article 2 and Commons Act 2006 (Commencement No. 7, Transitional and Savings Provisions) (England) Order 2014 SI 2014 No 3026 article 3(1)(h).

Text: 14.2.2 and 14.2.3 p 369, [14.2A.6](#)

## **2. Rights of public in relation to access land**

(1) Any person is entitled by virtue of this subsection to enter and remain on any access land for the purposes

of open-air recreation, if and so long as—

- (a) he does so without breaking or damaging any wall, fence, hedge, stile or gate, and
  - (b) he observes the general restrictions in Schedule 2 and any other restrictions imposed in relation to the land under Chapter II.
- (2) Subsection (1) has effect subject to subsections (3) and (4) and to the provisions of Chapter II.
- (3) Subsection (1) does not entitle a person to enter or be on any land, or do anything on any land, in contravention of any relevant statutory prohibition.
- (3A) In subsection (3) “relevant statutory prohibition” means—
- (a) in the case of land which is coastal margin, a prohibition contained in or having effect under any enactment, and
  - (b) in any other case, a prohibition contained in or having effect under any enactment other than an enactment contained in a local or private Act.
- (4) If a person becomes a trespasser on any access land by failing to comply with—
- (a) subsection (1)(a),
  - (b) the general restrictions in Schedule 2, or
  - (c) any other restrictions imposed in relation to the land under Chapter II,
- he may not, within 72 hours after leaving that land, exercise his right under subsection (1) to enter that land again or to enter other land in the same ownership
- (5) In this section “owner”, in relation to any land which is subject to a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 or a tenancy to which the Agricultural Holdings Act 1986 applies, means the tenant under that tenancy, and “ownership” shall be construed accordingly.

*As amended by MACA 2009 s 303(3).*

Text: 14.2.12 p 377, 14.2.14 p 378, 14.2.15 p 378, [14.2A.6](#)

### **3. Power to extend to coastal land : Wales**

- (1) The Welsh Ministers may by order amend the definition of “open country” in section 1(2) so as to include as respects Wales a reference to coastal land or to coastal land of any description.
- (2) An order under this section may—
  - (a) make consequential amendments of other provisions of this Part, and
  - (b) modify the provisions of this Part in their application to land which is open country merely because it is coastal land.
- (3) In this section “coastal land” means—
  - (a) the foreshore, and
  - (b) land adjacent to the foreshore (including in particular any cliff, bank, barrier, dune, beach or flat which is adjacent to the foreshore).

*As amended by MACA 2009 s 303(4).*

Text: [14.2A.6](#)

### **3A. Power to extend to coastal land etc: England**

- (1) The Secretary of State may by order specify the descriptions of land in England which are coastal margin for the purposes of this Part.
- (2) An order under subsection (1) may, in particular—
  - (a) describe land by reference to it being—
    - (i) land over which the line taken by the English coastal route passes,
    - (ii) land which is adjacent to and within a specified distance of that line, or
    - (iii) land which is adjacent to land within sub-paragraph (ii),if the land described under paragraphs (i) to (iii), taken as a whole, is coastal land;
  - (b) in relation to cases where a proposal of the kind mentioned in section 55B of the 1949 Act (power to determine the route in accordance with provision made in the report) is contained in relevant approved proposals, describe land by reference to the line taken by the English coastal route as it has effect from time to time in accordance with that proposal;
  - (c) in relation to cases where a proposal of the kind mentioned in section 55C of that Act (alternative

- routes) is contained in relevant approved proposals, describe land by reference to it being—
- (i) land over which the line taken by an official alternative route which is for the time being in operation passes, or
  - (ii) land which is adjacent to and within a specified distance of that line, whether or not it is coastal land;
- (d) in relation to cases where a proposal of the kind mentioned in section 55D(2)(a) or (b) of that Act (proposal that boundary should coincide with a physical feature) is contained in relevant approved proposals, provide that the boundary of an area of coastal margin is to coincide with a physical feature as provided for in that proposal (and for this purpose it is immaterial if the effect is to include other land as coastal margin or to exclude part of an area of coastal land);
- (e) in relation to cases where a direction under subsection (3) of section 55I of that Act (temporary diversions) specifies a route which (or any part of which) passes over land within subsection (4)(d) of that section, describe land by reference to it being—
- (i) land over which the line taken by that route (so far as it passes over land within subsection (4)(d) of that section) passes, or
  - (ii) land which is adjacent to and within a specified distance of that line (so far as it so passes), whether or not it is coastal land.
- (3) For the purposes of subsection (2) it is immaterial whether the English coastal route is in existence at the time the order is made.
- (4) An order under subsection (1) may modify the provisions of this Part in their application to land which is coastal margin.
- (5) Provision made by virtue of subsection (4) may, in particular—
- (a) confer functions on the Secretary of State or Natural England;
  - (b) if providing for any description of land which is coastal margin to be excluded from any description of excepted land—
    - (i) describe that land as mentioned in subsection (2)(a)(i) to (iii), (b) or (c), or
    - (ii) in relation to cases where a proposal of the kind mentioned in section 55D(2)(c) of the 1949 Act (proposal that boundary should coincide with a physical feature) is contained in relevant approved proposals, provide that the boundary of that land (or any part of it) is to coincide with a physical feature as provided for in that proposal.
- (6) Where, as a result of proposals becoming approved proposals relating to a long-distance route, land becomes coastal margin by virtue of an order under subsection (1)—
- (a) section 2(1) does not apply in relation to the land by reason of it being coastal margin until the end of the access preparation period in relation to the land,
  - (b) any direction given under Chapter 2 in relation to the land may be expressed to take effect immediately after the end of that period, and
  - (c) until the end of that period, the land is not to be regarded as coastal margin—
    - (i) for the purpose of determining whether it is open country or registered common land, or
    - (ii) for the purposes of section 1(6AA) of the Occupiers' Liability Act 1984 (duty of occupier of coastal margin to persons other than the occupier's visitors).
- (7) Where, as a result of proposals becoming approved proposals relating to a long-distance route, land becomes coastal margin by virtue of an order under subsection (1), any exclusion or restriction under Chapter 2 of access to the land by virtue of section 2(1) ceases to have effect at the end of the access preparation period.
- (8) Subsection (7) does not apply to any exclusion or restriction resulting from a direction under Chapter 2 which takes effect after the end of the access preparation period.
- (9) Subsections (6) and (7) do not apply to land if, at the time it becomes coastal margin by virtue of an order under subsection (1), it is already dedicated as coastal margin under section 16.
- (10) In this section—
- “the 1949 Act” means the National Parks and Access to the Countryside Act 1949;
- “access preparation period”, in relation to any land, means the period which—
- (a) begins when the land becomes coastal margin, and
  - (b) ends with the day appointed by the Secretary of State by order under this subsection in relation to that land;



“approved proposals relating to a long-distance route” is to be construed in accordance with sections 52(3) and 55(4) of the 1949 Act;  
“coastal land” has the same meaning as in section 3;  
“the English coastal route” means the route secured (or to be secured) pursuant to the coastal access duty (within the meaning of section 296 of the Marine and Coastal Access Act 2009);  
“modify” includes amend, add to or repeal;  
“official alternative route” has the meaning given by section 55J of the 1949 Act;  
“relevant approved proposals” means approved proposals relating to a long-distance route which is or forms part of the English coastal route;  
“specified” means specified in an order under subsection (1);  
and references to the exclusion or restriction under Chapter 2 of access to any land by virtue of section 2(1) are to be interpreted in accordance with section 21(2) and (3).

*As inserted by MACA 2009 s 303(5).*

Note: the coastal margin order has been made under this section.

Text: [14.2A.6](#)

## Maps

### 4. Duty to prepare maps

- (1) It shall be the duty of Natural England to prepare, in respect of England outside Inner London, maps which together show—
  - (a) all registered common land, and
  - (b) all open country.
- (2) It shall be the duty of the Natural Resources Body for Wales to prepare, in respect of Wales, maps which together show—
  - (a) all registered common land, and
  - (b) all open country.
- (3) Subsections (1) and (2) have effect subject to the following provisions of this section and to the provisions of sections 5 to 9.
- (4) A map prepared under this section must distinguish between open country and registered common land, but need not distinguish between different categories of open country.
- (5) In preparing a map under this section, the appropriate countryside body—
  - (a) may determine not to show as open country areas of open country which are so small that the body consider that their inclusion would serve no useful purpose, and
  - (b) may determine that any boundary of an area of open country is to be treated as coinciding with a particular physical feature (whether the effect is to include other land as open country or to exclude part of an area of open country).

*As amended by Natural Resources Body for Wales (Functions) Order 2013 SI 2013 No 755 Sch 2 para 402 and NERCA 2006 Sch 11 para 155.*

Text: 14.2.4 p 370

### 5. Publication of draft maps

The appropriate countryside body shall—

- (a) issue in draft form any map prepared by them under section 4,
- (b) consider any representations received by them within the prescribed period with respect to the showing of, or the failure to show, any area of land on the map as registered common land or as open country,
- (c) confirm the map with or without modifications,
- (d) if the map has been confirmed without modifications, issue it in provisional form, and
- (e) if the map has been confirmed with modifications, prepare a map incorporating the modifications, and issue that map in provisional form.

Text: 14.2.5 p 371

## **6. Appeal against map after confirmation**

- (1) Any person having an interest in any land may appeal—
  - (a) in the case of land in England, to the Secretary of State, or
  - (b) in the case of land in Wales, to the National Assembly for Wales,against the showing of that land on a map in provisional form as registered common land or as open country.
- (2) An appeal relating to the showing of any land as registered common land may be brought only on the ground that the land is not registered common land.
- (3) An appeal relating to the showing of any land as open country may be brought only on the ground that—
  - (a) the land does not consist wholly or predominantly of mountain, moor, heath or down, and
  - (b) to the extent that the appropriate countryside body have exercised their discretion under section 4(5)(b) to treat land which is not open country as forming part of an area of open country, the body ought not to have done so.
- (4) On an appeal under this section, the Secretary of State or the National Assembly for Wales may—
  - (a) approve the whole or part of the map which is the subject of the appeal, with or without modifications, or
  - (b) require the appropriate countryside body to prepare under section 4 a new map relating to all or part of the area covered by the map which is the subject of the appeal.

Text: 14.2.5 p 372

## **7. Appeal procedure**

- (1) Before determining an appeal under section 6, the Secretary of State or the National Assembly for Wales may, if he or it thinks fit—
  - (a) cause the appeal to take, or continue in, the form of a hearing, or
  - (b) cause a local inquiry to be held;and the appeal authority shall act as mentioned in paragraph (a) or (b) if a request is made by either party to the appeal to be heard with respect to the appeal.
- (2) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) apply to a hearing or local inquiry held under this section as they apply to a local inquiry held under that section, but as if—
  - (a) references in that section to the person appointed to hold the inquiry were references to the Secretary of State or the National Assembly for Wales, and
  - (b) references in that section to the Minister causing an inquiry to be held were references to the Secretary of State or the Assembly.
- (3) Where—
  - (a) for the purposes of an appeal under section 6, the Secretary of State or the National Assembly for Wales is required by subsection (1)—
    - (i) to cause the appeal to take or continue in the form of a hearing, or
    - (ii) to cause a local inquiry to be held, and
  - (b) the inquiry or hearing does not take place, and
  - (c) if it had taken place, the Secretary of State or the Assembly or a person appointed by the Secretary of State or the Assembly would have had power to make an order under section 250(5) of the Local Government Act 1972 requiring any party to pay the costs of the other party,the power to make such an order may be exercised, in relation to costs incurred for the purposes of the inquiry or hearing, as if it had taken place.
- (4) This section has effect subject to section 8.

Text: 14.2.5 p 372

## **8. Power of Secretary of State or Assembly to delegate functions relating to appeals**

- (1) The Secretary of State or the National Assembly for Wales may—
  - (a) appoint any person to exercise on his or its behalf, with or without payment, the function of determining—
    - (i) an appeal under section 6, or

- (ii) any matter involved in such an appeal, or
  - (b) refer any matter involved in such an appeal to such person as the Secretary of State or the Assembly may appoint for the purpose, with or without payment.
- (2) Schedule 3 has effect with respect to appointments under subsection (1)(a).

Text: 14.2.5 p 372

## 9. Maps in conclusive form

- (1) Where—
- (a) The time within which any appeal under section 6 may be brought in relation to a map in provisional form has expired and no appeal has been brought, or
  - (b) every appeal brought under that section in relation to a map has—
    - (i) been determined by the map or part of it being approved without modifications, or
    - (ii) been withdrawn,
- the appropriate countryside body shall issue the map (or the part or parts of it that have been approved without modifications) as a map in conclusive form.
- (2) Where—
- (a) every appeal brought under section 6 in relation to a map in provisional form has been determined or withdrawn, and
  - (b) on one or more appeals, the map or any part of it has been approved with modifications,
- the appropriate countryside body shall prepare a map which covers the area covered by the map in provisional form (or the part or parts of the map in provisional form that have been approved with or without modifications) and incorporates the modifications, and shall issue it as a map in conclusive form.
- (3) Where either of the conditions in subsection (1)(a) and (b) is satisfied in relation to any part of a map in provisional form, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct the relevant countryside body to issue that part of the map as a map in conclusive form.
- (4) Where on an appeal under section 6 part of a map in provisional form has been approved with modifications but the condition in subsection (2)(a) is not yet satisfied, the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct the relevant countryside body to issue a map which covers the area covered by that part of the map in provisional form and incorporates the modifications, and to issue it as a map in conclusive form.
- (5) Where a map in conclusive form has been issued in compliance with a direction under subsection (3) or (4), subsections (1) and (2) shall have effect as if any reference to the map in provisional form were a reference to the part not affected by the direction.
- (6) A document purporting to be certified on behalf of the appropriate countryside body to be a copy of or of any part of a map in conclusive form issued by that body for the purposes of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.

Text: 14.2.5 p 372

## 10. Review of maps

- (1) Where the appropriate countryside body have issued a map in conclusive form in respect of any area, it shall be the duty of the body from time to time, on a review under this section, to consider—
- (a) whether any land shown on that map as open country or registered common land is open country or registered common land at the time of the review, and
  - (b) whether any land in that area which is not so shown ought to be so shown.
- (2) A review under this section must be undertaken—
- (a) in the case of the first review—
    - (i) where the map is of an area in England, not more than twenty years after the issue of the map in conclusive form, and
    - (ii) where the map is of an area in Wales, not more than ten years after the issue of the map in conclusive form, and
  - (b) in the case of subsequent reviews—

- (i) where the map is of an area in England, not more than twenty years after the previous review, and
  - (ii) where the map is of an area in Wales, not more than ten years after the previous review.
- (3) Regulations may amend paragraphs (a) and (b) of subsection (2) by substituting for the period for the time being specified in either of those paragraphs such other period as may be specified in the regulations.

*As amended by Countryside and Rights of Way Act 2000 (Review of Maps) (England) Regulations 2013 SI 2013 No 514 and Countryside and Rights of Way Act 2000 (Review of Maps) (England) Regulations 2019 SI 2019 No 1069.*

Text: 14.2.6 p 373, [14.2A.6](#)

## **11. Regulations relating to maps**

- (1) Regulations may make provision supplementing the provisions of sections 4 to 10.
- (2) Regulations under this section may in particular make provision with respect to—
  - (a) the scale on which maps are to be prepared,
  - (b) the manner and form in which they are to be prepared and issued,
  - (c) consultation with access authorities, local access forums and other persons on maps in draft form,
  - (d) the steps to be taken for informing the public of the issue of maps in draft form, provisional form or conclusive form,
  - (e) the manner in which maps in draft form, provisional form or conclusive form are to be published or to be made available for inspection,
  - (f) the period within which and the manner in which representations on a map in draft form may be made to the appropriate countryside body,
  - (g) the confirmation of a map under section 5(c),
  - (h) the period within which and manner in which appeals under section 6 are to be brought,
  - (i) the advertising of such an appeal,
  - (j) the manner in which such appeals are to be considered,
  - (k) the procedure to be followed on a review under section 10, including the issue of maps in draft form, provisional form and conclusive form on a review, and
  - (l) the correction by the appropriate countryside body of minor errors or omissions in maps.
- (3) Regulations made by virtue of subsection (2)(b) or (e) may authorise or require a map to be prepared, issued, published or made available for inspection in electronic form, but must require any map in electronic form to be capable of being reproduced in printed form.
- (4) Regulations made by virtue of subsection (2)(k) may provide for any of the provisions of this Chapter relating to appeals to apply (with or without modifications) in relation to an appeal against a map issued in provisional form on a review.

Note : The following regulations have been made under this section:

Access to the Countryside (Maps in Draft Form) (England) Regulations 2001 SI 2001 No 3301

Access to the Countryside (Provisional and Conclusive Maps) (England) Regulations 2002 SI 2002 No 1710

Access to the Countryside (Provisional and Conclusive Maps) (England) (Amendment) Regulations 2003 SI 2003 No 32

Access to the Countryside (Correction of Provisional and Conclusive Maps) (England) Regulations 2003 SI 2003 No 1591

Access to the Countryside (Correction of Provisional and Conclusive Maps) (England) (Amendment) Regulations 2005 SI 2005 No 2027

Text: 14.2.5 p 373, 14.2.6 p 373

### *Rights and liabilities of owners and occupiers*

## **12. Effect of right of access on rights and liabilities of owners**

- (1) The operation of section 2(1) in relation to any access land does not increase the liability, under any enactment not contained in this Act or under any rule of law, of a person interested in the access land or any adjoining land in respect of the state of the land or of things done or omitted to be done on the land
- (2) Any restriction arising under a covenant or otherwise as to the use of any access land shall have effect subject to the provisions of this Part, and any liability of a person interested in any access land in respect of

such a restriction is limited accordingly.

- (3) For the purposes of any enactment or rule of law as to the circumstances in which the dedication of a highway or the grant of an easement may be presumed, or may be established by prescription, the use by the public or by any person of a way across land in the exercise of the right conferred by section 2(1) is to be disregarded.
- (4) The use of any land by the inhabitants of any locality for the purposes of open-air recreation in the exercise of the right conferred by section 2(1) is to be disregarded in determining whether the land has become a town or village green.

Text: 14.2.17 p 382

#### **14. Offence of displaying on access land notices deterring public use**

- (1) If any person places or maintains—
  - (a) on or near any access land, or
  - (b) on or near a way leading to any access land,a notice containing any false or misleading information likely to deter the public from exercising the right conferred by section 2(1), he is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (2) The court before whom a person is convicted of an offence under subsection (1) may, in addition to or in substitution for the imposition of a fine, order him to remove the notice in respect of which he is convicted within such period, not being less than four days, as may be specified in the order.
- (3) A person who fails to comply with an order under subsection (2) is guilty of a further offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Text: 14.2.19 p 382

#### *Access under other enactments or by dedication*

#### **15. Rights of access under other enactments**

- (1) For the purposes of section 1(1), land is to be treated as being accessible to the public apart from this Act at any time if, but only if, at that time—
  - (a) section 193 of the Law of Property Act 1925 (rights of the public over commons and waste lands) applies to it,
  - (b) by virtue of a local or private Act or a scheme made under Part I of the Commons Act 1899 (as read with subsection (2)), members of the public have a right of access to it at all times for the purposes of open-air recreation (however described),
  - (c) an access agreement or access order under Part V of the National Parks and Access to the Countryside Act 1949 is in force with respect to it, or
  - (d) the public have access to it under subsection (1) of section 19 of the Ancient Monuments and Archaeological Areas Act 1979 (public access to monuments under public control) or would have access to it under that subsection but for any provision of subsections (2) to (9) of that section.
- (2) Where a local or private Act or a scheme made under Part I of the Commons Act 1899 confers on the inhabitants of a particular district or neighbourhood (however described) a right of access to any land for the purposes of open-air recreation (however described), the right of access exercisable by those inhabitants in relation to that land is by virtue of this subsection exercisable by members of the public generally.

Text: 14.2.9 p 375, 14.2.10 p 376, [14.2A.6](#), [14.2A.11](#)

#### **16. Dedication of land as access land**

- (1) Subject to the provisions of this section, a person who, in respect of any land, holds—
  - (a) the fee simple absolute in possession, or
  - (b) a legal term of years absolute of which not less than 90 years remain unexpired,may, by taking such steps as may be prescribed, dedicate the land for the purposes of this Part, whether or not it would be access land apart from this section.
- (2) Where any person other than the person making the dedication holds—
  - (a) any leasehold interest in any of the land to be dedicated, or

- (b) such other interest in any of that land as may be prescribed, the dedication must be made jointly with that other person, in such manner as may be prescribed, or with his consent, given in such manner as may be prescribed.
- (2A) Where a person makes a dedication under this section in respect of land within subsection (2B), that dedication may also dedicate the land as coastal margin.
- (2B) The land within this subsection is—
  - (a) land which is coastal margin, and
  - (b) any other land in England which is adjacent to land which is coastal margin.
- (2C) Where land is dedicated as coastal margin—
  - (a) in the case of land within subsection (2B)(b), it is to be treated as coastal margin for the purposes of any provision made by or by virtue of this Part (other than section 1), and
  - (b) if—
    - (i) disregarding this paragraph, it would be excepted land, and
    - (ii) it is not land which is accessible to the public by virtue of any enactment or rule of law (other than this Act),
 it is to be treated for the purposes of any provision made by or by virtue of this Part as if it were not excepted land.
- (3) In relation to a dedication under this section by virtue of subsection (1)(b), the reference in subsection (2)(a) to a leasehold interest does not include a reference to a leasehold interest superior to that of the person making the dedication.
- (4) A dedication made under this section by virtue of subsection (1)(b) shall have effect only for the remainder of the term held by the person making the dedication.
- (5) Schedule 2 to the Forestry Act 1967 (power for tenant for life and others to enter into forestry dedication covenants) applies to dedications under this section as it applies to forestry dedication covenants.
- (6) Regulations may—
  - (a) prescribe the form of any instrument to be used for the purposes of this section,
  - (b) enable a dedication under this section to include provision removing or relaxing any of the general restrictions in Schedule 2 in relation to any of the land to which the dedication relates,
  - (c) enable a dedication previously made under this section to be amended by the persons by whom a dedication could be made, so as to remove or relax any of those restrictions in relation to any of the land to which the dedication relates,
  - (ca) in the case of land within subsection (2B), enable a dedication previously made under this section in respect of the land (otherwise than by virtue of subsection (2A)) to be amended, by the persons by whom a dedication could be made, so as to provide that the land is dedicated as coastal margin for the purposes of subsection (2C),
  - (cb) provide for any exclusion or restriction under Chapter 2 of access by virtue of section 2(1) which has effect in relation to land which is within subsection (2B)(b) immediately before it is dedicated as coastal margin to cease to have effect at the time the dedication takes effect, and
  - (d) require any dedication under this section, or any amendment of such a dedication by virtue of paragraph (c), to be notified to the appropriate countryside body and to the access authority.
- (6A) In subsection (6)(cb) the reference to the exclusion or restriction under Chapter 2 of access to any land by virtue of section 2(1) is to be interpreted in accordance with section 21(2) and (3).
- (7) A dedication under this section is irrevocable and, subject to subsection (4), binds successive owners and occupiers of, and other persons interested in, the land to which it relates, but nothing in this section prevents any land from becoming excepted land.
- (8) A dedication under this section is a local land charge.

*As amended by MACA 2009 s 303(6).*

Note: The Access to the Countryside (Dedication of Land) (England) Regulations 2003 SI 2003 No 2004, as amended by the Access to the Countryside (Dedication of Land) (Amendment) (England) Regulations 2011 SI 2011 No 2020, have been made under this section.

Text: 14.2.11 p 376, [14.2A.6](#)

*Miscellaneous provisions relating to right of access*

**17. Byelaws**

- (1) An access authority may, as respects access land in their area, make byelaws—
  - (a) for the preservation of order,
  - (b) for the prevention of damage to the land or anything on or in it, and
  - (c) for securing that persons exercising the right conferred by section 2(1) so behave themselves as to avoid undue interference with the enjoyment of the land by other persons.
- (2) Byelaws under this section may relate to all the access land in the area of the access authority or only to particular land.
- (3) Before making byelaws under this section, the access authority shall consult —
  - (a) the appropriate countryside body, and
  - (b) any local access forum established for an area to which the byelaws relate.
- (4) Byelaws under this section shall not interfere—
  - (a) with the exercise of any public right of way,
  - (b) with any authority having under any enactment functions relating to the land to which the byelaws apply, or
  - (c) with the provision of a electronic communications code network or the exercise of any right conferred by or in accordance with the electronic communications code on the operator of any such network.
- (5) Sections 236 to 238 of the Local Government Act 1972 (which relate to the procedure for making byelaws, authorise byelaws to impose fines not exceeding level 2 on the standard scale, and provide for the proof of byelaws in legal proceedings) apply to all byelaws under this section made by an access authority in England whether or not the authority making them is a local authority within the meaning of that Act.
- (5A) Sections 7, 8, 10 and 19 of the Local Government Byelaws (Wales) Act 2012 apply to all byelaws under this section made by an access authority in Wales.
- (6) The confirming authority in relation to byelaws made under this section is—
  - (a) as respects England, the Secretary of State, and
  - (b) as respects Wales, the National Assembly for Wales.
- (7) Byelaws under this section relating to any land—
  - (a) may not be made unless the land is access land or the access authority are satisfied that it is likely to become access land, and
  - (b) may not be confirmed unless the land is access land.
- (8) Any access authority having power under this section to make byelaws also has power to enforce byelaws made by them; and any county council or district council may enforce byelaws made under this section by another authority as respects land in the area of the council.

*As amended by Communications Act 2003 Sch 17 para 165 and Local Government Byelaws (Wales) Act 2012 2012 anaw 2 Sch 2 para 18.*

Text: 14.2.20 p 383, 14.2.22 p 384

**18. Wardens**

- (1) An access authority or a district council may appoint such number of persons as may appear to the authority making the appointment to be necessary or expedient, to act as wardens as respects access land in their area.
- (2) As respects access land in an area for which there is a local access forum, an access authority shall, before they first exercise the power under subsection (1) and thereafter from time to time, consult the local access forum about the exercise of that power.
- (3) Wardens may be appointed under subsection (1) for the following purposes—
  - (a) to secure compliance with byelaws under section 17 and with the general restrictions in Schedule 2,
  - (b) to enforce any exclusion imposed under Chapter II,
  - (c) in relation to the right conferred by section 2(1), to advise and assist the public and persons interested in access land,
  - (d) to perform such other duties (if any) in relation to access land as the authority appointing them may determine.
- (4) For the purpose of exercising any function conferred on him by or under this section, a warden appointed

under subsection (1) may enter upon any access land.

- (5) A warden appointed under subsection (1) shall, if so required, produce evidence of his authority before entering any access land in the exercise of the power conferred by subsection (4), and shall also produce evidence of his authority while he remains on the access land, if so required by any person.
- (6) Except as provided by subsection (4), this section does not authorise a warden appointed under subsection (1), on land in which any person other than the authority who appointed him has an interest, to do anything which apart from this section would be actionable at that person's suit by virtue of that interest.

Text: 14.2.20 p 383, 14.2.22 p 384

## **19. Notices indicating boundaries, etc**

- (1) An access authority may erect and maintain—
  - (a) notices indicating the boundaries of access land and excepted land, and
  - (b) notices informing the public of—
    - (i) the effect of the general restrictions in Schedule 2,
    - (ii) the exclusion or restriction under Chapter II of access by virtue of section 2(1) to any land, and
    - (iii) any other matters relating to access land or to access by virtue of section 2(1) which the access authority consider appropriate.
- (2) In subsection (1)(b)(ii), the reference to the exclusion or restriction of access by virtue of section 2(1) is to be interpreted in accordance with section 21(2) and (3).
- (3) Before erecting a notice on any land under subsection (1) the access authority shall, if reasonably practicable, consult the owner or occupier of the land.
- (4) An access authority may also, as respects any access land in their area, defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred in relation to the land by any person in displaying such notices as are mentioned in subsection (1)(a) and (b).
- (5) In the case of access land that is coastal margin, the powers conferred on an access authority by this section are also exercisable by Natural England.

*As amended by MACA 2009 Sch 20 para 7.*

Text: 14.2.22 p 384, [14.2A.6](#)

## **20. Codes of conduct and other information**

- (1) In relation to England, it shall be the duty of Natural England to issue, and from time to time revise, a code of conduct for the guidance of persons exercising the right conferred by section 2(1) and of persons interested in access land, and to take such other steps as appear to them expedient for securing—
  - (a) that the public are informed of the situation and extent of, and means of access to, access land,
  - (b) that the public and persons interested in access land are informed of their respective rights and obligations—
    - (i) under this Part, and
    - (ii) with regard to public rights of way on, and nature conservation in relation to, access land, and
  - (c) that, in relation to access land which is coastal margin, the public are informed that the right conferred by section 2(1) does not affect any other right of access that may exist in relation to that land.
- (1A) The duty imposed by subsection (1) to issue and revise a code of conduct may be discharged, in relation to access land which is coastal margin, by (or in part by) issuing and revising a separate code relating to such access land only.
- (2) In relation to Wales, it shall be the duty of the Natural Resources Body to issue, and from time to time revise, a code of conduct for the guidance of persons exercising the right conferred by section 2(1) and of persons interested in access land, and to take such other steps as appear to them expedient for securing the results mentioned in paragraphs (a) and (b) of subsection (1).
- (3) A code of conduct issued by Natural England or the Natural Resources Body for Wales may include provisions in pursuance of subsection (1) or (2) and in pursuance of section 86(1) of the National Parks and Access to the Countryside Act 1949.
- (4) The powers conferred by subsections (1) and (2) include power to contribute towards expenses incurred by other persons.

*As amended by NERCA 2006 Sch 11 para 156, MACA 2009 s 303(7) and Natural Resources Body for Wales (Functions)*



## CHAPTER II: EXCLUSION OR RESTRICTION OF ACCESS

### 21. Interpretation of Chapter II

- (1) References in this Chapter to the exclusion or restriction of access to any land by virtue of section 2(1) are to be interpreted in accordance with subsections (2) and (3).
- (2) A person excludes access by virtue of subsection (1) of section 2 to any land where he excludes the application of that subsection in relation to that land.
- (3) A person restricts access by virtue of subsection (1) of section 2 to any land where he provides that the right conferred by that subsection—
  - (a) is exercisable only along specified routes or ways,
  - (b) is exercisable only after entering the land at a specified place or places,
  - (c) is exercisable only by persons who do not take dogs on the land, or
  - (d) is exercisable only by persons who satisfy any other specified conditions.
- (4) In this Chapter, except section 23(1), “owner”, in relation to land which is subject to a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 or a tenancy to which the Agricultural Holdings Act 1986 applies, means the tenant under that tenancy.
- (5) Subject to subsection (6), in this Chapter “the relevant authority”—
  - (za) in relation to any land which is coastal margin, means Natural England,
  - (a) in relation to any land (other than coastal margin) in a National Park, means the National Park authority, and
  - (b) in relation to any other land, means the appropriate countryside body.
- (6) Where—
  - (a) it appears to the Forestry Commissioners that any land in England which is dedicated for the purposes of this Part under section 16 (other than land which is coastal margin) consists wholly or predominantly of woodland, and
  - (b) the Forestry Commissioners give to the body who are apart from this subsection the relevant authority for the purposes of this Chapter in relation to the land a notice stating that the Forestry Commissioners are to be the relevant authority for those purposes as from a date specified in the notice,the Forestry Commissioners shall as from that date become the relevant authority in relation to that land for those purposes, but subject to subsection (7).
- (6A) Where—
  - (a) it appears to the Natural Resources Body for Wales that any land in a National Park in Wales which is dedicated for the purposes of this Part under section 16 consists wholly or predominantly of woodland, and
  - (b) the Natural Resources Body for Wales give to the relevant National Park Authority who are apart from this subsection the relevant authority for the purposes of this Chapter in relation to the land a notice stating that the Natural Resources Body for Wales are to be the relevant authority for those purposes as from a date specified in the notice,the Natural Resources Body for Wales shall as from that date become the relevant authority in relation to that land for those purposes, but subject to subsection (7A).
- (7) Where it appears to the Forestry Commissioners that any land in England in relation to which they are by virtue of subsection (6) the relevant authority for the purposes of this Chapter has ceased to consist wholly or predominantly of woodland, the Forestry Commissioners may, by giving notice to the body who would apart from subsection (6) be the relevant authority, revoke the notice under subsection (6) as from a date specified in the notice under this subsection.
- (7A) Where it appears to the Natural Resources Body for Wales that any land in relation to which they are by virtue of subsection (6A) the relevant authority for the purposes of this Chapter has ceased to consist wholly or predominantly of woodland, the Natural Resources Body for Wales may, by giving notice to the National Park Authority who would apart from subsection (6A) be the relevant authority, revoke the notice under subsection (6A) as from a date specified in the notice under this subsection.
- (8) Where there is access to an area of coastal margin by virtue of section 2(1), Natural England may—

- (a) if the land is in a National Park, authorise the National Park authority, or
  - (b) if the land consists wholly or predominantly of woodland, authorise the Forestry Commissioners, to exercise in relation to the land such of Natural England's functions under this Chapter as Natural England may specify.
- (9) An authorisation given for the purposes of subsection (8) may be—
- (a) for a period specified in the authorisation, or
  - (b) for an indefinite period,
- and may be revoked at any time by Natural England.

*As amended by CMO 2010 Sch 1 para 15 and Natural Resources Body for Wales (Functions) Order 2013 SI 2013 No 755 Sch 2 para 403.*

Text: 14.2.15 p 378, [14.2A.6](#)

## **22. Exclusion or restriction at discretion of owner and others**

- (1) Subject to subsections (2) and (6), an entitled person may, by giving notice to the relevant authority in accordance with regulations under section 32(1)(a), exclude or restrict access by virtue of section 2(1) to any land on one or more days specified in the notice.
- (2) The number of days on which any entitled person excludes or restricts under this section access by virtue of section 2(1) to any land must not in any calendar year exceed the relevant maximum.
- (3) In this section “entitled person”, in relation to any land, means—
- (a) the owner of the land, and
  - (b) any other person having an interest in the land and falling within a prescribed description.
- (4) Subject to subsection (5), in this section “the relevant maximum” means twenty-eight.
- (5) If regulations are made under subsection (3)(b), the regulations must provide that, in cases where there are two or more entitled persons having different interests in the land, the relevant maximum in relation to each of them is to be determined in accordance with the regulations, but so that the number of days on which access by virtue of section 2(1) to any land may be excluded or restricted under this section in any calendar year does not exceed twenty-eight.
- (6) An entitled person may not under this section exclude or restrict access by virtue of section 2(1) to any land on—
- (a) Christmas Day or Good Friday, or
  - (b) any day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.
- (7) An entitled person may not under this section exclude or restrict access by virtue of section 2(1) to any land on—
- (a) on more than four days in any calendar year which are either Saturday or Sunday,
  - (b) on any Saturday in the period beginning with 1st June and ending with 11th August in any year,
  - (c) on any Sunday in the period beginning with 1st June and ending with 30th September in any year.
- (8) Regulations may provide that any exclusion or restriction under subsection (1) of access by virtue of section 2(1) to any land must relate to an area of land the boundaries of which are determined in accordance with the regulations.
- (9) Nothing in this section applies in relation to land which is coastal margin.

*As amended by CMO 2010 Sch 1 para 16.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.15 p 378, [14.2A.7](#)

## **23. Restrictions on dogs at discretion of owner**

- (1) The owner of any land consisting of moor managed for the breeding and shooting of grouse may, so far as appears to him to be necessary in connection with the management of the land for that purpose, by taking such steps as may be prescribed, provide that, during a specified period, the right conferred by section 2(1) is exercisable only by persons who do not take dogs on the land.

- (2) The owner of any land may, so far as appears to him to be necessary in connection with lambing, by taking such steps as may be prescribed, provide that during a specified period the right conferred by section 2(1) is exercisable only by persons who do not take dogs into any field or enclosure on the land in which there are sheep.
- (3) In subsection (2) “field or enclosure” means a field or enclosure of not more than 15 hectares.
- (4) As respects any land—
  - (a) any period specified under subsection (1) may not be more than five years,
  - (b) not more than one period may be specified under subsection (2) in any calendar year, and that period may not be more than six weeks.
- (5) A restriction imposed under subsection (1) or (2) does not prevent a blind person from taking with him a trained guide dog, or a deaf person from taking with him a trained hearing dog.
- (6) Nothing in this section applies in relation to land which is coastal margin.

*As amended by CMO 2010 Sch 1 para 17.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.15 p 379, [14.2A.7](#)

## **24. Land management**

- (1) The relevant authority may make a land management direction in relation to any land (“the designated land”).
- (1A) The relevant authority may exercise their powers under subsection (1)—
  - (a) in any case, on the application of any person interested in the designated land, and
  - (b) if the designated land is coastal margin, without any such application having been made.
- (1B) A land management direction is a direction which—
  - (a) where the designated land is coastal margin—
    - (i) excludes or restricts access to the designated land during a specified period, or
    - (ii) authorises a specified person to exclude or restrict in the manner specified in the direction access to the designated land, or to such part or parts of that land as the specified person may determine in accordance with the direction, during a specified period, and
  - (b) in any other case, excludes or restricts access to the designated land during a specified period.
- (1C) The relevant authority may not make a land management direction unless—
  - (a) in the case of a direction within subsection (1B)(a), they are satisfied that the exclusion or restriction under this section of access to the designated land to the extent provided for in or by the direction is necessary for the purposes of the management of the designated land or any adjoining land;
  - (b) in the case of a direction within subsection (1B)(b), they are satisfied that the exclusion or restriction under this section of access to the designated land to the extent provided by the direction is necessary for the purposes of the management of the land by the applicant.
- (1D) Before making a land management direction under subsection (1B)(a) in a case where an application has not been made under subsection (1A)(a), the relevant authority must take reasonable steps to consult any person who—
  - (a) holds an estate in fee simple absolute in possession in the designated land (or any part of it),
  - (b) holds a term of years absolute in that land (or any part of it), or
  - (c) is in lawful occupation of that land (or any part of it).
- (1E) Subsection (1D) does not apply if the direction is made in accordance with section 55F(2) of the National Parks and Access to the Countryside Act 1949(a) (directions set out in report approving proposals for English coastal route).
- (1F) The reference in subsection (1B)(a) to a specified period includes a reference to—
  - (a) a specified period in every calendar year;
  - (b) a period which is to be determined by the relevant authority in accordance with the direction;
  - (c) a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with

- the direction;
- (d) an indefinite period.
- (2) The reference in subsection (1B)(b) to a specified period includes a reference to—
  - (a) a specified period in every calendar year, or
  - (b) a period which is to be—
    - (i) determined by the applicant in accordance with the direction, and
    - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d).
- (3) In determining whether to any extent the exclusion or restriction under this section of access by virtue of section 2(1) during any period is necessary for the purposes of land management, the relevant authority shall have regard to—
  - (a) the existence of the right conferred by section 22,
  - (b) the extent to which the applicant has exercised or proposes to exercise that right, and
  - (c) the purposes for which he has exercised or proposes to exercise it.
- (4) Where an application under this section relates to land which is not access land at the time when the application is made, the relevant authority shall not give a direction under this section unless they are satisfied that it is likely that the land will be access land during all or part of the period to which the application relates.
- (5) Subsections (3) and (4) do not apply in relation to land management directions under subsection (1B)(a).
- (6) In this section references to access to land are to access by virtue of section 2(1).

*As amended by CMO 2010 Sch 1 para 18.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.16 p 379, [14.2A.7](#)

## **25. Avoidance of risk of fire or of danger to the public**

- (1) The relevant authority may by direction exclude or restrict access by virtue of section 2(1) in relation to any land during a specified period if the authority are satisfied—
  - (a) that, by reason of any exceptional conditions of weather, the exclusion or restriction under this section of access to the land by virtue of section 2(1) to the extent provided by the direction is necessary for the purpose of fire prevention, or
  - (b) that, by reason of anything done, or proposed to be done, on the land or on adjacent land, the exclusion or restriction under this section of access to the land by virtue of section 2(1) to the extent provided by the direction is necessary for the purpose of avoiding danger to the public.
- (1A) Subsection (1)(a) does not apply in relation to land which is coastal margin if it is—
  - (a) land over which the line of an approved section of the English coastal route, an official alternative route or a temporary route passes, or
  - (b) land which is adjacent to and within 2 metres either side of such a line.
- (2) The reference in subsection (1) to a specified period includes a reference to—
  - (a) a specified period in every calendar year, and
  - (b) a period which is to be—
    - (i) determined by a specified person in accordance with the direction, and
    - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d), and
  - (c) in the case of a direction relating to land which is coastal margin, a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with the direction.
- (3) The relevant authority may exercise their powers under subsection (1) on the application of any person interested in the land, or without any such application having been made.
- (4) In determining on an application made by a person interested in the land whether the condition in subsection (1)(a) or (b) is satisfied, the relevant authority shall have regard to—
  - (a) the existence of the right conferred by section 22,

- (b) the extent to which the applicant has exercised or proposes to exercise that right, and
  - (c) the purposes for which he has exercised or proposes to exercise it.
- (5) Where an application under this section relates to land which is not access land at the time when the application is made, the relevant authority shall not give a direction under this section unless they are satisfied that it is likely that the land will be access land during all or part of the period to which the application relates.
- (6) Nothing in subsection (4) or (5) applies in relation to land which is coastal margin.
- (7) In this section—
- “approved section of the English coastal route” means a route (other than an official alternative route) in relevant approved proposals (within the meaning of section 3A);
  - “official alternative route” has the meaning given by section 55J of the National Parks and Access to the Countryside Act 1949;
  - “temporary route” means a route for the time being having effect by virtue of a direction under section 55I of that Act.

*As amended by CMO 2010 Sch 1 para 19.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.16 p 380, [14.2A.7](#)

### **25A. Salt marshes and flats**

- (1) The relevant authority may by direction exclude or restrict access to any land which is coastal margin consisting of salt marsh or flat if the authority are satisfied that the exclusion or restriction under this section of access to the land to the extent provided by the direction is necessary because the land, or any part of the land, is unsuitable for public access.
- (2) A direction under subsection (1) may be expressed to have effect—
- (a) during a period specified in the direction,
  - (b) during a specified period in every calendar year,
  - (c) during a period which is to be determined by the relevant authority in accordance with the direction,
  - (d) during a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with the direction, or
  - (e) indefinitely.
- (3) In this section a reference to “access” to land means access by virtue of section 2(1).

*As inserted by CMO 2010 Sch 1 para 20.*

Text: [14.2A.7](#)

### **26. Nature conservation and heritage preservation**

- (1) The relevant authority may by direction exclude or restrict access by virtue of section 2(1) to any land during any period if they are satisfied that the exclusion or restriction of access by virtue of section 2(1) to the extent provided by the direction is necessary for either of the purposes specified in subsection (3).
- (2) A direction under subsection (1) may be expressed to have effect—
- (a) during a period specified in the direction,
  - (b) during a specified period in every calendar year, or
  - (c) during a period which is to be—
    - (i) determined by a specified person in accordance with the direction, and
    - (ii) notified by him to the relevant authority in accordance with regulations under section 32(1)(d),
  - (ca) in the case of land which is coastal margin, during a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with the direction, or
  - (d) indefinitely.
- (3) The purposes referred to in subsection (1) are—

- (a) the purpose of conserving flora, fauna or geological or physiographical features of the land in question;
- (b) the purpose of preserving—
  - (i) any scheduled monument as defined by section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979, or
  - (ii) any other structure, work, site, garden or area which is of historic, architectural, traditional, artistic or archaeological interest.
- (4) In considering whether to give a direction under this section, the relevant authority shall have regard to any advice given to them by the relevant advisory body.
- (4A) Subsection (4) does not apply if the direction is made in accordance with section 55F(2) of the National Parks and Access to the Countryside Act 1949 (directions set out in report approving proposals for English coastal route).
- (5) Subsection (4) does not apply where the direction is given by the Natural Resources Body for Wales for the purpose specified in subsection (3)(a) or revokes a direction given by them for that purpose.
- (6) In this section "the relevant advisory body"—
  - (a) in relation to a direction which is to be given for the purpose specified in subsection (3)(a) or which revokes a direction given for that purpose, means—
    - (i) in the case of land in England in respect of which Natural England is not the relevant authority, Natural England, and
    - (ii) in the case of land in Wales in respect of which the Natural Resources Body for Wales are not the relevant authority, the Natural Resources Body for Wales, and
  - (b) in relation to a direction which is to be given for the purpose specified in subsection (3)(b) or which revokes a direction given for that purpose, means—
    - (i) in the case of land in England, the Historic Buildings and Monuments Commission for England, and
    - (ii) in the case of land in Wales, the National Assembly for Wales.

*As amended by NERCA 2006 Sch 11 para 157, CMO 2010 Sch 1 para 21 and Natural Resources Body for Wales (Functions) Order 2013 SI 2013 No 755 Sch 2 para 404.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.16 p 380, [14.2A.7](#)

## **27. Directions by relevant authority: general**

- (1) Before giving a direction under section 24, 25, 25A or 26 in relation to land in an area for which there is a local access forum so as to exclude or restrict access to the land—
  - (a) indefinitely, or
  - (b) during a period which exceeds, or may exceed, six months,
 the relevant authority shall consult the local access forum.
- (2) Any direction under section 24, 25, 25A or 26 may be revoked or varied by a subsequent direction under that provision.
- (3) Where a direction given under section 24, 25, 25A or 26 in relation to any land by the relevant authority excludes or restricts access to the land—
  - (a) indefinitely,
  - (b) for part of every year or of each of six or more consecutive calendar years, or
  - (c) for a specified period of more than five years,
 the authority shall review the direction not later than the fifth anniversary of the relevant date.
- (4) In subsection (3) "the relevant date", in relation to a direction, means—
  - (a) the day on which the direction was given, or
  - (b) where it has already been reviewed, the day on which it was last reviewed.
- (5) Before revoking or varying a direction under section 24 or 25 which was given on the application of a person interested in the land to which the direction relates ("the original applicant"), the relevant authority shall—
  - (a) where the original applicant still holds the interest in the land which he held when he applied for the

direction and it is reasonably practicable to consult him, consult the original applicant, and  
(b) where the original applicant does not hold that interest, consult any person who holds that interest and with whom consultation is reasonably practicable.

- (6) Before revoking or varying a direction under section 26, the relevant authority shall consult the relevant advisory body as defined by section 26(6), unless the direction falls within section 26(5).
- (7) Subsection (1) does not apply if the direction is made in accordance with section 55F(2) of the National Parks and Access to the Countryside Act 1949 (directions set out in report approving proposals for English coastal route).
- (8) Nothing in subsection (5) or (6) has effect in relation to a direction ceasing to have effect by virtue of section 3A(7) (pre-existing directions ceasing to have effect at end of access preparation period for coastal margin).

*As amended by CMO 2010 Sch 1 para 22.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.16 p 380, 14.2.20 p 383, [14.2A.7](#)

## **28. Defence or national security**

- (1) The Secretary of State may by direction exclude or restrict access by virtue of section 2(1) to any land during any period if he is satisfied that the exclusion or restriction of such access to the extent provided by the direction is necessary for the purposes of defence or national security.
- (2) A direction under subsection (1) may be expressed to have effect—
  - (a) during a period specified in the direction,
  - (b) during a specified period in every calendar year,
  - (c) during a period which is to be—
    - (i) determined in accordance with the direction by a person authorised by the Secretary of State, and
    - (ii) notified by that person to the relevant authority in accordance with regulations under section 32(1)(c), or
  - (d) indefinitely.
- (3) Any direction given by the Secretary of State under this section may be revoked or varied by a subsequent direction.
- (4) Where a direction given under this section in relation to any land excludes or restricts access to the land—
  - (a) indefinitely,
  - (b) for part of every year or of each of six or more consecutive calendar years, or
  - (c) for a specified period of more than five years,the Secretary of State shall review the direction not later than the fifth anniversary of the relevant date.
- (5) In subsection (4) “the relevant date”, in relation to a direction, means—
  - (a) the day on which the direction was given, or
  - (b) where it has previously been reviewed, the day on which it was last reviewed.
- (6) If in any calendar year the Secretary of State reviews a defence direction, he shall—
  - (a) prepare a report on all reviews of defence directions which he has undertaken during that year, and
  - (b) lay a copy of the report before each House of Parliament.
- (7) In subsection (6) “defence direction” means a direction given under this section for the purposes of defence.

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.16 p 380

## **29. Reference by relevant advisory body**

- (1) Subsections (2) and (3) apply where—
  - (a) the relevant advisory body has given advice under section 26(4) or on being consulted under section 27(6), but

- (b) in any respect, the relevant authority decide not to act in accordance with that advice.
- (2) The relevant advisory body may refer the decision—
  - (a) in the case of land in England, to the Secretary of State, or
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (3) On a reference under this section the Secretary of State or the National Assembly for Wales may, if he or it thinks fit—
  - (a) cancel any direction given by the relevant authority, or
  - (b) require the relevant authority to give such direction under section 26 as the Secretary of State or, as the case may be, the Assembly, think fit.
- (4) Sections 7 and 8 (and Schedule 3) have effect in relation to a reference under this section as they have effect in relation to an appeal under section 6.
- (5) In this section—
 

“the relevant advisory body” has the same meaning as in section 26, except that it does not include the National Assembly for Wales.

*As amended by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 SI 2002 No 794 Sch 1 para 43 and Sch 2.*

Text:

### **30. Appeal by person interested in land**

- (1) Subsections (2) and (3) apply where—
  - (a) a person interested in any land (in this section referred to as “the applicant”)—
    - (i) has applied for a direction under section 24 or 25, or
    - (ii) has made representations on being consulted under section 27(5), but
  - (b) in any respect, the relevant authority decide not to act in accordance with the application or the representations.
- (2) The relevant authority shall inform the applicant of their reasons for not acting in accordance with the application or representations.
- (3) The applicant may appeal against the decision—
  - (a) in the case of land in England, to the Secretary of State, or
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (4) On appeal under this section the Secretary of State or the National Assembly for Wales may, if he or it thinks fit—
  - (a) cancel any direction given by the relevant authority, or
  - (b) require the relevant authority to give such direction under section 24 or 25 as the Secretary of State or, as the case may be, the Assembly, think fit.
- (5) Sections 7 and 8 (and Schedule 3) have effect in relation to an appeal under this section as they have effect in relation to an appeal under section 6.

*As amended by the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 SI 2002 No 794 Sch 1 para 44 and Sch 2.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.16 p 379

### **31. Exclusion or restriction of access in case of emergency**

- (1) Regulations may make provision enabling the relevant authority—
  - (a) where the authority are satisfied that an emergency has arisen which makes the exclusion or restriction of access by virtue of section 2(1) necessary for any of the purposes specified in section 24(1C)(b), 25(1) or 26(3), by direction to exclude or restrict such access, in respect of any land, for a period not exceeding three months.
  - (b) where the authority are satisfied that an emergency has arisen which makes the exclusion or restriction of access by virtue of section 2(1) necessary for any of the purposes specified in section 24(1C)(a), by



direction to exclude or restrict such access, in respect of any land which is coastal margin, for a period not exceeding three months.

- (1A) Nothing in subsection (1) authorises regulations to make provision which enables the relevant authority to exclude or restrict access, for the purposes specified in subsection (1)(a) of section 25, in respect of any land which is coastal margin and is within subsection (1A)(a) or (b) of that section.
- (2) Regulations under this section may provide for any of the preceding provisions of this Chapter to apply in relation to a direction given under the regulations with such modifications as may be prescribed.

*As amended by CMO 2010 Sch 1 para 23.*

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, as amended by the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, apply to this section.

Text: 14.2.16 p 381, [14.2A.7](#)

### **32. Regulations relating to exclusion or restriction of access**

- (1) Regulations may make provision—
- (a) as to the giving of notice under section 22(1),
  - (b) as to the steps to be taken under section 23(1) and (2),
  - (c) as to the procedure on any application to the relevant authority under section 24 or 25, including the period within which any such application must be made,
  - (d) as to the giving of notice for the purposes of section 24(2)(b)(ii), 25(2)(b)(ii), 26(2)(c)(ii) or 28(2)(c)(ii),
  - (e) prescribing the form of any notice or application referred to in paragraphs (a) to (d),
  - (f) restricting the cases in which a person who is interested in any land only as the holder of rights of common may make an application under section 24 or 25 in respect of the land,
  - (g) as to requirements to be met by relevant authorities or the Secretary of State in relation to consultation (whether or not required by the preceding provisions of this Chapter),
  - (h) as to the giving of directions by relevant authorities or the Secretary of State,
  - (i) as to notification by relevant authorities or the Secretary of State of decisions under this Chapter,
  - (j) as to steps to be taken by persons interested in land, by relevant authorities, by the bodies specified in section 26(6) or by the Secretary of State for informing the public about the exclusion or restriction under this Chapter of access by virtue of section 2(1), including the display of notices on or near the land to which the exclusion or restriction relates,
  - (k) as to the carrying out of reviews by relevant authorities under section 27(3) or by the Secretary of State under section 28(4),
    - (l) as to the period within which and manner in which appeals under section 30 are to be brought,
    - (m) as to the advertising of such an appeal, and
    - (n) as to the manner in which such appeals are to be considered.
- (2) Regulations made under subsection (1)(k) may provide for any of the provisions of this Chapter relating to appeals to apply (with or without modifications) on a review under section 27.

Note: The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 SI 2003 No 2713, and the Access to the Countryside (Exclusions and Restrictions) (England) (Amendment) Regulations 2006 SI 2006 No 990, have been made under this section.

Text: 14.2.15 p 378

### **33. Guidance by countryside bodies to National Park authorities**

- (1) Subject to subsection (3), Natural England may issue guidance—
- (a) to National Park authorities in England with respect to the discharge by National Park authorities of their functions under this Chapter, and
  - (b) to the Forestry Commissioners with respect to the discharge by the Forestry Commissioners of any functions conferred on them by virtue of section 21(6) in relation to land in England.
- (2) Subject to subsection (3), the Natural Resources Body for Wales may issue guidance—
- (a) to National Park authorities in Wales with respect to the discharge by National Park authorities of their functions under this Chapter

- (3) Natural England or the Natural Resources Body for Wales may not issue any guidance under this section unless the guidance has been approved—
  - (a) in the case of Natural England, by the Secretary of State, and
  - (b) in the case of the Natural Resources Body for Wales, by the National Assembly for Wales.
- (4) Where Natural England or the Natural Resources Body for Wales issue any guidance under this section, they shall arrange for the guidance to be published in such manner as they consider appropriate.
- (5) A National Park authority or the Forestry Commissioners shall have regard to any guidance issued to them under this section.

*As amended by NERCA 2006 Sch 11 para 158 Natural Resources Body for Wales (Functions) Order 2013 SI 2013 No 755 Sch 2 para 405.*

Text:

## **CHAPTER III : MEANS OF ACCESS**

### **34. Interpretation of Chapter III**

In this Chapter—

“access land” does not include any land in relation to which the application of section 2(1) has been excluded under any provision of Chapter II either indefinitely or for a specified period of which at least six months remain unexpired;

“means of access”, in relation to land, means—

- (a) any opening in a wall, fence or hedge bounding the land (or part of the land), with or without a gate, stile or other works for regulating passage through the opening,
- (b) any stairs or steps for enabling persons to enter on the land (or part of the land), or
- (c) any bridge, stepping stone or other works for crossing a watercourse, ditch or bog on the land or adjoining the boundary of the land.

Text: 14.2.21 p 383

### **35. Agreements with respect to means of access**

- (1) Where, in respect of any access land, it appears to the access authority that—
  - (a) the opening-up, improvement or repair of any means of access to the land,
  - (b) the construction of any new means of access to the land,
  - (c) the maintenance of any means of access to the land, or
  - (d) the imposition of restrictions—
    - (i) on the destruction, removal, alteration or stopping-up of any means of access to the land, or
    - (ii) on the doing of any thing whereby the use of any such means of access to the land by the public would be impeded,

is necessary for giving the public reasonable access to that land in exercise of the right conferred by section 2(1), the access authority may enter into an agreement with the owner or occupier of the land as to the carrying out of the works or the imposition of the restrictions.

- (2) An agreement under this section may provide—
  - (a) for the carrying out of works by the owner or occupier or by the access authority, and
  - (b) for the making of payments by the access authority—
    - (i) as a contribution towards, or for the purpose of defraying, costs incurred by the owner or occupier in carrying out any works for which the agreement provides, or
    - (ii) in consideration of the imposition of any restriction.

Text: 14.2.21 p 383

### **36. Failure to comply with agreement**

- (1) If the owner or occupier of any access land fails to carry out within the required time any works which he is required by an agreement under section 35 to carry out, the access authority, after giving not less than twenty-one days’ notice of their intention to do so, may take all necessary steps for carrying out those works.
- (2) In subsection (1) “the required time” means the time specified in, or determined in accordance with, the agreement as that within which the works must be carried out or, if there is no such time, means a reasonable

time.

- (3) If the owner or occupier of any access land fails to observe any restriction which he is required by an agreement under section 35 to observe, the access authority may give him a notice requiring him within a specified period of not less than twenty-one days to carry out such works as may be specified in the notice, for the purpose of remedying the failure to observe the restriction.
- (4) A notice under subsection (3) must contain particulars of the right of appeal conferred by section 38.
- (5) If the person to whom a notice under subsection (3) is given fails to comply with the notice, the access authority may take all necessary steps for carrying out any works specified in the notice.
- (6) Where the access authority carry out any works by virtue of subsection (1), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the works would fall to be borne.
- (7) Where the access authority carry out any works by virtue of subsection (5), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works from the person to whom the notice under subsection (3) was given.

Text: 14.2.21 p 383

### **37. Provision of access by access authority in absence of agreement**

- (1) Where, in respect of any access land—
  - (a) it appears to the access authority that—
    - (i) the opening-up, improvement or repair of any means of access to the land,
    - (ii) the construction of any new means of access to the land, or
    - (iii) the maintenance of any means of access to the land,is necessary for giving the public reasonable access to that land in pursuance of the right conferred by section 2(1), and
  - (b) the access authority are satisfied that they are unable to conclude on reasonable terms an agreement under section 35 with the owner or occupier of the land for the carrying out of the works,the access authority may, subject to subsection (3), give the owner or occupier a notice stating that, after the end of a specified period of not less than twenty-one days, the authority intend to take all necessary steps for carrying out the works specified in the notice for the opening-up, improvement, repair, construction or maintenance of the means of access.
- (2) A notice under subsection (1) must contain particulars of the right of appeal conferred by section 38.
- (3) Where a notice under subsection (1) is given to any person as the owner or occupier of any land, the access authority shall give a copy of the notice to every other owner or occupier of the land.
- (4) An access authority exercising the power conferred by subsection (1) in relation to the provision of a means of access shall have regard to the requirements of efficient management of the land in deciding where the means of access is to be provided.
- (5) If, at the end of the period specified in a notice under subsection (1), any of the works specified in the notice have not been carried out, the access authority may take all necessary steps for carrying out those works.

Text: 14.2.21 p 383

### **38. Appeals relating to notices**

- (1) Where a notice under section 36(3) or 37(1) has been given to a person in respect of any land, he or any other owner or occupier of the land may appeal against the notice—
  - (a) in the case of land in England, to the Secretary of State, and
  - (b) in the case of land in Wales, to the National Assembly for Wales.
- (2) An appeal against a notice under section 36(3) may be brought on any of the following grounds—
  - (a) that the notice requires the carrying out of any works which are not necessary for remedying a breach of the agreement,
  - (b) that any of the works have already been carried out, and
  - (c) that the period specified in the notice as that before the end of which the works must be carried out is too short.

- (3) An appeal against a notice under section 37(1) may be brought on any of the following grounds—
  - (a) that the notice requires the carrying out of any works which are not necessary for giving the public reasonable access to the access land in question,
  - (b) in the case of works to provide a means of access, that the means of access should be provided elsewhere, or that a different means of access should be provided, and
  - (c) that any of the works have already been carried out.
- (4) On an appeal under this section, the Secretary of State or the National Assembly for Wales may—
  - (a) confirm the notice with or without modifications, or
  - (b) cancel the notice.
- (5) Sections 7 and 8 (and Schedule 3) have effect in relation to an appeal under this section as they have effect in relation to an appeal under section 6.
- (6) Regulations may make provision as to—
  - (a) the period within which and manner in which appeals under this section are to be brought,
  - (b) the advertising of such an appeal, and
  - (c) the manner in which such appeals are to be considered.
- (7) Where an appeal has been brought under this section against a notice under section 36(3) or 37(1), the access authority may not exercise their powers under section 36(5) or section 37(5) (as the case may be) pending the determination or withdrawal of the appeal.

Note: The Access to the Countryside (Appeals against Works Notices) (England) Regulations 2011 SI 2011 No 2019 apply to appeals under this section.

Text: 14.2.21 p 383

### **39. Order to remove obstruction**

- (1) Where at any time two or more access notices relating to a means of access have been given to any person within the preceding thirty-six months, a magistrates' court may, on the application of the access authority, order that person—
  - (a) within such time as may be specified in the order, to take such steps as may be so specified to remove any obstruction of that means of access, and
  - (b) not to obstruct that means of access at any time when the right conferred by section 2(1) is exercisable.
- (2) If a person (“the person in default”) fails to comply with an order under this section—
  - (a) he is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and
  - (b) the access authority may remove any obstruction of the means of access and recover from the person in default the costs reasonably incurred by them in doing so.
- (3) In this section “access notice” means a notice under section 36(3) or 37(1) in respect of which the period specified in the notice has expired, other than a notice in respect of which an appeal is pending or which has been cancelled on appeal.

Text: 14.2.21 p 384

## **CHAPTER IV GENERAL**

### **40. Powers of entry for purposes of Part I**

- (1) A person who is authorised by the appropriate countryside body to do so may enter any land—
  - (a) for the purpose of surveying it in connection with the preparation of any map under this Part or the review of any map issued under this Part,
  - (b) for the purpose of determining whether any power conferred on the appropriate countryside body by Chapter II should be exercised in relation to the land,
  - (c) for the purpose of ascertaining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (d) in connection with an appeal under any provision of this Part, or
  - (e) for the purpose of determining whether to apply to the Secretary of State or the National Assembly for Wales under section 58.
- (2) A person who is authorised by a local highway authority to do so may enter any land—
  - (a) for the purpose of determining whether the local highway authority should enter into an agreement

- under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),
- (b) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (c) for the purposes of erecting or maintaining notices under section 19(1).
- (3) A person who is authorised by a National Park authority to do so may enter any land—
- (a) for the purpose of enabling the authority to determine whether to exercise any power under Chapter II of this Act in relation to the land,
  - (b) for the purpose of determining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (c) in connection with any appeal under any provision of this Part,
  - (d) for the purpose of determining whether the authority should enter into an agreement under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),
  - (e) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (f) for the purposes of erecting or maintaining notices under section 19(1).
- (4) A person who is authorised by the Forestry Commissioners to do so may enter any land—
- (a) for the purpose of determining whether any power conferred on the Forestry Commissioners by Chapter II should be exercised in relation to the land, or
  - (b) in connection with an appeal under any provision of this Part.
- (5) A person acting in the exercise of a power conferred by this section may—
- (a) use a vehicle to enter the land;
  - (b) take a constable with him if he reasonably believes he is likely to be obstructed;
  - (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
  - (d) take samples of the land and of anything on it.
- (6) If in the exercise of a power conferred by this section a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.
- (7) A person authorised under this section to enter upon any land—
- (a) shall, if so required, produce evidence of his authority before entering, and
  - (b) shall produce such evidence if required to do so at any time while he remains on the land.
- (8) A person shall not under this section demand admission as of right to any occupied land, other than access land, unless—
- (a) at least twenty-four hours' notice of the intended entry has been given to the occupier, or
  - (b) it is not reasonably practicable to give such notice, or
  - (c) the entry is for the purpose specified in subsection (2)(b) and (3)(e).
- (9) The rights conferred by this section are not exercisable in relation to a dwelling.
- (10) A person who intentionally obstructs a person acting in the exercise of his powers under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Text:

#### **41. Compensation relating to powers under s. 40**

- (1) It is the duty of a body by which an authorisation may be given under section 40 to compensate any person who has sustained damage as a result of—
- (a) the exercise of a power conferred by that section by a person authorised by that body to do so, or
  - (b) the failure of a person so authorised to perform the duty imposed on him by subsection (6) of that section,
- except where the damage is attributable to the fault of the person who sustained it.
- (2) Any dispute as to a person's entitlement to compensation under this section or as to its amount shall be referred to an arbitrator to be appointed, in default of agreement—

- (a) as respects entry on land in England, by the Secretary of State, and
- (b) as respects entry on land in Wales, by the National Assembly for Wales.

Text:

#### **42. References to public places in existing enactments**

- (1) This section applies to any enactment which—
  - (a) is contained in an Act passed before or in the same Session as this Act, and
  - (b) relates to things done, or omitted to be done, in public places or places to which the public have access.
- (2) Regulations may provide that, in determining for the purposes of any specified enactment to which this section applies whether a place is a public place or a place to which the public have access, the right conferred by section 2(1), or access by virtue of that right, is to be disregarded, either generally or in prescribed cases.

Text: 14.2.12 p 377

#### **43. Crown application of Part I**

- (1) This Part binds the Crown.
- (2) No contravention by the Crown of any provision of this Part shall make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) The provisions of this Part apply to persons in the public service of the Crown as they apply to other persons.

Text:

#### **44. Orders and regulations under Part I**

- (1) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales is exercisable by statutory instrument.
- (2) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales includes power—
  - (a) to make different provision for different cases, and
  - (b) to make such incidental, supplementary, consequential or transitional provision as the person making the order or regulations considers necessary or expedient.
- (3) No order shall be made under section 3 or 3A(1) or regulations under paragraph 3 of Schedule 2 by the Secretary of State unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument containing regulations made by the Secretary of State under any provision of this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*As amended by MACA 2009 s 303(8).*

Text:

#### **45. Interpretation of Part I**

- (1) In this Part, unless a contrary intention appears—
  - “access authority” has the meaning given by section 1(2);
  - “access land” has the meaning given by section 1(1);
  - “the appropriate countryside body” has the meaning given by section 1(2);
  - “coastal margin” has the meaning given by section 1(2);
  - “excepted land” has the meaning given by section 1(2);
  - “Inner London” means the area comprising the inner London boroughs, the City of London, the Inner Temple and the Middle Temple;
  - “interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an estate or interest in land or by virtue of a licence or agreement, and in particular includes rights of common and sporting rights, and references to a person interested in land shall be construed accordingly;
  - “livestock” means cattle, sheep, goats, swine, horses or poultry, and for the purposes of this definition

“cattle” means bulls, cows, oxen, heifers or calves, “horses” include asses and mules, and “poultry” means domestic fowls, turkeys, geese or ducks;  
 “local highway authority” has the same meaning as in the Highways Act 1980;  
 “local or private Act” includes an Act confirming a provisional order;  
 “mountain” has the meaning given by section 1(2);  
 “open country” has the meaning given by section 1(2);  
 “owner”, in relation to any land, means, subject to subsection (2), any person, other than a mortgagee not in possession, who, whether in his own right or as trustee for another person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;  
 “prescribed” means prescribed by regulations;  
 “registered common land” has the meaning given by section 1(3);  
 “regulations” means regulations made by the Secretary of State (as respects England) or by the National Assembly for Wales (as respects Wales);  
 “rights of common” has the same meaning as in the Commons Registration Act 1965;

- (2) In relation to any land which is subject to a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 or a tenancy to which the Agricultural Holdings Act 1986 applies, the definition of “owner” in subsection (1) does not apply where it is excluded by section 2(5) or 21(4) or by paragraph 7(4) of Schedule 2.
- (3) For the purposes of this Part, the Broads are to be treated as a National Park and the Broads Authority as a National Park authority.
- (4) In subsection (3) “the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988.

*As amended by Communications Act 2003 Sch 19 and by MACA 2009 s 303(9).*

Note : in the pilot areas under the Commons Act 2006 amendments referring to the 2006 Act have been made to the definition of “rights of common”: Commons Act 2006 Sch 5 para 7(4) and Commons Act 2006 (Commencement No. 6) (England) Order 2011 SI 2011 No 2460 article 2 and Commons Act 2006 (Commencement No. 7, Transitional and Savings Provisions) (England) Order 2014 SI 2014 No 3026 article 3(1)(h).

Text: 14.2.2 p 369, 14.2.5 p 372

#### **46. Repeal of previous legislation, and amendments relating to Part I**

- (2) No access agreement or access order under Part V of the National Parks and Access to the Countryside Act 1949 (access to open country) may be made after the commencement of this subsection in relation to land which is open country or registered common land for the purposes of this Part.
- (3) Schedule 4 (which contains minor and consequential amendments relating to access to the countryside) has effect.

*As amended by Commons Act 2006 Sch 5 para 7(5).*

Text: 14.3 p 385

### **SCHEDULE 1 : EXCEPTED LAND FOR PURPOSES OF PART I**

#### *PART I : EXCEPTED LAND*

1. Land on which the soil is being, or has at any time within the previous twelve months been, disturbed by any ploughing or drilling undertaken for the purposes of planting or sowing crops or trees (other than land which is coastal margin and is, or forms part of, a coastal route strip).
2. Land covered by buildings or the curtilage of such land.
3. Land (other than coastal margin) within 20 metres of a dwelling.
4. Land used as a park or garden.
5. Land used for the getting of minerals by surface working (including quarrying).
6. Land used for the purposes of a railway (including a light railway) or tramway.
7. Land used for the purposes of a golf course, racecourse or aerodrome (other than, in the case of land used for the purposes of a golf course, land which is coastal margin and is, or forms part of, a coastal route strip).
8. Land which does not fall within any of the preceding paragraphs and is covered by—
  - (a) works used for the purposes of a statutory undertaking (other than flood defence works, or sea defence

- works, on land which is coastal margin), or
- (b) works used for the purposes of an electronic communications code network, or the curtilage of any such land
9. Land as respects which development which will result in the land becoming land falling within any of paragraphs 2 to 8 is in the course of being carried out.
10. Land (other than coastal margin) within 20 metres of a building which is used for housing livestock, not being a temporary or moveable structure.
11. Land covered by pens in use for the temporary reception or detention of livestock.
12. Land (other than coastal margin) habitually used for the training of racehorses.
13. Land the use of which is regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1900.
- 13A. Land which is coastal margin and is, or forms part of, a regulated caravan or camping site (other than land which is, or forms part of, a coastal route strip).
- 13B. Land which is coastal margin and is, or forms part of, a highway (within the meaning of the Highways Act 1980(b)).
- 13C. Land which is coastal margin and is, or forms part of, a burial ground (other than land which is, or forms part of, a coastal route strip).
- 13D. Land which is coastal margin and—
- (a) is or forms part of a school playing field, or
- (b) is land otherwise occupied by a school and used for the purposes of that school.

*PART II : SUPPLEMENTARY PROVISIONS*

14.(1) In this Schedule—

“approved section of the English coastal route” means a route in relevant approved proposals, other than an official alternative route,

“building” —

- (a) includes any structure or erection and any part of a building as so defined, but
- (b) does not include any fence or wall, anything which is a means of access as defined by section 34 or, in the case of land which is coastal margin, any slipway, hard or quay;

and for this purpose “structure” includes any tent, caravan or other temporary or moveable structure;

“burial ground” means a place which, for the time being, is set apart as a churchyard, cemetery or other ground (whether or not consecrated) in which bodies are interred;

“coastal route strip” means—

- (a) land over which the line of an approved section of the English coastal route, or an official alternative route, passes, and
- (b) subject to sub-paragraph (2), land which is adjacent to and within 2 metres either side of such a line;

“development” and “minerals” have the same meaning as in the Town and Country Planning Act 1990;

“official alternative route” has the same meaning as in section 3A;

“ploughing” and “drilling” include respectively agricultural or forestry operations similar to ploughing and agricultural or forestry operations similar to drilling;

“regulated caravan or camping site” means—

- (a) land which is used for the purposes of a caravan site (within the meaning of section 1(4) of the Caravan Sites and Control of Development Act 1960(a)) by virtue of—
- (i) a site licence issued under Part 1 of that Act (caravan site licences),
- (ii) a certificate issued under paragraph 5 of Schedule 1 to that Act (sites approved by exempted organisations), or
- (iii) paragraph 11 of that Schedule (land occupied by a local authority as a caravan site), or
- (b) land which is used for the purposes of a site for tents or other moveable dwellings (within the meaning of section 269 of the Public Health Act 1936(b)) by virtue of a licence issued under subsection (1)(i) of that section (disregarding any certificate under subsection (6) of that section which has the effect of a licence);

“relevant approved proposals” has the same meaning as in section 3A;

“statutory undertaker” means—



- (a) a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power,
- (b) any public gas transporter, within the meaning of Part I of the Gas Act 1986,
- (c) any water or sewerage undertaker,
- (d) any holder of a licence under section 6(1) of the Electricity Act 1989, or
- (e) the Environment Agency, the Natural Resources Body for Wales, a universal service provider (within the meaning of the Postal Services Act 2000) in connection with the provision of a universal postal service (within the meaning of that Act), the Civil Aviation Authority or a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence);

“statutory undertaking” means—

- (a) the undertaking of a statutory undertaker (which, in the case of a universal service provider (within the meaning of the Postal Services Act 2000) means his undertaking so far as relating to the provision of a universal postal service (within the meaning of that Act), and, in the case of a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000, means that person’s undertaking as licence holder), or
- (b) an airport to which Part V of the Airports Act 1986 applies.

- (2) Where relevant approved proposals contain a proposal under section 55D(2)(c) of the National Parks and Access to the Countryside Act 1949 for the landward or seaward boundary of any part of a coastal route strip excluded from a description of excepted land by paragraph 1, 7, 13A or 13C to coincide with a physical feature identified in the proposal, the boundary in question is to coincide with that feature.

14A. In paragraph 5, the reference to the getting of minerals by surface working does not include the removal by any person of sand or shingle from an area of foreshore or beach which is coastal margin, in pursuance of a right which is enjoyed by the person under any grant or reservation, local or personal Act, Royal charter or letters patent or by prescription.

15.(1) Land is not to be treated as excepted land by reason of any development carried out on the land, if the carrying out of the development requires planning permission under Part III of the Town and Country Planning Act 1990 and that permission has not been granted.

- (2) Sub-paragraph (1) does not apply where the development is treated by section 191(2) of the Town and Country Planning Act 1990 as being lawful for the purposes of that Act.

16. The land which is excepted land by virtue of paragraph 10 does not include—

- (a) any means of access, as defined by section 34, or
- (b) any way leading to such a means of access,

if the means of access is necessary for giving the public reasonable access to access land.

17. Land which is habitually used for the training of racehorses is not to be treated by virtue of paragraph 11 as excepted land except—

- (a) between dawn and midday on any day, and
- (b) at any other time when it is in use for that purpose.

*As amended by Postal Services Act 2000 (Consequential Modifications No. 1) Order 2001 SI 2001 No 1149 Sch 1 para 136, Transport Act 2000 (Consequential Amendments) Order 2001 SI 2001 no 4050 Sch para 9, Communications Act 2003 Sch 17 para 165, by CMO 2010 Sch 1 Part 1 and by Natural Resources Body for Wales (Functions) Order 2013 SI 2013 No 755 Sch 2 para 410.*

Text: 14.2.7 p 374, [14.2A.6](#)

## **SCHEDULE 2 : RESTRICTIONS TO BE OBSERVED BY PERSONS EXERCISING RIGHT OF ACCESS**

### *General restrictions*

1. (1) Subject to sub-paragraph (2), section 2(1) does not entitle a person to be on any land if, in or on that land, he—

- (a) drives or rides any vehicle other than an invalid carriage as defined by section 20(2) of the Chronically Sick and Disabled Persons Act 1970,
- (b) uses a vessel or sailboard on any non-tidal water,

- (c) has with him any animal other than a dog,
  - (d) commits any criminal offence,
  - (e) lights or tends a fire or does any act which is likely to cause a fire,
  - (f) intentionally or recklessly takes, kills, injures or disturbs any animal, bird or fish,
  - (g) intentionally or recklessly takes, damages or destroys any eggs or nests,
  - (h) feeds any livestock,
  - (i) bathes in any non-tidal water,
  - (j) engages in any operations of or connected with hunting, shooting, fishing, trapping, snaring, taking or destroying of animals, birds or fish or has with him any engine, instrument or apparatus used for hunting, shooting, fishing, snaring, taking or destroying animals, birds or fish,
  - (k) uses or has with him any metal detector,
  - (l) intentionally removes, damages or destroys any plant, shrub, tree or root or any part of a plant, shrub, tree or root,
  - (m) obstructs the flow of any drain or watercourse, or opens, shuts or otherwise interferes with any sluice-gate or other apparatus,
  - (n) without reasonable excuse, interferes with any fence, barrier or other device designed to prevent accidents to people or to enclose livestock,
  - (o) neglects to shut any gate or to fasten it where any means of doing so is provided, except where it is reasonable to assume that a gate is intended to be left open,
  - (p) affixes or writes any advertisement, bill, placard or notice,
  - (q) in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land, does anything which is intended by him to have the effect—
    - (i) of intimidating those persons so as to deter them or any of them from engaging in that activity,
    - (ii) of obstructing that activity, or
    - (iii) of disrupting that activity,
  - (r) without reasonable excuse, does anything which (whether or not intended by him to have the effect mentioned in paragraph (q)) disturbs, annoys or obstructs any persons engaged in a lawful activity on the land,
  - (s) engages in any organised games, or in camping, hang-gliding or para-gliding, or
  - (t) engages in any activity which is organised or undertaken (whether by him or another) for any commercial purpose.
- (2) Nothing in sub-paragraph (1)(f) or (j) affects a person's entitlement by virtue of section 2(1) to be on any land which is coastal margin if the person's conduct (to the extent that it falls within sub-paragraph (1)(f) or (j)) is limited to permitted fishing-related conduct.
- (3) In sub-paragraph (2) the reference to permitted fishing-related conduct is a reference to the person—
- (a) having a fishing rod or line, or
  - (b) engaging in any activities which—
    - (i) are connected with, or ancillary to, fishing with a rod and line, or with a line only, in the exercise of a right to fish, and
    - (ii) take place on land other than land used for grazing or other agricultural purposes.
2. (1) In paragraph 1(k), “metal detector” means any device designed or adapted for detecting or locating any metal or mineral in the ground.
- (2) For the purposes of paragraph 1(q) and (r), activity on any occasion on the part of a person or persons on land is “lawful” if he or they may engage in the activity on the land on that occasion without committing an offence or trespassing on the land.
3. Regulations may amend paragraphs 1 and 2.
4. (1) During the period beginning with 1st March and ending with 31st July in each year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead.
- (2) Sub-paragraph (1) does not apply in relation to land which is coastal margin.
5. Whatever the time of year, section 2(1) does not entitle a person to be on any land if he takes, or allows to enter or remain, any dog which is not on a short lead and which is in the vicinity of livestock.

6. In paragraphs 4 and 5, “short lead” means a lead of fixed length and of not more than two metres.
- 6A.(1) Whatever the time of year, section 2(1) does not entitle a person to be on any land which is coastal margin at any time if—
- (a) that person has taken onto the land, or allowed to enter or remain on the land, any dog, and
  - (b) at that time, the dog is not under the effective control of that person or another person.
- (2) For this purpose a dog is under the effective control of a person if the following conditions are met.
- (3) The first condition is that—
- (a) the dog is on a lead, or
  - (b) the dog is within sight of the person and the person remains aware of the dog’s actions and has reason to be confident that the dog will return to the person reliably and promptly on the person’s command.
- (4) The second condition is that the dog remains—
- (a) on access land, or
  - (b) on other land to which that person has a right of access.
- (5) For the purposes of sub-paragraph (4), a dog which is in tidal waters is to be regarded as remaining on access land.
- 6B.(1) Section 2(1) does not entitle a person to be on any land which is coastal margin if, on that land, the person obstructs any person passing, or attempting to pass, on foot along any part of the English coastal route, any official alternative route or any relevant temporary route.
- (2) In this paragraph—
- “the English coastal route” means the route secured pursuant to the coastal access duty (within the meaning of section 296 of the Marine and Coastal Access Act 2009);
- “official alternative route” has the meaning given by section 55J of the National Parks and Access to the Countryside Act 1949(b);
- “relevant temporary route” means a route for the time being having effect by virtue of a direction under section 55I of that Act(c) to the extent that the line of the route passes over coastal margin.

*Removal or relaxation of restrictions*

7. (1) The relevant authority may by direction, with the consent of the owner of any land, remove or relax any of the restrictions imposed by paragraphs 1, 4 and 5 in relation to that land, either indefinitely or during a specified period.
- (2) In sub-paragraph (1), the reference to a specified period includes references—
- (a) to a specified period in every calendar year, or
  - (b) to a period which is to be determined by the owner of the land in accordance with the direction and notified by him to the relevant authority in accordance with regulations.
- (3) Regulations may make provision as to—
- (a) the giving or revocation of directions under this paragraph,
  - (b) the variation of any direction given under this paragraph by a subsequent direction so given,
  - (c) the giving or revocation of consent for the purposes of sub-paragraph (1), and
  - (d) the steps to be taken by the relevant authority or the owner for informing the public about any direction under this paragraph or its revocation.
- (4) In this paragraph—
- “the relevant authority” has the meaning given by section 21;
- “owner”, in relation to any land which is subject to a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 or a tenancy to which the Agricultural Holdings Act 1986 applies, means the tenant under that tenancy

*Dedicated land*

8. In relation to land to which a dedication under section 16 relates (whether or not it would be access land apart from the dedication), the provisions of this Schedule have effect subject to the terms of the dedication

*As amended by CMO 2010 Sch 1 Part 2.*

Text: 2.3.2 p 16, 14.2.11 p 376, 14.2.13 p 377, 14.2.22 p 384, [14.2A.7](#)

## SCHEDULE 3 : DELEGATION OF APPELLATE FUNCTIONS

### *Interpretation*

1. In this Schedule—
  - “appointed person” means a person appointed under section 8(1)(a);
  - “the appointing authority” means—
    - (a) the Secretary of State, in relation to an appointment made by him, or
    - (b) the National Assembly for Wales, in relation to an appointment made by it;
  - “appointment”, in the case of any appointed person, means appointment under section 8(1)(a).

### *Appointments*

2. An appointment under section 8(1)(a) must be in writing and—
  - (a) may relate to any particular appeal or matter specified in the appointment or to appeals or matters of a description so specified,
  - (b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of such conditions as may be specified in the appointment, and
  - (c) may, by notice in writing given to the appointed person, be revoked at any time by the appointing authority in respect of any appeal or matter which has not been determined by the appointed person before that time

### *Powers of appointed person*

3. Subject to the provisions of this Schedule, an appointed person shall, in relation to any appeal or matter to which his appointment relates, have the same powers and duties as the appointing authority, other than—
  - (a) any function of making regulations;
  - (b) any function of holding an inquiry or other hearing or of causing an inquiry or other hearing to be held; or
  - (c) any function of appointing a person for the purpose—
    - (i) of enabling persons to appear before and be heard by the person so appointed; or
    - (ii) of referring any question or matter to that person.

### *Holding of local inquiries and other hearings by appointed persons*

4. (1) If either of the parties to an appeal or matter expresses a wish to appear before and be heard by the appointed person, the appointed person shall give both of them an opportunity of appearing and being heard.  
(2) Whether or not a party to an appeal or matter has asked for an opportunity to appear and be heard, the appointed person—
  - (a) may hold a local inquiry or other hearing in connection with the appeal or matter, and
  - (b) shall, if the appointing authority so directs, hold a local inquiry in connection with the appeal or matter.  
(3) Where an appointed person holds a local inquiry or other hearing by virtue of this Schedule, an assessor may be appointed by the appointing authority to sit with the appointed person at the inquiry or hearing and advise him on any matters arising, notwithstanding that the appointed person is to determine the appeal or matter.  
(4) Subject to paragraph 5, the costs of a local inquiry held under this Schedule shall be defrayed by the appointing authority.

### *Local inquiries under this Schedule: evidence and costs*

5. Subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) shall apply to local inquiries or other hearings held under this Schedule by an 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 appointing authority, and
    - (ii) references to a local authority included references to the appropriate countryside body, 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 or the appointing authority.

*Revocation of appointments and making of new appointments*

6. (1) Where under paragraph 2(c) the appointment of the appointed person is revoked in respect of any appeal or matter, the appointing authority shall, unless he proposes to determine the appeal or matter himself, appoint another person under section 8(1)(a) to determine the appeal or matter instead.
- (2) Where such a new appointment is made, the consideration of the appeal or matter, or any hearing in connection with it, shall be begun afresh.
- (3) Nothing in sub-paragraph (2) shall require any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

*Certain acts and omissions of appointed person to be treated as those of appointing authority*

7. (1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates shall be treated for all purposes as done or omitted to be done by the appointing authority.
- (2) Sub-paragraph (1) does not apply—
  - (a) for the purposes of so much of any contract made between the appointing authority and the appointed person as relates to the exercise of the function, or
  - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that sub-paragraph.

Text:

## MARINE AND COASTAL ACCESS ACT 2009 (c. 23)

### 296. The coastal access duty

- (1) Natural England and the Secretary of State must exercise the relevant functions in order to secure the following objectives.
- (2) The first objective is that there is a route for the whole of the English coast which—
  - (a) consists of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and
  - (b) (except to the extent that it is completed by ferry) passes over land which is accessible to the public.
- (3) The second objective is that, in association with that route (“the English coastal route”), a margin of land along the length of the English coast is accessible to the public for the purposes of its enjoyment by them in conjunction with that route or otherwise, except to the extent that the margin of land is relevant excepted land.
- (4) The duty imposed on Natural England and the Secretary of State by subsection (1)—
  - (a) is referred to in this Part as the coastal access duty, and
  - (b) is to be discharged by them in such stages and within such period as appear to them to be appropriate.
- (5) For the purposes of this section, land is accessible to the public if it is—
  - (a) land which is available to the public for the purposes of open-air recreation, by virtue of provision made under section 3A of the CROW Act and subject to any exclusions or restrictions imposed by or under Part 1 of that Act (access to the countryside),
  - (b) land in England which, for the purposes of section 1(1) of that Act, is treated by section 15(1) of that Act as being accessible to the public apart from that Act, or
  - (c) excepted land in England which is accessible to the public by virtue of any enactment or rule of law (other than a military lands byelaw).
- (6) Nothing in this section requires Natural England or the Secretary of State, in discharging the coastal access duty so far as it relates to the objective in subsection (3), to exercise functions so as to secure that any land becomes land within subsection (5)(b) or (c).
- (7) For the purposes of the coastal access duty, a person is to be regarded as enabled to make a journey by ferry even if that journey can be made at certain times, or during certain periods, only.
- (8) In this section—

“the 1949 Act” means the National Parks and Access to the Countryside Act 1949 (c. 97);  
“the CROW Act” means the Countryside and Rights of Way Act 2000 (c. 37);  
“excepted land” has the same meaning as in Part 1 of the CROW Act;

“military lands byelaw” means a byelaw under section 14 of the Military Lands Act 1892 (c. 43) or section 2 of the Military Lands Act 1900 (c. 56)

“relevant excepted land” means excepted land other than land within subsection (5)(c);

“the relevant functions” means—

- (a) in relation to Natural England—
  - (i) its functions under this Part, Part 4 of the 1949 Act (long-distance routes) and Part 1 of the CROW Act (access to the countryside), and
  - (ii) such of its other functions as it considers it appropriate to exercise for the purpose of securing the objectives in subsections (2) and (3), and
- (b) in relation to the Secretary of State—
  - (i) the Secretary of State’s functions under this Part, Part 4 of the 1949 Act and Part 1 of the CROW Act, and
  - (ii) such of the Secretary of State’s other functions as the Secretary of State considers it appropriate to exercise for the purpose of securing the objectives in subsections (2) and (3).

Text: [14.2A.3](#), [14.2A.8](#)

### **297. General provision about the coastal access duty**

- (1) In discharging the coastal access duty, Natural England and the Secretary of State must comply with the requirements of this section.
- (2) They must have regard to—
  - (a) the safety and convenience of those using the English coastal route,
  - (b) the desirability of that route adhering to the periphery of the coast and providing views of the sea, and
  - (c) the desirability of ensuring that so far as reasonably practicable interruptions to that route are kept to a minimum.
- (3) They must aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land.
- (4) For this purpose a person has a relevant interest in land if the person—
  - (a) holds an estate in fee simple absolute in possession in the land,
  - (b) holds a term of years absolute in the land, or
  - (c) is in lawful occupation of the land.

Text: [14.2A.3](#)

### **298. The coastal access scheme**

- (1) Natural England must—
  - (a) prepare a scheme setting out the approach it will take when discharging the coastal access duty, and
  - (b) submit the scheme to the Secretary of State.
- (2) The Secretary of State may—
  - (a) approve the scheme, with or without modifications, or
  - (b) reject the scheme and give Natural England a notice requiring it to prepare and submit a new scheme under subsection (1).
- (3) The scheme must be submitted to the Secretary of State within the period of 12 months beginning with the day on which this section comes into force or, in a case within subsection (2)(b), within the period specified in the notice.
- (4) Natural England may, with the approval of the Secretary of State, revise a scheme approved under this section.
- (5) A scheme approved under this section (and any revised scheme) must set out the approach Natural England will take when deciding, for the purposes of section 55A(4) of the 1949 Act, whether it would be appropriate for an access authority to carry out any preliminary activity (within the meaning of section 55A(3) of that Act).
- (6) The Secretary of State must lay before Parliament a copy of the scheme approved under this section and, where that scheme is revised, a copy of the revised scheme.
- (7) Before preparing or revising a scheme under this section, Natural England must consult such persons as it

considers appropriate.

- (8) Natural England must, as soon as reasonably practicable, publish in such manner as it considers appropriate—
  - (a) the scheme approved by the Secretary of State, and
  - (b) where that scheme is revised, the revised scheme.
- (9) In discharging the coastal access duty, Natural England must act in accordance with the scheme approved under this section (or, where that scheme has been revised, the revised scheme).
- (10) Until such time as there is an approved scheme under this section, Natural England may not prepare or submit a report under section 51 or 55 of the 1949 Act (report containing proposals for long-distance routes) pursuant to the coastal access duty.
- (11) Nothing in subsection (10) prevents Natural England from surveying any land in connection with the preparation of such a report.

Text: [14.2A.4](#)

### **299. Review of the coastal access scheme**

- (1) Where a scheme has been approved under section 298, Natural England may, from time to time, review the scheme (as revised from time to time under that section).
- (2) At least one review must be completed within the period of 3 years beginning with the day on which a scheme is first approved under section 298(2).
- (3) Natural England must publish a report of each review under this section as soon as reasonably practicable after the review is completed.

Text: [14.2A.4](#)

### **300. The English coast**

- (1) In this Part “the English coast” means the coast of England adjacent to the sea, including the coast of any island (in the sea) comprised in England (other than an excluded island).
- (2) An island is “excluded” if it is neither—
  - (a) an accessible island, nor
  - (b) an island specified by the Secretary of State by order for the purposes of this paragraph.
- (3) An island is “accessible” if it is possible to walk to the island from the mainland of England, or from another island within subsection (2)(a) or (b), across the foreshore or by means of a bridge, tunnel or causeway.
- (4) For the purposes of subsection (3), it is possible to walk to an island even if it is possible to do so at certain times, or during certain periods, only.
- (5) An island may be specified by an order under subsection (2)(b) only if the Secretary of State is satisfied that the coast of the island is of sufficient length to enable the establishment of one or more long-distance routes along its length capable of affording the public an extensive journey on foot.
- (6) For the purposes of the objective in section 296(2) (the English coastal route), the means of access to an accessible island is (to the extent that it would not otherwise be the case) to be regarded as part of the English coast.
- (7) This section is subject to section 307 (Isles of Scilly).

Text: [14.2A.8](#)

### **301. River estuaries**

- (1) This section applies in a case where the continuity of any part of the English coast is interrupted by a river.
- (2) Natural England may exercise its functions as if the references in the coastal access provisions to the sea included the relevant upstream waters of the river.
- (3) For this purpose “the relevant upstream waters”, in relation to a river, means—
  - (a) the waters from the seaward limit of the estuarial waters of the river upstream to the first public foot crossing, or
  - (b) if Natural England so decides, the waters from the seaward limit of the estuarial waters of the river upstream to such limit, downstream of the first public foot crossing, as may be specified by it.
- (4) When exercising any power conferred by subsection (2) or (3), Natural England must have regard to the

following matters (in addition to the matters mentioned in section 297(2))—

- (a) the nature of the land which would, for the purposes of this Part, become part of the coast of England if Natural England exercised the power in subsection (2) in respect of the relevant upstream waters for the limit under consideration;
  - (b) the topography of the shoreline adjacent to those waters;
  - (c) the width of the river upstream to that limit;
  - (d) the recreational benefit to the public of the coastal access duty being extended to apply in relation to the coast adjacent to those waters;
  - (e) the extent to which the land bordering those waters would, if it were coastal margin, be excepted land;
  - (f) whether it is desirable to continue the English coastal route to a particular physical feature (whether of the landscape or otherwise) or viewpoint;
  - (g) the existence of a ferry by which the public may cross the river.
- (5) Anything done pursuant to subsection (2) (including any decision under subsection (3)(b)) is to be regarded as done pursuant to, and for the purpose of discharging, the coastal access duty.
- (6) Subsections (1) to (5) apply in relation to the Secretary of State as they apply in relation to Natural England.
- (7) A decision by Natural England to exercise a power conferred by subsection (2) or (3) in relation to a river—
- (a) is without prejudice to any decision by the Secretary of State (by virtue of subsection (6)) as to whether or not to exercise such a power in relation to the river, and
  - (b) does not affect the requirements of subsection (4) (as they apply by virtue of subsection (6)) or of section 297(2) and (3), in relation to such a decision by the Secretary of State.
- (8) In this section—
- “coastal access provisions” means—
- (a) this Part (other than this section), and
  - (b) sections 55A to 55J of the 1949 Act;
- “excepted land” has the same meaning as in Part 1 of the CROW Act
- “public foot crossing”, in relation to a river, means a bridge over which, or tunnel through which, there is a public right of way, or a public right of access, by virtue of which the public are able to cross the river on foot.

Text: [14.2A.8](#)

### **305. Restricting liabilities of Natural England and the Secretary of State**

- (1) No duty of care is owed by Natural England to any person under the law of negligence—
- (a) when preparing or submitting proposals under section 51 or 55 of the 1949 Act (long-distance routes and variations of such routes) pursuant to the coastal access duty,
  - (b) in connection with any failure by it to erect, under paragraph 6 of Schedule 20, a notice or sign of the kind mentioned in sub-paragraph (2)(b) of that paragraph (notices or signs warning of obstacles or hazards), or
  - (c) in connection with any failure by it to exclude or restrict access under Chapter 2 of Part 1 of the CROW Act to any land which is coastal margin, other than a failure within subsection (2).
- (2) A failure is within this subsection if it arises as a result of Natural England—
- (a) deciding not to act in accordance with an application under section 24 or 25 of that Act, or
  - (b) deciding not to act in accordance with representations made by a person on being consulted under section 27(5) of that Act (consultation of original applicant etc before revoking or varying a direction).
- (3) In subsections (1) and (2) the references to Natural England include any person acting on its behalf.
- (4) No duty of care is owed by the Secretary of State to any person under the law of negligence when—
- (a) approving proposals (with or without modifications) under section 52 or 55 of the 1949 Act pursuant to the coastal access duty, or
  - (b) giving a direction under section 55 of that Act, pursuant to that duty.

Text: [14.2A.7](#)

### **307. Isles of Scilly**

- (1) Subject to the provisions of an order under subsection (2), sections 296 to 301, 304, 305, 308 and 309 and



Schedule 20 do not apply in relation to the Isles of Scilly.

- (2) The Secretary of State may by order provide for the application of any of those provisions in relation to the Isles of Scilly, subject to such modifications as may be specified in the order.
- (3) Before making an order under subsection (2), the Secretary of State must consult the Council of the Isles of Scilly.
- (4) The power exercisable under section 111 of the 1949 Act (application to Isles of Scilly as if a separate county) in relation to the provisions of Part 4 of that Act is exercisable in relation to that Part as amended by section 302.
- (5) The powers exercisable under section 100(1), (2) and (4) of the CROW Act (application to Isles of Scilly) in relation to provisions of Part 1 of that Act are exercisable in relation to that Part as amended by section 303.

Text: [14.2A.8](#)

### **308. The Crown**

- (1) This Part is binding on the Crown and applies in relation to any Crown land as it applies in relation to any other land.
- (2) For this purpose “Crown land” means land an interest in which—
  - (a) belongs to Her Majesty in right of the Crown or in right of Her private estates,
  - (b) belongs to Her Majesty in right of the Duchy of Lancaster,
  - (c) belongs to the Duchy of Cornwall, or
  - (d) belongs to a government department or is held in trust for Her Majesty for the purposes of a government department.
- (3) The appropriate authority may enter into—
  - (a) an agreement under section 35 of the CROW Act (means of access) entered into by Natural England or an access authority by virtue of paragraph 1 of Schedule 20, or
  - (b) an agreement under paragraph 2 of that Schedule (establishment and maintenance of the English coastal route),as respects an interest in Crown land held by or on behalf of the Crown.
- (4) An agreement described in subsection (3)(a) or (b) as respects any other interest in Crown land is of no effect unless approved by the appropriate authority.
- (5) The “appropriate authority” means—
  - (a) in the case of land which belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having management of the land in question;
  - (b) in the case of land which belongs to Her Majesty in right of Her private estates, a person appointed by Her Majesty in writing under the Royal Sign Manual, or if no such appointment is made, the Secretary of State;
  - (c) in the case of land which belongs to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (d) in the case of land which belongs to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints
  - (e) in the case of land which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department.
- (6) If any question arises under this section as to what authority is the appropriate authority in relation to any land, that question is to be referred to the Treasury, whose decision is final.
- (7) In this section references to Her Majesty’s private estates are to be construed in accordance with section 1 of the Crown Private Estates Act 1862 (c. 37).

Text: [14.2A.3](#)

### **309. Interpretation of this Part**

In this Part—

“the 1949 Act” has the meaning given by section 296(8);

“access authority”, in relation to any land, has the same meaning as in Part 1 of the CROW Act;

“the coastal access duty” has the meaning given by section 296(4);

“coastal margin” means land which is coastal margin for the purposes of Part 1 of the CROW Act (including any land treated as coastal margin by virtue of section 16 of that Act);

“the CROW Act” has the meaning given by section 296(8);

“the English coast” has the meaning given by section 300;

“the English coastal route” has the meaning given by section 296(3);

“estuarial waters” means any waters within the limits of transitional waters, within the meaning of the Water Framework Directive (that is to say, Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy);

“functions” includes powers and duties;

“long-distance route” means a route provided for in approved proposals relating to a long-distance route within the meaning of section 52(3) of the 1949 Act (as read with section 55(4) of that Act);

“the sea”, subject to section 301, does not include any part of a river which is upstream of the seaward limit of the river’s estuarial waters.

Text:

## **Schedule 20 : Establishment and maintenance of the English coastal route etc**

### *Extension of Chapter 3 of Part 1 of the CROW Act*

1. (1) Chapter 3 of Part 1 of the CROW Act (means of access) applies in relation to section 15 route land as it applies in relation to access land.
- (2) Functions conferred by that Chapter which are exercisable in relation to any land by the access authority in relation to the land (including those exercisable by virtue of sub-paragraph (1)) are also exercisable in relation to the land by Natural England for the purposes of the coastal access duty.
- (3) In this paragraph—
  - “access land” has the same meaning as in Chapter 3 of Part 1 of the CROW Act;
  - “section 15 route land” means land—
    - (a) over which the English coastal route (or any part of it) passes, and
    - (b) which, for the purposes of section 1(1) of the CROW Act, is treated by section 15(1) of that Act as being accessible to the public apart from that Act.

### *Agreements relating to establishment and maintenance of route*

2. (1) Where, in respect of any land, it appears to Natural England that it is appropriate for works within sub-paragraph (3) to be carried out for the purposes of the coastal access duty, Natural England may enter into an agreement with the owner or occupier of the land as to the carrying out of the works.
- (2) Where, in respect of any land, it appears to the access authority in relation to that land that it is appropriate for works within sub-paragraph (3) to be carried out for the purpose of assisting Natural England to discharge the coastal access duty, the access authority may enter into an agreement with the owner or occupier of the land as to the carrying out of the works.
- (3) The works within this sub-paragraph are—
  - (a) the clearance or maintenance of land for the purpose of facilitating the use of the English coastal route by the public for journeys on foot;
  - (b) the removal, for that purpose, of any obstruction of the route;
  - (c) the clearance or maintenance of land which is coastal margin for the purpose of facilitating the exercise by the public of any right to enter or remain on the land on a bicycle or on horseback which is conferred by section 2(1) of the CROW Act (by virtue of the removal or relaxation of any of the general restrictions in Schedule 2 to that Act);
  - (d) the drainage or levelling of land, or the improvement of its surface, for the purpose mentioned in paragraph (a) or, if the land is coastal margin, the purpose mentioned in paragraph (c);
  - (e) the construction, removal, repair or improvement of any wall, rail, fence or other barrier or any posts, or the planting of any hedge.
- (4) An agreement under this paragraph may provide—
  - (a) for the carrying out of works by the owner or occupier or by the contracting authority, and
  - (b) for the making of payments by the contracting authority as a contribution towards, or for the purpose of meeting, costs incurred by the owner or occupier in carrying out any works for which the agreement

provides.

- (5) Sub-paragraph (6) applies if the owner or occupier of any land fails to carry out within the required period any works which the owner or occupier is required by an agreement under this paragraph to carry out.
- (6) The contracting authority may take all necessary steps for carrying out the works, but it may do so only after giving at least 21 days' notice of its intention to do so to the owner or occupier required by the agreement to carry out the works.
- (7) Where the contracting authority carries out any works by virtue of subparagraph (6), the authority may recover the relevant expenses from the person by whom, under the agreement, the cost of carrying out the works (after deduction of the authority's contribution) would fall to be borne.
- (8) In this paragraph—  
“contracting authority” means—
  - (a) in relation to an agreement under sub-paragraph (1), Natural England, and
  - (b) in relation to an agreement under sub-paragraph (2), the access authority by which the agreement is made;“relevant expenses”, in relation to works carried out under subparagraph (6) by a contracting authority, means the amount of any expenses reasonably incurred by the authority in carrying out the works, reduced by its contribution under the agreement;  
“the required period” means—
  - (a) the period specified in, or determined in accordance with, the agreement as that within which the works must be carried out, or
  - (b) if there is no such period, a reasonable period.

#### *Establishment and maintenance of route in absence of agreement*

3. (1) This paragraph applies where—
  - (a) it appears to Natural England that, for the purposes of the coastal access duty, it is necessary for works within paragraph 2(3) to be carried out on any land, or
  - (b) it appears to the access authority in relation to any land that, for the purpose of Natural England discharging the coastal access duty, it is necessary for such works to be carried out on that land.
- (2) In this paragraph—  
“the relevant authority” means—
  - (a) in a case within sub-paragraph (1)(a), Natural England, and
  - (b) in a case within sub-paragraph (1)(b), the access authority in question;“the required works” means the works within paragraph 2(3) which the relevant authority considers it necessary to carry out for the purposes mentioned in sub-paragraph (1)(a) or (b).
- (3) If the relevant authority is satisfied that it is unable to conclude on reasonable terms an agreement under paragraph 2 with the owner or occupier of the land for the carrying out of the required works, it may give the owner or occupier a notice stating that, after the end of the specified period, it intends to take all necessary steps for carrying out the required works.
- (4) The “specified period” means the period specified in the notice, being a period of not less than 21 days beginning with the day on which the notice is given.
- (5) A notice under sub-paragraph (3) must contain particulars of the right of appeal conferred by paragraph 4.
- (6) Where a notice under sub-paragraph (3) is given to any person as the owner or occupier, the relevant authority must give a copy of the notice to every other owner or occupier of the land.
- (7) If, at the end of the period specified in the notice under sub-paragraph (3), any of the required works have not been carried out, the relevant authority may take all necessary steps for carrying out those works.
- (8) The relevant authority exercising the power conferred by sub-paragraph (7) in respect of any land must have regard to the requirements of efficient management of the land in deciding how to carry out the required works.

#### *Appeals relating to notices under paragraph 3*

4. (1) Where a notice under paragraph 3(3) has been given to a person in respect of any land, that person or any other owner or occupier of the land may appeal against the notice to the Secretary of State.
- (2) An appeal against a notice under paragraph 3(3) may be brought on any of the following grounds—
  - (a) that the notice requires the carrying out of any works which it is not necessary to carry out for the

- purposes of the coastal access duty;
  - (b) that any of the works have already been carried out;
  - (c) that the period specified in the notice as the period after which steps are to be taken to carry out the works is too short.
- (3) On an appeal under this paragraph, the Secretary of State may—
- (a) confirm the notice with or without modifications, or
  - (b) cancel the notice.
- (4) Sections 7 and 8 of, and Schedule 3 to, the CROW Act have effect in relation to an appeal under this paragraph as they have effect in relation to an appeal under section 6 of that Act.
- (5) Regulations may make provision as to—
- (a) the period within which and manner in which appeals under this paragraph are to be brought,
  - (b) the advertising of such appeals, and
  - (c) the manner in which such appeals are to be considered.
- (6) Where an appeal has been brought under this paragraph against a notice under paragraph 3(3) given by Natural England or an access authority, it may not exercise its powers under paragraph 3(7) pending the determination or withdrawal of the appeal.

*Power for Natural England to fund works*

5. Natural England may meet or contribute towards expenditure incurred or to be incurred by any person in carrying out—
- (a) works of a kind which could be the subject of an agreement under paragraph 2, and
  - (b) works of a kind which could be the subject of an agreement under section 35 of the CROW Act entered into by Natural England by virtue of paragraph 1.

*Erection and maintenance of notices and signs*

6. (1) Natural England may erect and maintain notices or signs within sub-paragraph (2) on—
- (a) any land over which the English coastal route passes, and
  - (b) any other land which is within section 296(5)(a) (land which is accessible to the public by virtue of section 3A of the CROW Act).
- (2) The notices or signs within this sub-paragraph are those which—
- (a) identify, or provide information about, the English coastal route (or any part of it), or
  - (b) warn the public of the existence of obstacles or hazards along that route, and any other notices or signs which relate to the English coastal route.
- (3) Before erecting a notice or sign on any land under this paragraph, Natural England must, so far as reasonably practicable, consult the owner and (if different) the person in lawful occupation of the land.
- (4) Natural England may meet or contribute towards expenditure incurred or to be incurred by any person in displaying notices or signs of a kind which may be erected under this paragraph.
- (5) Natural England may, in relation to any land, delegate to the access authority in relation to the land any function conferred on Natural England by this paragraph.
- (6) Nothing in this paragraph applies in relation to the English coastal route in so far as it passes along—
- (a) a public right of way over which there are rights of way for mechanically propelled vehicles, or
  - (b) a footway comprised in a highway which also comprises a way within paragraph (a).
- (7) For the purposes of sub-paragraph (6)—
- “mechanically propelled vehicle” does not include a vehicle falling within paragraph (c) of section 189(1) of the Road Traffic Act 1988 (c. 52);
- “footway” has the same meaning as in section 329 of the Highways Act 1980 (c. 66).

7. [amends CRWA 2000 s 19]

*Removal of notices and signs*

8. (1) Any notice or sign to which this paragraph applies may be removed by—
- (a) Natural England, or
  - (b) where authorised to act on its behalf, the access authority in relation to the land on which the sign or notice is erected.
- (2) This paragraph applies to—

- (a) a notice or sign erected under paragraph 6, and
  - (b) a notice erected under section 19 of the CROW Act (notices indicating boundaries of access land, etc) in relation to land which is coastal margin.
- (3) Before removing a notice or sign on any land under sub-paragraph (1), a person must, so far as reasonably practicable, consult the owner of the land and (if different) the person in lawful occupation of the land.
- (4) Natural England may meet or contribute towards expenditure incurred or to be incurred by any person in removing notices or signs of a kind which may be erected under paragraph 6 or (in relation to land which is coastal margin) under section 19 of the CROW Act.

*Powers of entry*

9. (1) A person who is authorised by Natural England may enter any land—
- (a) for the purpose of surveying that or any other land in connection with the preparation of a report under section 51 or 55 of the 1949 Act pursuant to the coastal access duty;
  - (b) in connection with the consideration of any representations made to Natural England in respect of a report submitted under section 51 of that Act pursuant to that duty;
  - (c) for the purpose of assisting Natural England to determine whether to exercise the power conferred by section 301(2) (including the power conferred by section 301(3)(b)) (decision to treat waters of river as part of the sea);
  - (d) for the purpose of assisting Natural England to provide the Secretary of State with advice in connection with the exercise of the Secretary of State's power under section 300(2)(b) (power to specify islands).
- (2) A person who is authorised by Natural England or the appropriate access authority may enter any land—
- (a) for the purpose of determining whether any works of the kind mentioned in paragraph 2(3) are required in respect of any land;
  - (b) for the purpose of carrying out works under—
    - (i) an agreement entered into pursuant to paragraph 2(4)(a), or
    - (ii) an agreement entered into pursuant to section 35(2)(a) of the CROW Act for the purposes of the coastal access duty;
  - (c) for the purposes of—
    - (i) carrying out works under paragraph 2(6) or 3(7),
    - (ii) carrying out works under section 36(1) or (5) of the CROW Act in connection with an agreement entered into for the purposes of the coastal access duty, or
    - (iii) carrying out works under section 37(5) of that Act for the purposes of that duty;
  - (d) for the purpose of ascertaining whether members of the public are being permitted to exercise the rights conferred on them in relation to section 15 route land by or under an enactment mentioned in section 15(1) of the CROW Act;
  - (e) in connection with an appeal under paragraph 4;
  - (f) for the purpose of erecting, maintaining or removing notices or signs under paragraph 6 or 8 or, in relation to land which is coastal margin, under section 19 of the CROW Act.
- (3) Subsections (5) to (7), (9) and (10) of section 40 of the CROW Act (powers of entry for the purposes of Part 1 of that Act) apply in relation to a person acting in the exercise of a power conferred by this paragraph, and the rights conferred by this paragraph, as they apply in relation to a person acting in the exercise of a power conferred by that section and the rights conferred by that section.
- (4) Section 41 of that Act (compensation relating to powers under section 40) has effect as if the reference to section 40 of that Act included a reference to this paragraph.
- (5) A person may not under this paragraph demand admission as of right to any occupied land, other than access land or land over which the English coastal route passes, unless—
- (a) in a case where the power of entry is exercised for the purposes of carrying out works as mentioned in sub-paragraph (2)(b) or (c)—
    - (i) the works are to be carried out on the land and a notice has been given to the occupier of the land under paragraph 2(6) or 3(3) or under section 36(1) or (3) or 37(1) of the CROW Act in connection with the works, or
    - (ii) at least 7 days' notice of the intended entry has been given to the occupier;
  - (b) in any other case, at least 24 hours' notice of the intended entry has been given to the occupier or it is not reasonably practicable to give such notice.

- (6) In this paragraph—  
“access land” has the same meaning as in Chapter 3 of Part 1 of the CROW Act;  
“appropriate access authority” means the access authority in relation to the land in respect of which the right of entry is being exercised;  
“section 15 route land” means land—  
(a) over which the English coastal route (or any part of it) passes, and  
(b) which, for the purposes of section 1(1) of the CROW Act, is treated by section 15(1) of that Act as being accessible to the public apart from that Act.

#### *Interpretation of Schedule*

- 10.(1) In this Schedule—  
“coastal margin” has the same meaning as in Part 1 of the CROW Act;  
“owner” has the same meaning as in that Part.
- (2) For the purposes of this Schedule—  
(a) an official alternative route, in relation to the English coastal route, is to be regarded as part of the English coastal route,  
(b) a temporary route which has effect by virtue of section 55I of the 1949 Act is to be treated as part of the English coastal route, and  
(c) where by virtue of section 3A(6)(a) of the CROW Act any land is not yet accessible under section 2(1) of that Act, the references in this Schedule to the English coastal route include any route which would form part of the English coastal route if that land were so accessible.

- (3) In sub-paragraph (2)(a) “official alternative route” has the meaning given by section 55J of the 1949 Act.

Note: The Access to the Countryside (Appeals against Works Notices) (England) Regulations 2011 SI 2011 No 2019 apply to appeals under paragraph 4 of this Schedule.

Text: [14.2A.11](#)

## **ACCESS TO THE COUNTRYSIDE (COASTAL MARGIN) (ENGLAND) ORDER 2010 SI 2010 NO 558**

#### *Preliminary*

### **1. Citation, commencement and application**

- (1) This Order may be cited as the Access to the Countryside (Coastal Margin) (England) Order 2010.  
(2) This Order comes into force on 6th April 2010.  
(3) This Order applies in relation to England only.

### **2. General interpretation**

In this Order—

“alternative route strip”, in relation to an official alternative route, means the land which becomes coastal margin during the operation of that route;

“approved section of the English coastal route” means a route in relevant approved proposals (other than an official alternative route);

“the CROW Act” means the Countryside and Rights of Way Act 2000;

“relevant coastal margin”, in relation to relevant approved proposals, means the land which becomes coastal margin by virtue of article 3(2) or (3) as a result of the proposals being approved;

“temporary route” means a route for the time being having effect by virtue of a direction under section 55I of the 1949 Act.

#### *Descriptions of land*

### **3. Descriptions of coastal margin**

- (1) Land in England is coastal margin for the purposes of Part 1 of the CROW Act (access to the countryside) if it falls within one or more of the following descriptions.  
(2) The first description of land is—

- (a) land over which the line of an approved section of the English coastal route passes,
- (b) land which is adjacent to and within 2 metres either side of that line, and
- (c) land which is seaward of the line of an approved section of the English coastal route and lies between land within sub-paragraph (b) in relation to that approved section and the seaward extremity of the foreshore,

if the land within sub-paragraphs (a) to (c), taken as a whole, is coastal land.

- (3) The second description of land is land which—
  - (a) is landward of the line of an approved section of the English coastal route,
  - (b) is—
    - (i) foreshore, cliff, bank, barrier, dune, beach or flat, or
    - (ii) land of any other kind, which is treated by section 15(1) as being accessible to the public apart from the CROW Act, and
  - (c) when taken together with land within the first description in relation to the approved section, is coastal land.
- (4) The third description of land is—
  - (a) land over which the line of an official alternative route which is for the time being in operation passes, and
  - (b) land which is adjacent to and within 2 metres either side of that line.
- (5) The fourth description of land is—
  - (a) land over which the line of a temporary route passes, and
  - (b) land which is adjacent to and within 2 metres either side of that line,
 to the extent that the land is within section 55I(4)(d) of the 1949 Act (land over which the owner has agreed the temporary route may pass).

#### **4. Cases where route determined in accordance with provision in the proposals**

- (1) This article applies where relevant approved proposals contain a proposal of the kind mentioned in section 55B of the 1949 Act (power to determine the route in accordance with provision made in the report) in relation to an approved section of the English coastal route or part of an approved section.
- (2) In article 3(2) the references to the line of an approved section of the English coastal route are, in relation to that section or part, references to the line of the section or part as it has effect from time to time in accordance with the relevant approved proposals.

#### **5. Cases where landward boundary of coastal margin to coincide with physical feature**

- (1) This article applies where relevant approved proposals contain a proposal under section 55D(2)(a) of the 1949 Act for the landward boundary of the relevant coastal margin, or any part of that boundary, to coincide with a physical feature identified in the proposal.
- (2) The landward boundary of the relevant coastal margin or part is (despite article 3(2) and (3)) to coincide with that feature
- (3) It is immaterial whether the effect of this article is—
  - (a) to include land as coastal margin, or
  - (b) to exclude part of an area of coastal land from being coastal margin.

#### **6. Cases where official alternative route determined in accordance with provision in the proposals**

- (1) This article applies where, by virtue of section 55C(6) of the 1949 Act (application to alternative routes of power conferred by section 55B etc), relevant approved proposals contain a proposal of the kind mentioned in section 55B of that Act in relation to an official alternative route or part of an official alternative route.
- (2) In article 3(4), the references to the line of an official alternative route are, in relation to that official alternative route or part, references to the line of the route or part as it has effect from time to time in accordance with the relevant approved proposals.

#### **7. Cases where landward or seaward boundary of alternative route strip to coincide with physical**

**feature**

- (1) This article applies where relevant approved proposals contain a proposal under section 55D(2)(b) of the 1949 Act for the landward or seaward boundary of an alternative route strip in relation to an official alternative route, or any part of such a boundary, to coincide with a physical feature identified in the proposal.
- (2) The boundary in question is (despite article 3(4)) to coincide with that feature.

**Article 8 and the Schedule** make modifications to Part I of CRWA 2000.

Text: [14.2A.6](#)