

# DEREGULATION ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 7: Ascertainment of rights of way*

#### **Part 3: New Schedule 14A to the Wildlife and Countryside Act 1981**

642. *Paragraph 7* of Schedule 7 introduces a new Schedule 14A to the 1981 Act.

#### **Part 1 – orders made in accordance with *paragraph 8 of Schedule 13A***

643. *Paragraph 1* provides that orders made further to action taken under paragraph 8(3) of Schedule 13A must be confirmed by the Secretary of State and take effect when confirmed by the Secretary of State.

#### **Part 2 – other orders**

644. *Paragraph 2* states that Part 2 of Schedule 14A applies to orders other than those made in accordance with paragraph 8(3) of Schedule 13A.

#### **Consultation**

645. *Paragraph 3* replicates paragraph 1 of Schedule 15 in requiring the authority to consult with every local authority whose area includes the land to which the order relates.

#### **Coming into operation**

646. *Paragraph 4* replicates paragraph 2 of Schedule 15 in stipulating that orders do not take effect until confirmed by either the authority or Secretary of State, but specifies that for modification consent orders confirmation will be by the authority under paragraph 9 of this Schedule.

#### **Publicity for orders**

647. *Paragraph 5* replicates paragraph 3 of Schedule 15, which sets out the existing arrangements for publicising definitive map modification orders, but with the following modifications. Sub-paragraph (2) is amended so that the surveying authority are no longer required to give notice of an order modifying the definitive map by publication in at least one local newspaper circulating in the area. Instead, they are required to give notice by publication on the authority's website and on such other websites or through the use of such other digital communications media as the authority may consider appropriate. This measure will significantly reduce the cost to the local authority of making an order.

648. In the case of a modification consent order, sub-paragraph (4) provides that the authority may itself (without a direction from the Secretary of State) decide that it is not necessary to comply with the requirement in sub-paragraph (2)(b)(i) to serve notice on every owner and occupier of any of the land affected. But they must nonetheless affix a notice

addressed to “The owners and any occupiers” of the land to some conspicuous object(s) on the land.

### **Abandoned surveys or reviews**

649. The existing paragraph 4 in Schedule 15, which deals with representations or objections made with respect to abandoned surveys or reviews, is omitted from Schedule 14A as it is now redundant.

### **Irrelevant representations or objections and severance of orders**

650. [Paragraph 6](#) is a new provision that empowers the surveying authority to decide not to submit the order to the Secretary of State if they believe that nothing in any representation or objection would be relevant to the Secretary of State’s decision to confirm the order. The authority must have regard to any guidance given by the Secretary of State and where the authority decide to exercise that power, they must inform the applicant and any person who made a representation or objection of their decision and the reasons for it. This measure is intended to reduce the number of instances where the Secretary of State has to review the authorities’ decisions, which will reduce the administrative burden on both local authorities and the Secretary of State. (Paragraph 6 does not apply to modification consent orders.)
651. [Paragraph 7](#) replicates the existing provision in paragraph 5 of Schedule 15 that enables an authority to sever an opposed order so that the Secretary of State need only consider the disputed element of the original order. Paragraph 8 extends this provision so that the authority is given discretion to sever an order where part of the order has attracted representations or objections that the authority considers are not relevant and not submit that part of the order, only submitting that part of the order that has attracted representations or objections that are relevant. In doing so the authority would have to have regard to any guidance issued by the Secretary of State and must inform the applicant and any person who made the representation or objection (and has not withdrawn it) of the reasons for its decision. This measure is intended to reduce the number of instances where the Secretary of State has to review the authorities’ decisions, which will reduce the administrative burden on both local authorities and the Secretary of State. (Paragraphs 7 and 8 do not apply to modification consent orders.)

### **Confirmation of orders**

652. [Paragraph 9](#) confirms that the authority may themselves confirm a modification consent order, with or without modifications and whether or not any representations or objections are made.
653. The provisions in paragraphs 6 to 8 and 10 to 16, which are concerned with submission of an order to the Secretary of State for confirmation, do not apply to a modification consent order.
654. [Paragraph 10](#) replicates paragraph 6 of Schedule 15, which provides that if no representations or objections are outstanding, the authority may confirm the order without modification, or submit it to the Secretary of State for confirmation if the authority require modifications and that the Secretary of State may confirm the order with or without modifications.
655. [Paragraphs 11, 12 and 13](#) replicate paragraph 7 of Schedule 15, which provides that opposed orders must be submitted to the Secretary of State for confirmation.
656. [Paragraph 12](#) enables the Secretary of State to sever an order modifying the definitive map submitted to him where some but not all of the modifications in it have attracted representations or objections. The Secretary of State will determine that part of the order that attracted representations or objections; leaving the other part of the order for the authority to confirm as unopposed. This measure is intended to reduce the number of

*These notes refer to the Deregulation Act 2015 (c.20)  
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instances where the Secretary of State has to review the authorities' decisions, which will reduce the administrative burden on both local authorities and the Secretary of State.

657. [Paragraph 13](#) enables the Secretary of State, in deciding whether to confirm the order, to do so by receipt (through a person appointed) of written representations, as an alternative to holding an inquiry or hearing. This will provide a less costly option than an inquiry or hearing.

**Restriction on power to confirm orders with modifications**

658. [Paragraph 14](#) replicates paragraph 8 of Schedule 15, which provides that, where the Secretary of State proposes to make significant specified modifications to an order, the modified order must be publicised and any objections or representations taken into account. The provisions in Schedule 15 are amended insofar as paragraph 14(3) enables the Secretary of State, in deciding whether to confirm the order, to do so by receipt (through a person appointed) of written representations as an alternative to holding an inquiry or hearing. This will provide a less costly option than an inquiry or hearing.

**Appointment of inspectors etc**

659. [Paragraph 15](#) replicates paragraph 10 of Schedule 15 without substantive amendment. This paragraph essentially provides that a decision of the Secretary of State may be made by a person appointed by the Secretary of State, but that the Secretary of State may call in a decision in order to make it himself.

**Hearings and local inquiries**

660. [Paragraph 16](#) replicates paragraph 10A of Schedule 15 without substantive amendment. This paragraph applies the provisions of subsections (2) to (5) of section 250 of the Local Government Act 1972 and section 322A of the Town and Country Planning Act 1990 (which are concerned with giving of evidence and defraying costs) to decisions made by the Secretary of State on definitive map modification orders.