

# DEREGULATION ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

#### **Part 2: New Schedule 13A to the Wildlife and Countryside Act 1981**

#### **Procedure where an authority decides not to make an order**

634. Paragraph 7 of Schedule 13A provides that where a surveying authority decides (under paragraph 4) not to make an order following a definitive map modification order application, the applicant may, within 28 days after the authority serve notice of the decision, give notice of appeal and the grounds for that appeal to the authority. Regulations will prescribe the form of such notice. The authority is required to submit the matter to the Secretary of State for a decision and the Secretary of State is required to deal with it as an appeal against the authority's decision.
635. This new procedure replaces the existing right of appeal (in Schedule 14, paragraph 4(1)) to the Secretary of State. It provides for the Secretary of State to deal with both the appeal and any objections (that might arise from making an order on the strength of the application) at the same time. This is one of several measures to streamline the process of dealing with an application by preventing a single case being submitted to the Secretary of State two or more times before being resolved. The following provisions are consequential unless the notes state otherwise.
636. Provision is made in sub-paragraph (3) for the surveying authority to decide not to submit the appeal to the Secretary of State if they believe that nothing in the grounds of appeal would be relevant to the Secretary of State's decision on appeal. In doing so the authority would have to have regard to any guidance issued by the Secretary of State (sub-paragraph (4)) and must inform the applicant of the reasons for its decision (sub-paragraph (5)). This reduces the administrative burden by removing an absolute requirement to submit all disputed cases to the Secretary of State, regardless of merit. Where the appeal is submitted to the Secretary of State, the authority must give notice that the matter has been submitted to the Secretary of State (sub-paragraph (6)).
637. Regulations will prescribe the form of notice, which will set out the decision, and state that the matter has been submitted to the Secretary of State, where a copy of the decision may be inspected or obtained and the time and manner in which representations or objections about the decision may be made to the Secretary of State. Sub-paragraph (7) sets out the requirements for publicising the appeal; these are similar to the requirements for publicising an order modifying the definitive map as set out in the existing Schedule 15 with modifications to reflect the particular circumstances of the appeal.
638. [Paragraph 8\(1\)](#) provides that the Secretary of State may decide the appeal through an inquiry, or by providing interested persons with an opportunity of being heard by a person appointed by the Secretary of State, or through written representations. Sub-paragraph (2) provides that the Secretary of State may choose not to decide the appeal

*These notes refer to the Deregulation Act 2015 (c.20)  
which received Royal Assent on 26 March 2015*

through an inquiry, hearing or written representations if he believes that nothing in the grounds of appeal and nothing in any representation or objection duly made would be relevant to the decision on appeal.

639. Sub-paragraph (3) provides that on considering the grounds of appeal and any representations or objections, the Secretary of State may agree with the authority that an order should not be made, or direct the authority to make an order as directed, or make an order.
640. Sub-paragraphs (4) to (10) of paragraph 8 and paragraphs 9 to 11 are similar to the existing provisions in paragraphs 3(3), 8(1) to 8(4), 10 and 10A of the existing Schedule 15. This makes the arrangements for holding hearings and inquiries and for the appointment of inspectors the same as those for determining opposed orders, which are described in the notes for the new Schedule 14A below.

**SIMILAR PROVISIONS IN THE RESPECTIVE SCHEDULES**

<i>New Schedule 13A(England only) concerning applications and appeals</i>	<i>New Schedule 14A(England only) concerning orders and objections</i>	<i>Existing Schedule 15(Wales only) concerning orders and objections</i>
paragraph 8(4)-8(10)	paragraph 14	paragraph 8
paragraph 9	paragraph 15	paragraph 10
paragraph 10	paragraph 16	paragraph 10A
paragraph 11	paragraph 5(3)	paragraph 3(3)