
WELSH STATUTORY INSTRUMENTS

2002 No. 1794

The Countryside Access (Appeals Procedures) (Wales) Regulations 2002

Part V

APPEALS DETERMINED FOLLOWING A PUBLIC LOCAL INQUIRY

Application

17. Regulations 18 to 28 apply to appeals which are to be determined following a public local inquiry.

Procedure where the National Assembly causes a pre-inquiry meeting to be held

18.—(1) The National Assembly must hold a pre-inquiry meeting:

- (a) if it expects an inquiry to last for 8 days or more, unless it considers such a meeting to be unnecessary;
- (b) in respect of shorter inquiries, if it appears to it to be necessary.

(2) Where the National Assembly decides to hold a pre-inquiry meeting:

- (a) the National Assembly must send with or include in the notice it gives in accordance with regulation 5(1):
 - (i) notice of its intention to hold a pre-inquiry meeting; and
 - (ii) a statement of the matters about which it particularly wishes to be informed for the purposes of its consideration of the appeal in question;
- (b) the National Assembly must include in the notice it publishes in accordance with regulation 6(1)(a) or (b) or sends in accordance with regulation 6(1)(c), notice of its intention to hold a pre-inquiry meeting and a statement of the matters referred to in paragraph (2)(a)(ii); and
- (c) the appellant and the respondent must each send two copies of their outline statement to the National Assembly within 8 weeks of the starting date.

(3) The National Assembly must, as soon as practicable after receipt, send a copy of the outline statement of the respondent to the appellant and that of the appellant to the respondent.

(4) The National Assembly may, in writing, require any interested persons who have notified it of an intention or a wish to take part in the inquiry to send an outline statement to it, to the appellant and to the respondent, and those interested persons must ensure that such statement is received by the National Assembly, the appellant and the respondent within 4 weeks of the date of the National Assembly's written requirement.

(5) The pre-inquiry meeting (or, where there is more than one, the first pre-inquiry meeting) must be held within 16 weeks of the starting date.

(6) The National Assembly must give not less than 3 weeks' written notice of the pre-inquiry meeting to the appellant, the respondent, any interested person known at the date of the notice to wish to take part in the inquiry and any other person whose presence at the pre-inquiry meeting appears to the National Assembly to be desirable, and it must, in relation to notification of the pre-inquiry meeting, take one or more of the steps specified, in relation to the inquiry, in regulation 22(6).

(7) The appointed person:

- (a) is to preside at the pre-inquiry meeting;
- (b) is to determine the matters to be discussed and the procedure to be followed;
- (c) may require any person present at the pre-inquiry meeting who, in the opinion of the appointed person, is behaving in a disruptive manner to leave; and
- (d) may refuse to permit that person to return or to attend any further pre-inquiry meeting, or may permit that person to return or attend only on such conditions as the appointed person may specify.

(8) Where a pre-inquiry meeting has been held pursuant to paragraph (1), the appointed person may hold a further pre-inquiry meeting and must arrange for such notice to be given of a further pre-inquiry meeting as appears to the appointed person to be necessary; and paragraph (7) is to apply to such a further pre-inquiry meeting.

(9) If the National Assembly requests any further information from the appellant or the respondent at the pre-inquiry meeting, the person from whom the further information has been requested must ensure that two copies of that information have been received by the National Assembly and a copy has been received by any interested person to whom the appointed person may require a copy to be supplied, within 4 weeks of the conclusion of the pre-inquiry meeting and the National Assembly must, as soon as practicable after receipt, send a copy of the further information received from the appellant to the respondent and a copy of the further information received from the respondent to the appellant.

Receipt of statements of case etc.

19.—(1) The respondent must ensure that within:

- (a) 6 weeks of the starting date; or
- (b) where a pre-inquiry meeting is held pursuant to regulation 18, 4 weeks of the conclusion of that pre-inquiry meeting,

two copies of the respondent's statement of case have been received by the National Assembly and a copy of that statement of case has been received by any interested person to whom the National Assembly may require a copy of that statement of case to be supplied.

(2) The respondent must include, in its statement of case, details of the place where, and times at which, the opportunity to inspect and take copies of the documents referred to in paragraph (12) below is to be afforded.

(3) The appellant must ensure that within:

- (a) 6 weeks of the starting date; or
- (b) where a pre-inquiry meeting is held pursuant to regulation 18, 4 weeks of the conclusion of that pre-inquiry meeting,

two copies of the appellant's statement of case have been received by the National Assembly and a copy of that statement of case has been received by any interested person to whom the National Assembly may require a copy of that statement of case to be supplied.

(4) The National Assembly must, as soon as practicable after receipt, send a copy of the respondent's statement of case to the appellant and a copy of the appellant's statement of case to the respondent.

(5) The appellant and the respondent may, in writing, each require the other to send them a copy of any document, or the relevant part of any document, referred to in the list of documents comprised in the other's statement of case; and any such document, or relevant part, must be sent, as soon as practicable, to the party who required it.

(6) The National Assembly may, in writing, require any other person, who has notified it of a wish to seek the appointed person's permission to take part in the inquiry, to send:

- (a) three copies of their statement of case to it within 4 weeks of being so required; and
- (b) a copy of their statement of case to any specified interested person,

and the National Assembly must, as soon as practicable after receipt, send a copy of each such statement of case to the appellant and the respondent.

(7) The National Assembly must, as soon as practicable;

- (a) send to a person from whom it requires a statement of case in accordance with paragraph (6) a copy of the statements of case of the appellant and the respondent; and
- (b) inform that person of the name and address of every person to whom that person's statement of case is required to be sent.

(8) The National Assembly may in writing require any person, who has sent to it a statement of case in accordance with this regulation, to provide such further information about the matters contained in the statement of case as it may specify and may specify the time within which the information shall be received by it.

(9) Where the respondent or appellant is required to provide further information, they shall ensure that:

- (a) two copies of that information in writing have been received by the National Assembly, within such time as is specified; and
- (b) a copy has been received by any interested person to whom the National Assembly may require it to be supplied within such time as is specified,

and the National Assembly must, as soon as practicable after receipt, send to the appellant a copy of the further information received from the respondent and send to the respondent a copy of the further information received from the appellant.

(10) Any other person required to provide further information must ensure that:

- (a) three copies of that information in writing have been received by the National Assembly, within the specified time; and
- (b) a copy has been received by any interested person to whom the National Assembly may require it to be supplied within the specified time,

and the National Assembly must, as soon as practicable after receipt, send a copy of the further information to the respondent and the appellant.

(11) Any person other than the appellant who sends a statement of case to the National Assembly must send with it a copy of:

- (a) any document; or
- (b) the relevant part of any document,

referred to in the list comprised in that statement, unless a copy of the document or part of the document in question is already available for inspection pursuant to paragraph (12).

(12) The respondent must afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of:

- (a) any statement of case, written comments, information or other document a copy of which has been sent to the respondent in accordance with this regulation; and

- (b) the respondent's statement of case together with a copy of any document, or the relevant part of any document, referred to in the list comprised in that statement, and any written comments, information or other documents sent by the respondent pursuant to this regulation.

(13) If the respondent or the appellant wish to comment on the other's statement of case they must ensure that within 9 weeks of the starting date:

- (a) two copies of their written comments have been received by the National Assembly; and
- (b) a copy of their written comments has been received by any interested person to whom the National Assembly may require them to be supplied,

and the National Assembly must, as soon as practicable after receipt, send a copy of the written comments received from the appellant to the respondent and a copy of the written comments received from the respondent to the appellant.

(14) Any person, who sends a statement of case to the National Assembly under this regulation and who wishes to comment on another person's statement of case, must ensure that not less than 4 weeks before the date fixed for the holding of the inquiry:

- (a) three copies of that person's written comments have been received by the National Assembly; and
- (b) a copy of those written comments has been received by any interested person to whom the National Assembly may require them to be supplied,

and the National Assembly must, as soon as practicable after receipt, send a copy of the written comments to the appellant and the respondent.

(15) The National Assembly must, as soon as practicable after receipt, send to the appointed person any statement of case, document or further information or written comments sent to it in accordance with this regulation and received by it within the relevant period, if any, specified in this regulation.

Further power of appointed person to hold pre-inquiry meetings

20.—(1) Where no pre-inquiry meeting is held pursuant to regulation 18, an appointed person may hold one if the appointed person thinks it necessary.

(2) An appointed person must give not less than 2 weeks' written notice of a pre-inquiry meeting to be held under paragraph (1) to:

- (a) the appellant;
- (b) the respondent;
- (c) any person known at the date of the notice to be entitled to take part in the inquiry; and
- (d) any other person whose presence at the pre-inquiry meeting appears to him to be desirable.

(3) Regulation 18(7) applies to a pre-inquiry meeting held under this regulation.

Inquiry timetable

21.—(1) The appointed person must arrange a timetable for the proceedings at, or at part of, an inquiry where:

- (a) a pre-inquiry meeting is held pursuant to regulation 18; or
- (b) it appears to the National Assembly likely that an inquiry will last for 8 days or more.

(2) The appointed person may arrange a timetable for the proceedings at, or at part of, any other inquiry and may, at any time, vary the timetable arranged under this, or the preceding, paragraph.

(3) The appointed person may specify in a timetable arranged pursuant to this regulation a date by which any proof of evidence and summary sent in accordance with regulation 24(1) must be received by the National Assembly.

Date and notification of inquiry

22.—(1) The date fixed by the National Assembly for the holding of an inquiry must, unless it considers such a date impracticable, be not later than—

- (a) 22 weeks after the starting date; or
- (b) in a case where a pre-inquiry meeting is held pursuant to regulation 18, 8 weeks after the conclusion of that meeting.

(2) Where the National Assembly considers it impracticable to fix a date in accordance with paragraph (1), the date fixed must be the earliest date after the end of the relevant period mentioned in that paragraph which it considers to be practicable.

(3) Unless the National Assembly agrees a lesser period of notice with the appellant and the respondent, it must give not less than 4 weeks' written notice of the date, time and place fixed by it for the holding of an inquiry to every person entitled to take part in the inquiry.

(4) The National Assembly may vary the date fixed for the holding of an inquiry, whether or not the date as varied is within the relevant period mentioned in paragraph (1); and paragraph (3) shall apply to a variation of a date as it applied to the date originally fixed.

(5) The National Assembly may vary the time or place for the holding of an inquiry and must give such notice of any variation as appears to it to be reasonable.

(6) The National Assembly must take one or more of the following steps:

- (a) not less than 2 weeks before the date fixed for the holding of an inquiry, to publish a notice of the inquiry in one or more newspapers circulating in the locality in which the land is situated;
- (b) to send a notice of the inquiry to such persons or classes of persons as it may specify, within such period as it may specify.

(7) Every notice of inquiry published or sent pursuant to paragraph (6), must:

- (a) contain a clear statement of the date, time and place of the inquiry and of the powers enabling the National Assembly to determine the application or appeal in question;
- (b) contain a written description of the land sufficient to enable the approximate location and extent of the land to be identified;
- (c) briefly describe the subject matter of the appeal; and
- (d) provide details of where and when copies of the respondent's statement of case and any documents sent by and copied to the respondent pursuant to regulation 19 may be inspected.

Rights of attendance at and participation in an inquiry

23.—(1) The persons entitled to take part in an inquiry are:

- (a) the appellant;
- (b) the respondent; and
- (c) any officer of any local authority or National Park authority whose area includes land to which the appeal relates.

(2) The appointed person may permit any other person to take part in an inquiry.

(3) Any person entitled or permitted to take part in an inquiry may do so on his own behalf or be represented by any other person.

Proofs of evidence

24.—(1) Any person entitled to take part in an inquiry who proposes to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence, must:

- (a) send two copies, in the case of the respondent and the appellant, or three copies in the case of any other person, of the proof of evidence together with any written summary, to the National Assembly; and
- (b) simultaneously send copies of these to any interested person to whom the National Assembly may require them to be supplied,

and the National Assembly must, as soon as practicable after receipt, send a copy of each proof of evidence together with any summary to the respondent and the appellant.

(2) No written summary is required where the proof of evidence proposed to be read contains no more than 1,500 words.

(3) The proof of evidence and any summary must be received by the National Assembly no later than:

- (a) 4 weeks before the date fixed for the holding of the inquiry; or
- (b) where a timetable has been arranged pursuant to regulation 21 which specifies a date by which the proof of evidence and any summary must be received by the National Assembly, that date.

(4) The National Assembly must send to the appointed person, as soon as practicable after receipt, any proof of evidence together with any summary sent to it in accordance with this regulation and received by it within the relevant period specified in this Regulation.

(5) Where a written summary is provided in accordance with paragraph (1), only that summary shall be read at the inquiry, unless the appointed person permits or requires otherwise.

(6) Any person required by this regulation to send copies of a proof of evidence to the National Assembly must send with them the same number of copies of the whole, or the relevant part, of any document referred to in the proof of evidence, unless a copy of the document or part of the document in question is already available for inspection pursuant to regulation 19(12).

(7) The respondent must afford to any person who so requests a reasonable opportunity to inspect and, where practicable, take copies of any document sent to or by the respondent in accordance with this regulation.

Statement of common ground

25.—(1) The respondent and the appellant must:

- (a) together prepare an agreed statement of common ground; and
- (b) ensure that the National Assembly and any interested person to whom the National Assembly may require a copy to be supplied receive a copy of it not less than 4 weeks before the date fixed for the holding of the inquiry.

(2) The respondent must afford to any person who so requests, a reasonable opportunity to inspect, and where practicable, take copies of the statement of common ground sent to the National Assembly.

Procedure at inquiry

26.—(1) Except as otherwise provided in these Regulations, the appointed person is to determine the procedure at an inquiry.

(2) At the start of the inquiry the appointed person must identify the issues which are, in the opinion of the appointed person, the main issues to be considered at the inquiry and any matters on which the appointed person requires further explanation from the persons entitled or permitted to take part.

(3) Nothing in paragraph (2) is to preclude any person entitled or permitted to take part from referring to issues which they consider relevant to the consideration of the application or appeal but which were not issues identified by the appointed person pursuant to that paragraph.

(4) Unless in any particular case the appointed person otherwise determines, the respondent is to begin and the appellant is to have the right of final reply; and the other persons entitled or permitted to take part are to be heard in such order as the appointed person may determine.

(5) A person entitled to take part in an inquiry is to be entitled to call evidence and the appellant, the respondent and any interested person is to be entitled to cross-examine persons giving evidence, but, subject to the foregoing and paragraphs (6) and (7), the calling of evidence and the cross-examination of persons giving evidence is otherwise to be at the discretion of the appointed person.

(6) The appointed person may refuse to permit the:

- (a) giving or production of evidence;
- (b) cross-examination of persons giving evidence; or
- (c) presentation of any other matter,

which the appointed person considers to be irrelevant or repetitious; but where the appointed person refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to the appointed person any evidence or other matter in writing before the close of the inquiry.

(7) Where a person gives evidence at an inquiry by reading a summary of a proof of evidence in accordance with regulation 24(5):

- (a) the proof of evidence referred to in regulation 24(1) must be treated as tendered in evidence, unless the person required to provide the summary wishes to rely on the contents of that summary alone and notifies the appointed person of that fact; and
- (b) the person whose evidence the proof of evidence contains is then to be subject to cross-examination on it to the same extent as if it were evidence that person had given orally.

(8) The appointed person may direct that facilities are to be afforded to any person taking part in an inquiry to take or obtain copies of documentary evidence open to public inspection.

(9) The appointed person may:

- (a) require any person taking part in or attending an inquiry who, in the opinion of the appointed person, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return; or
- (c) permit that person to return only on such conditions as the appointed person may specify,

but any such person may submit to the appointed person any evidence or other matter in writing before the close of the inquiry.

(10) The appointed person may allow any person to alter or add to a statement of case received by the National Assembly or by the appointed person under regulation 19 so far as may be necessary for the purposes of the inquiry, but the appointed person must (if necessary by adjourning the inquiry) give every other person entitled to take part and who is actually taking part in the inquiry an adequate opportunity of considering any fresh matter or document.

(11) The appointed person may proceed with an inquiry in the absence of any person entitled to take part in it.

(12) The appointed person may take into account any written representation or evidence or any other document received from any person before an inquiry opens or during the inquiry provided that the appointed person discloses it at the inquiry.

(13) The appointed person may from time to time adjourn an inquiry and, if the date, time and place of the adjourned inquiry are announced at the inquiry before the adjournment, no further notice is to be required.

(14) In respect of any inquiry that the National Assembly expects to last for 8 or more days, any person who takes part in the inquiry and makes closing submissions, must by the close of the inquiry provide the appointed person with a copy of those closing submissions in writing.

Decision after an inquiry

27.—(1) Where an assessor has been appointed, the assessor may make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to advise.

(2) When making a decision in relation to the appeal, the appointed person may disregard any written representations, or evidence or any other document received after the inquiry has closed.

(3) If, after the close of the inquiry, an appointed person proposes to take into consideration any new evidence or any new matter of fact (not being a matter of government policy) which was not raised at the inquiry and which the appointed person considers to be material to the decision, the appointed person must not come to a decision without first:

- (a) notifying persons entitled to take part in the inquiry who took part in it of the matter in question; and
- (b) affording them an opportunity of making written representations to the appointed person or of asking for the re-opening of the inquiry,

and they shall ensure that such written representations or request to re-open the inquiry are received by the appointed person within 3 weeks of the date of the notification.

(4) An appointed person may cause an inquiry to be re-opened and must do so if asked by the appellant or the respondent in the circumstances and within the period mentioned in paragraph (3); and where an inquiry is re-opened:

- (a) the appointed person must send to the persons entitled to take part in the inquiry and who actually took part in it a written statement of the matters with respect to which further evidence is invited; and
- (b) regulation 22(3) to (7) applies as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision

28.—(1) The decision of the appointed person and the reasons for it, must be notified in writing to:

- (a) the appellant;
- (b) the respondent;
- (c) any other persons entitled to take part in the inquiry who did take part; and
- (d) any other person who, having taken part in the inquiry, has asked to be notified of the decision.

(2) Any person entitled to be notified of the decision under paragraph (1) may apply to the National Assembly, in writing, for an opportunity to inspect any documents listed in the notification and the National Assembly must afford that person that opportunity.

(3) Any person making an application under paragraph (2) must ensure that it is received by the National Assembly within 6 weeks of the date of the decision.