
WELSH STATUTORY INSTRUMENTS

2003 No. 142

**The Countryside Access (Exclusion or
Restriction of Access) (Wales) Regulations 2003**

Part III

**EXCLUDING OR RESTRICTING ACCESS BY
DIRECTION OF THE RELEVANT AUTHORITY**

Applications for directions excluding or restricting access

5.—(1) A person interested in any access land who wishes to apply for a direction excluding or restricting access under section 24(1) of the Act (land management) or section 25(3) of the Act (avoidance of risk of fire or of danger to the public) must apply to the relevant authority in writing.

(2) An application under paragraph (1) must include:

- (a) the name, address and postcode of the applicant;
- (b) if the application is made through an agent, the name address and postcode of that agent;
- (c) a statement of the nature of the applicant's interest in the land (including, if that interest consists of a right of common or similar right over land, a description of the extent of that right);
- (d) a statement of whether the application is being made under section 24(1) of the Act or, alternatively, under section 25(3) of the Act;
- (e) a description (whether by map or otherwise) of the location and extent of the land which is detailed enough to enable the relevant authority to identify the land;
- (f) details of the nature and purpose of the exclusion or restriction;
- (g) the specified period during which the applicant proposes that the exclusion or restriction is to operate; and
- (h) the reasons, if any, why the purposes for which the direction is sought cannot be achieved by exercise of the applicant's right, if any, to exclude or restrict access to the land under section 22 of the Act.

(3) An applicant must, within such reasonable time as the relevant authority may require, supply such further information in relation to the application as the relevant authority may reasonably require by notice in writing to the applicant.

Consultation by a relevant authority before giving a direction excluding or restricting access

6.—(1) This regulation applies where the relevant authority is considering whether to give a direction under:

- (a) section 24(1) of the Act (land management);
- (b) section 25(1) of the Act (avoidance of risk of fire or of danger to the public); or
- (c) section 26 of the Act (nature conservation and heritage preservation),

which will have the effect of excluding or restricting access indefinitely or during a period which exceeds, or may exceed, 6 months.

(2) Before giving a direction to which this regulation applies, the relevant authority must send a notice complying with the requirements of paragraph (4), together with a statement setting out the terms of the proposed direction, to each of the organisations listed in Schedule 1 to these Regulations and must, if it is reasonably practicable to do so, publish the draft direction on a web-site.

(3) The relevant authority must, in addition to the requirements set out in paragraph (2):

- (a) send to the relevant local access forum a copy of:
 - (i) a statement setting out the terms of the proposed direction;
 - (ii) if the question of whether to give the direction is being considered as a result of receiving an application, that application and any further information supplied by the applicant in support of it;
 - (iii) if the question of whether to give the direction is being considered as a result of advice given to the relevant authority by the relevant advisory body, the substance of that advice;
 - (iv) such other information relevant to proposed direction as it thinks fit; and
- (b) send to the applicant or the applicant's agent, as the case may be, copies of any documents sent to the local access forum, other than those documents received by the relevant authority from the applicant or the applicant's agent.

(4) A notice complying with the requirements of this paragraph must:

- (a) state any reference number allocated to the matter by the relevant authority;
- (b) give particulars of the means by which members of the public may inspect, and take a copy of, the documents referred to in paragraph (3)(a);
- (c) state that representations in writing, which may be made either in the English language or the Welsh language, may be made to the relevant authority by such date as is specified in the notice, which must not be earlier than 2 weeks after the date on which the relevant authority complies with paragraph (2); and
- (d) state that copies of any representations received by the relevant authority may be made available to other parties to whom they relate.

Consultation in relation to directions revoking or varying existing directions

7. Where the relevant authority is considering giving a direction which would have the effect of revoking or varying an existing direction and is required, before doing so, to consult any person under section 27(5) or 27(6) of the Act, it must, in addition to any other requirement contained in these Regulations, send a statement setting out the terms of the proposed direction, together with a notice complying with the requirements of regulation 6(4) to each such person.

Consideration of representations

8. Where a relevant authority is required by these Regulations to give notice to any person that it is considering giving a direction, it must, before deciding whether to give a direction, consider any representations made by that person within the time permitted for making representations and may, if it thinks it appropriate, consider any other representations which it receives.

Decisions by a relevant authority whether to give a direction

9.—(1) This regulation applies:

- (a) where an application for a direction has been made to the relevant authority; or

(b) where the relevant authority has been advised to give a direction under section 26(1) of the Act by the relevant advisory body.

(2) Where this regulation applies, the relevant authority must, subject to paragraph (5), decide whether to give a direction, either in accordance with the application or advice referred to in paragraph (1) or with such modifications as it may determine, within the period specified in paragraph (3) or (4), as the case may be.

(3) Where the exclusion or restriction will operate during a period of 6 months or less then, then, subject to paragraph (4), the relevant authority must decide whether to give a direction within 6 weeks (or such longer period as the applicant or, as the case may be, the relevant advisory body agrees) of receiving the application or advice.

(4) Where the exclusion or restriction will operate during a period of more than 6 months, or where the exclusion or restriction will operate for corresponding periods, of whatever length, in two or more different calendar years, the relevant authority must decide whether to give a direction within 16 weeks of receiving the application or advice.

(5) Where this regulation applies and the relevant authority receives the application or advice referred to in paragraph (1)—

(a) before the first date on which the right of access is to apply to all land to which the proposed direction relates; and

(b) the period within which the authority would be required, in accordance with paragraph (2), to decide whether to give a direction expires before that date,

then the relevant authority is not required to decide whether to give the direction within that period if it is not reasonably practicable to do so, but must instead do so as soon as reasonably practicable after the expiry of that period but in any event no later than the date referred to in sub-paragraph (a).

(6) If the relevant authority requires an applicant to supply further information under regulation 5(3), the period between the giving of notice of that requirement by the relevant authority and the receipt of the information in question is to be excluded when calculating any period within which the relevant authority is required to decide whether to give a direction.

Form of directions excluding or restricting access

10.—(1) A direction given under section 24(1), 25(1) or 26(1) of the Act by a relevant authority must:

(a) bear the date on which it is given;

(b) identify the provision of the Act under which it is given;

(c) describe (whether by map or otherwise) the location and extent of the land to which the exclusion or restriction is to apply;

(d) specify whether the effect of the direction is to exclude access to the land or, alternatively, to restrict it;

(e) in the case of a direction which restricts but does not exclude access, specify the extent of the restriction; and

(f) specify the period during which the exclusion or restriction is to apply or, if some person other than the person who gives the direction is to have the power to determine that period in accordance with section 24(2)(b)(i), 25(2)(b)(i), 26(2)(c)(i) or 28(2)(c)(i) of the Act, as the case may be, any conditions which apply to that power.

(2) A direction given under section 27(2) of the Act revoking or varying an existing direction must:

(a) bear the date on which it is given;

- (b) identify the provision of the Act under which it is given;
- (c) have annexed to it a copy of the direction which it revokes or varies;
- (d) state whether its effect is to revoke the existing direction or to vary it; and
- (e) if its effect is to vary the existing direction, state how it is varied.

Giving a direction

11. A direction which a relevant authority has decided to give is given when a person authorised by the relevant authority to do so signs and dates it.

Publication of decisions on directions

12.—(1) A copy of any direction given or, where regulation 9 applies and the decision of the relevant authority is not to give a direction, a notice to that effect, must, as soon as possible after the direction has been given or the decision not to give a direction has been taken, as the case may be:

- (a) if it is reasonably practicable to do so, be published by the relevant authority on a web-site;
- (b) if the direction was given (or would have been given had the relevant authority not decided not to give a direction) as a result of an application, be sent to the applicant, or the applicant's agent, as the case may be;
- (c) if the direction was given (or would have been given had the relevant authority not decided not to give a direction) under section 26 of the Act, be sent to the relevant advisory body (unless the relevant authority is the Council and the direction was proposed to be made under section 26(3)(a) of the Act);
- (d) if a direction was given otherwise than on the application of the owner of the land to which it relates, and the identity of the owner is known to the relevant authority, be sent to the owner;
- (e) if a direction was given (or would have been given had the relevant authority not decided not to give a direction) following consultation with a relevant local access forum in accordance with regulations 6(3), be sent to that local access forum;
- (f) where a direction relates to land in respect of which the relevant authority is not also the access authority, and the direction is given under either section 24 or 25 of the Act, be sent to the access authority in respect of that land;
- (g) where the relevant authority was required, before giving the direction, to consult any person under section 27(5) or 27(6) of the Act, be sent to that person; and
- (h) where a direction is given by a relevant authority other than the Council, be sent to the Council.

(2) Where the relevant authority is required to send a copy of a direction which it has given, or to give notice that it has decided not to give a direction, to any person in accordance with paragraph (1) (b), (c) or (g), and the decision to give a direction in the terms in which it was given, or not to give a direction, as the case may be, was not in accordance with an application or other representation made by that person, the relevant authority must also, at the same time, send that person its reasons for that decision.