



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

ADRODDIAD GAN Y PWYLLGOR DEDDFAU LEGISLATION COMMITTEE REPORT

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

These provide procedures for appeals under the right of access provisions in the Countryside and Rights of Way Act 2000.

Standing Order 11.5

There appear to be drafting defects in relation to the following. These would be capable of correction by a memorandum of corrections.

Regulation 5(2)(a)

It is queried whether this paragraph can ever apply. It appears that the date under paragraph (b) will, in all cases, be later than the date under paragraph (a).

Regulation 16(1)(c)

Under regulation 13 the only persons “entitled” to take part in a hearing are the appellant and the respondent. Thus it does not seem that there can be any persons falling within paragraph (c).

Regulations 18(6) and 22(6)

Regulation 18(6) states that the Assembly “may require the respondent to take ... one or more of the steps as it may under regulation 22(6) require the respondent to take”.

Regulation 22(6) does not, however, provide for the Assembly to require the respondent to take any steps.

It thus appears that either -

- (a) the wording in 18(6) is incorrect, or
- (b) 22(6) was intended to empower the Assembly to require the respondent to take the steps referred to.

Regulation 24(4)

It does not seem that the words “if any” are relevant. Paragraph (3) appears to specify a “relevant period” which is applicable in all cases.

Regulation 27(4)(b)

The reference to “regulation 22(3) to (8)” cannot be correct.

General Observations

The following points could be dealt with by means of a memorandum of corrections if so desired..

Explanatory Note

For consistency, “National Assembly for Wales” in the final paragraph should be “National Assembly”.

Preamble

The footnote should identify the definition of “regulations” (section 45(1)) to indicate how the regulation making function is vested in the Assembly.

Regulation 2(1) - opening wording

This needs to be considered in the context of section 11 of the Interpretation Act 1978.

The qualification in section 11 - “unless the contrary intention appears” is not included. The Assembly may thus wish to consider whether the present wording which is more specific than section 11 is intentional or whether the wording has been included without regard to section 11.

Regulation 2(1) - “interest”

“to interpreted” should be “to be interpreted”.

Page 8 - footnote (a)

A complete citation is required in due course.

Regulation 6(2)(c)

As this only applies to section 6 appeals, inclusion of a reference such as “where applicable” would assist users.

Regulation 9

It is queried whether “The appointed person” in paragraph (1) is intended to be “The National Assembly”. I.e. paragraph (1) subsequently uses the word “it”, and paragraph (2) is in terms of the decision having been taken by the Assembly. Since an appointed person will be exercising functions on behalf of the Assembly, references to the Assembly encompass the appointed person (see section 8(1) of the Act).

Regulation 14(7)

This could possibly allow that which it seeks to prevent. A party who is prevented from submitting written material may attempt to present it orally, which in turn will be prevented. As a result of being so prevented, that person then has an opportunity of submitting it in writing.

Mick Bates AM
Chair, Legislation Committee

2 July 2002