
STATUTORY INSTRUMENTS

2002 No. 1710

The Access to the Countryside (Provisional and
Conclusive Maps) (England) Regulations 2002

PART III

APPEALS AGAINST PROVISIONAL MAPS

CHAPTER I

Initial stages of appeals

Interpretation

15. In this Part—

“appeal land” means the land which is the subject of an appeal;

“appeal period” means, in relation to a provisional map, the period referred to in regulation 16(1);

“appeal procedure” means the procedure for determining the issues arising on an appeal or for determining any consequential issue, by means of a hearing or inquiry or on the basis of written representations, as determined by the Secretary of State under regulation 19(1)(b);

“appointed person” means a person appointed by the Secretary of State under section 8 to determine an appeal or any matter involved in such an appeal and having the powers conferred by paragraphs 3 and 4 of Schedule 3 to the Act;

“assessor” means a person appointed by the Secretary of State under paragraph 4(3) of Schedule 3 to the Act to sit with an inspector at a hearing or inquiry and advise the inspector on any matters arising;

“consequential issue” means any issue, consequential on the determination of an appeal, as to the manner in which the discretion conferred on the Secretary of State by section 6(4) should be exercised;

“document” includes a photograph, map or plan;

“hearing” means a hearing in relation to which this Part applies;

“inquiry” means a local inquiry in relation to which this Part applies;

“inspector” means—

(a) an appointed person; or

(b) a person holding a hearing or inquiry and making a report to the Secretary of State in order for her to determine an appeal;

“questionnaire” means a document, in the form supplied by the Secretary of State, seeking information relating to the appeal or any consequential issue;

“pre-inquiry meeting” means a meeting held before an inquiry to consider what may be done with a view to securing that the inquiry is conducted efficiently and expeditiously, and, where

two or more such meetings are held, references to the conclusion of a pre-inquiry meeting are references to the conclusion of the final meeting;

“proof of evidence” means a proof of evidence sent to the Secretary of State in accordance with regulation 48;

“start date” means, in relation to certain periods prescribed by these Regulations as periods within which certain requirements so prescribed are to be complied with, the date on which such periods are to commence, as specified by the Secretary of State in her written notice to the appellant and the Agency under regulation 19;

“statement of case” means a written statement which contains full particulars of the case which a person proposes to put forward, at a hearing or inquiry or by way of written representations, in relation to the appeal or any consequential issue, and includes copies of any supporting documents which that person intends to refer to or put in evidence;

“statement of common ground” means a written statement prepared jointly by the appellant and the Agency pursuant to regulation 49 which contains agreed factual information about the appeal;

“transferred appeal” means an appeal or any matter involved in an appeal, in respect of which the Secretary of State has exercised her power in section 8 to appoint a person to determine the appeal or the matter, as the case may be, on her behalf, and, in relation to any such appeal, references in these Regulations to a decision on an appeal shall be construed as references to a decision on the appeal or the matter involved in an appeal (as the case may be) which that person has been appointed to determine; and

“written representations” includes supporting documents.

Notice of appeal against provisional map

16.—(1) Any appeal to the Secretary of State under section 6(1) against the showing of any land on a provisional map as registered common land or open country shall be made by notice given to the Secretary of State, on a form obtained from her, within three months of the date of the issue of the map.

(2) If the appellant wishes to withdraw an appeal before it is determined, he shall do so by giving notice to the Secretary of State before the appeal is determined, and the Secretary of State shall send a copy of that notice as soon as practicable to the Agency.

Notification of receipt of documents

17. The Secretary of State shall, as soon as practicable after she has received all the information required to enable her to entertain the appeal, notify the appellant and the Agency of this in writing and send a copy of the notice of the appeal to the Agency.

Preliminary information to be supplied by the Agency

18. The Agency shall ensure that, within two weeks of the receipt by them of notification in accordance with regulation 17, the following have been received by the Secretary of State and a copy has been received by the appellant—

- (a) a completed questionnaire (which shall also state the date on which it is sent to the Secretary of State) together with a copy of each document referred to in it;
- (b) the names and addresses of any persons who made representations to the Agency in respect of the showing of, or failure to show, the appeal land on a draft map; and
- (c) details of the time and place at which the Agency intends to make documents available for the purposes of regulation 57.

Notification of start of appeal etc

19.—(1) The Secretary of State shall, as soon as practicable after receipt of the information required to be supplied by the Agency in accordance with regulation 18, notify in writing the appellant, the Agency and any other person who made representations to the Agency in respect of the showing of, or failure to show, the appeal land as registered common land or open country on a draft map of—

- (a) the start date;
 - (b) whether the appeal procedure will take the form of a hearing or inquiry or will be disposed of on the basis of written representations;
 - (c) whether the appeal will be determined by the Secretary of State or by the inspector;
 - (d) the reference number allocated to the appeal;
 - (e) the addresses (including an e-mail address) to which written communications to the Secretary of State about the appeal are to be sent; and
 - (f) the time and place where documents relating to the appeal are to be made available for the purposes of regulation 57.
- (2) A notice under paragraph (1) shall—
- (a) state the name of the appellant and, sufficiently to enable it to be identified, the location and extent of the appeal land;
 - (b) state that the appeal is brought under section 6(2) in relation to the showing of the land as registered common land on a provisional map or under section 6(3) in relation to the showing of the land as open country on that map, as appropriate;
 - (c) state that the Agency—
 - (i) has sent to the Secretary of State and the appellant the name and address of any person other than the appellant who made representations to the Agency in respect of the showing of, or the failure to show, the appeal land as registered common land or open country on a draft map; and
 - (ii) is required to send a copy of such representations to the Secretary of State and the appellant;
 - (d) state that, if any such persons wish their representations to be disregarded by the Secretary of State for the purposes of the appeal, they should notify the Secretary of State of this in writing within six weeks of the start date;
 - (e) state that a person who has made any such representations may make further representations in writing to the Secretary of State in respect of the appeal by ensuring that they are received by the Secretary of State, at an address specified in the notice, within six weeks of the start date;
 - (f) state that any other person may also make representations in writing to the Secretary of State in respect of the appeal by ensuring that they are received by the Secretary of State at that address and within such time; and
 - (g) if there is to be a hearing or inquiry, state that any person, other than the appellant or the Agency, may be heard with the permission of the inspector and that such permission shall not be unreasonably withheld.
- (3) The Secretary of State shall ensure that a copy of the notice of appeal is available for inspection on a website maintained by the Planning Inspectorate Executive Agency until the appeal is determined.

Supply of further information by the Agency

20. The Agency shall ensure that, within two weeks of the start date, the Secretary of State and the appellant have received copies of—

- (a) any correspondence between the appellant and the Agency relating to the appeal land; and
- (b) any representations made to the Agency in respect of the showing of, or failure to show, the appeal land as registered common land or open country on a draft map.

Submission of statements of case etc

21. Within six weeks of the start date—

- (a) the Agency shall ensure that the Secretary of State has received two copies of their statement of case;
- (b) the appellant shall ensure that the Secretary of State has received two copies of his statement of case; and
- (c) any other person who wishes to make representations to the Secretary of State in respect of the appeal shall ensure that the Secretary of State has received three copies of such representations.

Copies of documents etc

22. The Secretary of State shall, as soon as practicable after receipt of copies of the documents referred to in regulation 21 or, where further information is required under regulation 24—

- (a) send to the appellant a copy of any statement of case submitted by the Agency under regulation 21(a), together with a copy of any additional information supplied to the Secretary of State in respect of it under regulation 24;
- (b) send to the Agency a copy of any statement of case submitted by the appellant under regulation 21(b), together with a copy of any additional information supplied to the Secretary of State under regulation 24, and
- (c) send to the appellant and the Agency a copy of any representations submitted by any person under regulation 21(c), together with a copy of any additional information supplied to the Secretary of State under regulation 24.

Comments on statement of case etc.

23. Within nine weeks of the start date—

- (a) the appellant shall ensure that the Secretary of State has received any comments which he may wish to make on—
 - (i) the Agency's statement of case, or
 - (ii) any representations made by any other person in respect of the appeal; and
- (b) the Agency shall ensure that the Secretary of State has received any comments which they wish to make on the appellant's statement of case or any such representations.

Provision of further information

24. The Secretary of State, or the inspector, may require such further information as she or he may specify from—

- (a) the appellant or the Agency in respect of their statement of case;

- (b) any person who has made representations to the Secretary of State under regulation 21(c) in respect of such representations;

and all such information shall be provided in writing within such period as the Secretary of State, or the inspector, may reasonably require.

CHAPTER II

Appeals determined on the basis of written representations

Site inspections

25.—(1) Where it appears to the Secretary of State necessary or expedient to do so, she may arrange for an inspection of the appeal land to be made by an inspector; and the Secretary of State shall arrange for such an inspection to be made if so requested by the appellant or the Agency in relation to an appeal against the showing of any land as open country on a provisional map.

(2) Where the inspector intends to make an inspection under paragraph (1), the Secretary of State shall ask the appellant and the Agency whether they wish to be present or be represented.

(3) Where the appellant or the Agency has indicated that they wish to be present or be represented, the inspector shall give the appellant and the Agency reasonable notice of the date and time of the inspection and shall afford the appellant and the Agency, or their representatives, the opportunity of being present during the inspection.

(4) The inspector shall not be bound to defer an inspection if the appellant or the Agency, or their representative, is not present at the appointed time.

Decision on appeal

26. The Secretary of State or, as the case may be, the inspector may proceed to a decision on an appeal taking into account only such statements of case, representations and comments as have been provided within the time limits prescribed by or under these Regulations.

Notification of decision

27. The Secretary of State, or as the case may be, the inspector shall notify their decision on an appeal, and their reasons for it, in writing to—

- (a) the appellant;
- (b) the Agency; and
- (c) any person who has made representations to the Secretary of State in respect of the appeal under regulation 21(c);

and the Secretary of State shall also arrange for a copy of the decision to be made available for inspection on a website maintained by the Planning Inspectorate Executive Agency for the period during which the provisional map covering the appeal land remains current.

CHAPTER III

Appeals determined by way of a hearing

Date and notification of hearing

28.—(1) The date fixed by the Secretary of State for a hearing shall be the earliest date after the expiry of the appeal period which she considers to be practicable having regard to the desirability of arranging consecutive hearings to be held in connection with appeals relating to land in the area to which the provisional map relates.

(2) Unless the Secretary of State agrees a lesser period of notice with the appellant and the Agency, she shall give the appellant, the Agency and any person who, under regulation 21(c), has made representations to the Secretary of State in respect of the appeal not less than four weeks' written notice of the date, time and place fixed by her for the holding of a hearing.

(3) The Secretary of State may at any time change the date fixed for the holding of a hearing (whether or not the new date is within the period mentioned in paragraph (1)) and paragraph (2) shall apply to the new date.

(4) The Secretary of State may at any time change the time or place for the holding of a hearing and shall give such notice of any change to the persons mentioned in paragraph (2).

(5) The Secretary of State may require the Agency, not less than two weeks before the date fixed for the hearing, or, in the case of a number of consecutive appeals relating to land in the area to which the provisional map relates, the date fixed for the hearing of the first of such appeals, to publish a notice of the hearing, or (as the case may be) of the hearing of the first of such appeals, in one or more newspapers circulating in the locality in which the appeal land is situated; and the Secretary of State shall ensure that the Planning Inspectorate Executive Agency makes a copy of such notice available for inspection on a website which it maintains until the appeal is determined.

(6) Every notice of hearing published pursuant to paragraph (5) shall contain—

- (a) a statement of the date and place of the hearing, or in the case of a number of consecutive appeals, of the hearing of the first of such appeals, and of the powers enabling the Secretary of State or inspector to determine the appeal in question; and
- (b) a brief description of the appeal land and of the grounds of appeal.

Consecutive hearings

29. The Secretary of State may arrange for two or more appeals to be heard consecutively where they relate to the same area of land or to areas of land which she considers to be clustered in such proximity as to make it expedient for the hearings to be held consecutively.

Appearances at hearing

30.—(1) The persons entitled to appear at the hearing are—

- (a) the appellant; and
- (b) the Agency;

but the inspector may permit any other person to appear at a hearing, and such permission shall not be unreasonably withheld.

(2) Any person entitled or permitted to appear may appear in person or be represented by any other person.

Inspector acting in place of Secretary of State in respect of transferred appeals

31.—(1) This regulation applies where a hearing is to be or has been held in respect of a transferred appeal.

(2) An inspector may in place of the Secretary of State take such steps as the Secretary of State is required or enabled to take under or by virtue of regulation 56(2) in respect of an appeal to be determined by way of a hearing; and, where an inspector requires further information or copies pursuant to regulation 56(2), such information or copies shall be sent to him.

Notification of name of inspector

32. The inspector shall, at the commencement of the hearing, announce his name and the fact of his appointment.

Notification of the appointment of an assessor

33. Where the Secretary of State has appointed an assessor in respect of a hearing, the inspector shall, at the commencement of the hearing, announce the name of the assessor and the fact of his appointment.

Procedure at hearing

34.—(1) Except as otherwise provided in this Part, the inspector shall determine the procedure at a hearing.

(2) A hearing shall take the form of a discussion led by an inspector, and cross-examination shall not be permitted unless the inspector considers that cross-examination is required to ensure a thorough examination of the main issues.

(3) Where the inspector considers that cross-examination is required under paragraph (2), he shall consider, after consulting the appellant and the Agency, whether the hearing should be closed and an inquiry held instead.

(4) At the start of the hearing the inspector shall identify what are, in his opinion, the main issues to be considered at the hearing and any matters on which he requires further explanation from any person appearing at the hearing; but this shall not preclude the addition in the course of the hearing of other issues for consideration or any person appearing at the hearing from referring to issues which they consider relevant to the consideration of the appeal but which were not issues so identified by the inspector.

(5) The appellant and the Agency shall be entitled to give, or to call another person to give, oral evidence, and any other person may give, or call another person to give, oral evidence if so permitted by an inspector at his discretion, but notwithstanding any such entitlement or permission, the inspector may, at any stage in the proceedings refuse to permit the giving of evidence or presentation of any other matter which he considers to be irrelevant or repetitious.

(6) Where the inspector refuses to permit the giving of oral evidence, the person wishing to give, or to call any other person to give, evidence may submit to him any evidence or other matter in writing before the close of the hearing.

(7) The inspector may require any person appearing or present at a hearing who, in his opinion, is behaving in a disruptive manner to leave the hearing; and the inspector may then refuse to permit that person to return or permit him to return only on such conditions as he may specify, but any such person may submit to the inspector any evidence or other matter in writing before the close of the hearing.

(8) The inspector may allow the appellant or the Agency to alter or make any addition to a statement of case submitted under regulation 21(a) or (b) so far as may be necessary for the purposes of the hearing.

(9) The inspector may—

- (a) proceed with a hearing in the absence of any person entitled to appear at it;
- (b) take into account any written representations or evidence or any other document received by him from any person before a hearing opens or during the hearing provided he discloses it at the hearing, and

- (c) from time to time adjourn a hearing, and, if the date, time and place of the adjourned hearing are announced at the hearing before the adjournment, no further notice shall be required.

Site inspections

35.—(1) Where it appears to an inspector that one or more matters would be more satisfactorily resolved by adjourning the hearing to the appeal site, he may adjourn the hearing to that site and conclude the hearing there provided he is satisfied that—

- (a) the hearing would proceed satisfactorily and that no party would be placed at a disadvantage;
- (b) all parties present at the hearing would have the opportunity to attend the adjourned hearing; and
- (c) neither the appellant nor the Agency have raised any reasonable objections to its being continued at the appeal site.

(2) Unless the hearing is to be adjourned to the appeal site pursuant to paragraph (1), the inspector may, where it appears to him necessary or expedient to do so, arrange to make an inspection of the appeal land in the company of the appellant and the Agency, or their representatives; and the inspector shall arrange to make such an inspection if requested to do so by the appellant or the Agency before or during the hearing in relation to an appeal against the showing of any land as open country on a provisional map.

(3) In all cases where the inspector intends to make a site inspection he shall announce during the hearing the date and time at which he proposes to make it.

(4) The inspector shall not be bound to defer an inspection if the appellant or the Agency, or their representative, is not present at the appointed time.

Procedure after hearing—appeals determined by the Secretary of State

36.—(1) This regulation applies where a hearing has been held for the purposes of any appeal determined by the Secretary of State.

(2) After the close of the hearing, the inspector shall make a report in writing to the Secretary of State which shall include his conclusions and his recommendations or his reasons for not making any recommendations.

(3) When making her determination the Secretary of State may disregard any written representations, evidence or other document received after the hearing has closed.

(4) If, after the close of the hearing, the Secretary of State—

- (a) differs from the inspector on any matter of fact mentioned in, or appearing to her to be material to, a conclusion reached by the inspector, or
- (b) takes into consideration any new evidence or new matter of fact,

and is, for that reason, disposed to disagree with a recommendation made by the inspector, she shall not come to a decision which is at variance with that recommendation without first notifying the appellant, the Agency and any other person who appeared at the hearing of her disagreement and the reasons for it, and affording them an opportunity of making written representations to her or, if the Secretary of State has taken into consideration any new evidence or new matter of fact, of asking for the re-opening of the hearing.

(5) Those persons making written representations or requesting the re-opening of the hearing pursuant to paragraph (4) shall ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the Secretary of State's notification under that paragraph.

(6) The Secretary of State may, if she thinks fit, cause a hearing to be re-opened, and she shall do so if asked by the appellant or the Agency in the circumstances mentioned in paragraph (4) and within the period mentioned in paragraph (5); and where a hearing is re-opened (whether by the same or a different inspector)—

- (a) the Secretary of State shall send to the persons mentioned in paragraph (4) a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (2), (5) and (6) of regulation 28 shall apply as if the references to a hearing were references to a re-opened hearing.

Procedure after hearing—transferred appeals

37.—(1) This regulation applies where a hearing has been held for the purposes of a transferred appeal.

(2) When making his decision, the inspector may disregard any written representations or evidence or any other document received after the hearing has closed.

(3) If, after the close of the hearing, an inspector proposes to take into account any new matter of fact which was not raised at the hearing and which he considers to be material to his decision, he shall not come to a decision without first—

- (a) notifying the appellant and the Agency and any other person who appeared at the hearing; and
- (b) affording them an opportunity of making written representations to him or of asking for the re-opening of the hearing;

and they shall ensure that such written representations or request to re-open the hearing are received by the Secretary of State within three weeks of the date of notification.

(4) An inspector may, if he thinks fit, cause a hearing to be re-opened, and he shall do so if asked by the appellant or the Agency in the circumstances and within the period mentioned in paragraph (3); and where a hearing is re-opened—

- (a) the inspector shall send to the appellant, the Agency and any other person who appeared at the hearing a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (2), (5) and (6) of regulation 28 shall apply as if the references to a hearing were references to a re-opened hearing.

Notification of decision—appeals determined by the Secretary of State

38.—(1) This regulation applies where a hearing has been held for the purposes of any appeal determined by the Secretary of State.

(2) The Secretary of State shall notify her decision on the appeal, and her reasons for reaching it, in writing to—

- (a) the appellant and the Agency; and
- (b) any other person who—
 - (i) appeared at the hearing, or
 - (ii) has made representations to the Secretary of State under regulation 21(c).

(3) Where a copy of the inspector’s report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him; and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application to the Secretary of State.

(4) In this regulation, “report” does not include any documents appended to the inspector’s report; but any person who has received a copy of the report may apply to the Secretary of State in writing for an opportunity to inspect any such documents, and the Secretary of State shall afford him that opportunity.

(5) A person applying to the Secretary of State under paragraph (3) or (4) shall ensure that his application is received by the Secretary of State within four weeks and six weeks, respectively, of the date of the decision of the Secretary of State.

(6) The Secretary of State shall ensure that a copy of the notification given under paragraph (2) is available for inspection on the website maintained by the Planning Inspectorate Executive Agency for the period during which the provisional map covering the land to which the appeal relates remains current.

Notification of decision—transferred appeals

39.—(1) This regulation applies where a hearing has been held for the purposes of a transferred appeal.

(2) An inspector shall notify his decision on the appeal, and his reasons for it, in writing to—

(a) the appellant and the Agency; and

(b) any other person who—

(i) appeared at the hearing, or

(ii) has made representations to the Secretary of State under regulation 21(c).

(3) Any person entitled to be notified of the inspector’s decision under paragraph (2) may apply to the Secretary of State in writing for an opportunity of inspecting any documents listed in the notification, and the Secretary of State shall afford him that opportunity.

(4) Any person making an application under paragraph (3) shall ensure that it is received by the Secretary of State within six weeks of the date of the inspector’s decision.

(5) The Secretary of State shall ensure that a copy of the notification given under paragraph (2) is available for inspection on a website maintained by the Planning Inspectorate Executive Agency for the period during which the provisional map covering the appeal land remains current.

CHAPTER IV

Appeals to be determined by way of an inquiry

Statements of case

40. The appellant and the Agency may each in writing require the other to provide a copy of any document referred to in the list of documents comprised in their statement of case, and any such document (or relevant part of it) shall be sent, as soon as practicable, to the party who required it.

Procedure where the Secretary of State or inspector causes pre-inquiry meeting to be held

41.—(1) The Secretary of State or the inspector shall hold a pre-inquiry meeting if it appears to them to be necessary, and any such meeting (or, where there is more than one, the first such meeting) shall be held within sixteen weeks of the start date or at the earliest practicable time thereafter.

(2) Where the Secretary of State or the inspector decides to hold such a meeting, she or he (as the case may be) shall notify in writing the appellant and the Agency of her (or his) intention to hold such a meeting.

(3) The Secretary of State or the inspector shall give not less than two weeks’ written notice of the pre-inquiry meeting to—

- (a) the appellant and the Agency; and
 - (b) any other person whose presence at the pre-inquiry meeting she (or he) considers desirable.
- (4) The inspector—
- (a) shall preside at the pre-inquiry meeting;
 - (b) shall determine the matters to be discussed and the procedure to be followed;
 - (c) may require any person present at the pre-inquiry meeting who he considers 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 him to return or attend only on such conditions as he may specify.
- (5) Where a pre-inquiry meeting is held pursuant to paragraph (1), the inspector may hold a further pre-inquiry meeting and he shall arrange for such notice to be given of a further pre-inquiry meeting as appears to him necessary; and paragraph (4) shall apply to such a pre-inquiry meeting.
- (6) If the Secretary of State or the inspector requests any further information at the pre-inquiry meeting from the appellant, the Agency or any other person present at that meeting, the person required to provide the information shall ensure that two copies of it have been received by the Secretary of State, or the inspector, as the case may be, within four weeks of the conclusion of the pre-inquiry meeting; and the Secretary of State shall, as soon as practicable after receipt of any such information send a copy of it to the other parties entitled to appear at the inquiry.

Inquiry timetable

- 42.**—(1) Where a pre-inquiry meeting is held pursuant to regulation 41, the inspector shall arrange a timetable for the proceedings at, or at part of, the inquiry.
- (2) The inspector shall specify in a timetable arranged pursuant to this regulation a date by which any proof of evidence sent in accordance with regulation 48 shall be received by the Secretary of State.

Date and notification of inquiry

- 43.**—(1) The date fixed by the Secretary of State for the holding of an inquiry shall, unless she considers such a date to be impracticable, be not later than—
- (a) subject to sub-paragraph (b), twenty two weeks after the start date; or
 - (b) where a pre-inquiry meeting is held pursuant to regulation 41, eight weeks after the conclusion of that meeting.
- (2) Where the Secretary of State considers it impracticable to fix a date in accordance with paragraph (1), the date fixed shall be the earliest date after the expiry of the relevant period mentioned in that paragraph which she considers to be practicable.
- (3) Unless the Secretary of State agrees a lesser period of notice with the appellant and the Agency, she shall give to the appellant, the Agency and any persons who have made representations to the Secretary of State in respect of the appeal under regulation 21(c) not less than four weeks' written notice of the date, time and place fixed by her for the holding of an inquiry.
- (4) The Secretary of State may—
- (a) change the date fixed for the holding of an inquiry (whether or not the new date is within the relevant period mentioned in paragraph (1)); or
 - (b) change the time or place for the holding of an inquiry.
- (5) Where, under paragraph (4)(a), the Secretary of State changes the date for the holding of an inquiry, paragraph (3) shall apply to the new date as it applied to the date originally fixed, and where,

under paragraph (4)(b), she changes the time or place for the holding of an inquiry, she shall give such notice of the change as appears to her to be reasonable.

(6) The Secretary of State may require the Agency to publish, not less than two weeks before the date fixed for the holding of an inquiry, a notice of the inquiry in one or more newspapers circulating in the locality in which the appeal land is situated; and the Secretary of State shall ensure that the Planning Inspectorate Executive Agency makes a copy of such notice available for inspection on a website which it maintains until the appeal is determined.

(7) Every notice of an inquiry published pursuant to paragraph (6) shall contain—

- (a) a statement of the date, time and place of the inquiry and of the powers enabling the Secretary of State to determine the appeal in question; and
- (b) a brief description of the appeal land and of the grounds of appeal.

Notification of name of inspector

44. The inspector shall, at the commencement of the inquiry, announce his name and the fact of his appointment.

Notification of appointment of assessor

45. Where the Secretary of State has appointed an assessor in respect of an inquiry, the inspector shall, at the commencement of the inquiry, announce the name of the assessor and the fact of his appointment.

Appearances at inquiry

46.—(1) The persons entitled to appear at an inquiry are—

- (a) the appellant; and
- (b) the Agency.

(2) The inspector may permit any other person to appear at any inquiry, which permission shall not be unreasonably withheld.

(3) Any person entitled or permitted to appear may appear in person or be represented by another person.

Inspector may act in place of Secretary of State

47. An inspector may, in place of the Secretary of State, take such steps as the Secretary of State is required or enabled to take under or by virtue of regulations 41(5), 54 and 56(2); and where an inspector requires further information or copies pursuant to regulation 56(2), that information or those copies shall be sent to him.

Proofs of evidence

48.—(1) Subject to paragraph (2), where the appellant or the Agency propose to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence, he or they shall send two copies of the proof of evidence, together with any written summary accompanying it, to the Secretary of State; and the Secretary of State shall, as soon as practicable after receiving it, send a copy of the proof of evidence provided by the appellant or the Agency, as the case may be, together with any written summary accompanying it, to the other party.

(2) A written summary shall be required where the proof of evidence in question exceeds one thousand five hundred words.

(3) The appellant and the Agency shall ensure that the proof of evidence and any summary is received by the Secretary of State no later than—

- (a) four weeks before the date fixed for the holding of the inquiry; or
- (b) where a timetable has been arranged pursuant to regulation 42 which specifies a date by which the proof of evidence and any summary shall be received by the Secretary of State, that date.

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

(5) Any person required by this regulation to send copies of a proof of evidence to the Secretary of State shall 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 this regulation.

Statement of common ground

49. The appellant and the Agency shall together prepare a statement of common ground, and the Agency shall ensure that the Secretary of State receives it not less than four weeks before the date fixed for the holding of the inquiry.

Procedure at inquiry

50.—(1) Except as otherwise provided in these Regulations, the inspector shall determine the procedure at an inquiry.

(2) At the start of the inquiry the inspector shall identify what are, in his opinion, the main issues to be considered at the inquiry and any matters on which he requires further explanation from any person appearing at the inquiry.

(3) Nothing in paragraph (2) shall preclude the addition in the course of the inquiry of other issues for consideration or preclude any person entitled or permitted to appear from referring to issues which that person considers relevant to the consideration of the appeal but which were not issues identified by the inspector pursuant to that paragraph.

(4) Unless in a particular case the inspector otherwise determines, the Agency shall begin and the appellant shall have the right of final reply; and any other persons appearing at the hearing shall be heard in such order as the inspector shall determine.

(5) Subject to paragraph (6), a person appearing at an inquiry shall be entitled to give, or call any other person to give, oral evidence, and the appellant and the Agency shall be entitled to cross-examine persons giving evidence, and any other person, if so permitted by the the inspector at his discretion, may give or call another person to give evidence, and may cross-examine any person giving evidence.

- (6) The inspector may at any stage in the proceedings refuse to permit—
- (a) the giving or production of evidence,
 - (b) the cross-examination of persons giving evidence, or
 - (c) the presentation of any matter,

which he considers to be irrelevant or repetitious.

(7) Where under paragraph (5) or (6) the inspector refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to him any evidence or other matter in writing before the close of the inquiry.

- (8) Where a person gives evidence at an inquiry by reading a summary of his proof of evidence—

- (a) the proof of evidence referred to in regulation 48(1) shall be treated as tendered in evidence, unless the person required to provide the summary notifies the inspector that he now wishes to rely on the contents of that summary alone; and
 - (b) the person whose evidence the proof of evidence contains shall then be subject to cross-examination on it to the same extent as if it were evidence he had given orally.
- (9) The inspector may—
- (a) require any person appearing at an inquiry who, in his opinion, is behaving in a disruptive manner to leave; and
 - (b) refuse to permit that person to return or permit him to return only on such conditions as he may specify;

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

(10) The inspector may allow any person to alter or add to a statement of case received by the Secretary of State under regulation 21 or a proof of evidence or summary sent to the Secretary of State under regulation 48(1) so far as may be necessary for the purposes of the inquiry; but he shall (if necessary by adjourning the inquiry) give every other person appearing at the inquiry an adequate opportunity of considering any fresh matter or document.

(11) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.

(12) The inspector may take into account any written representations, or evidence or any other document received by him from any person before an inquiry opens or during the inquiry, provided he discloses it at the inquiry.

(13) The inspector 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 shall be required.

Site inspections

51.—(1) During an inquiry or after its close, the inspector may, where it appears to him necessary or expedient to do so, arrange to make an inspection of the appeal land; and the inspector shall arrange to make such an inspection if so requested by the appellant or the Agency before or during the inquiry in relation to an appeal against the showing of any land as open country on a provisional map.

(2) Where the inspector intends to make an inspection under paragraph (1), he shall ask the appellant and the Agency whether they wish to be present or be represented.

(3) Where the appellant or the Agency have indicated that they wish to be present or be represented, the inspector shall give the appellant and the Agency reasonable notice of the date and time of the inspection and shall afford the appellant and the Agency, or their representatives, the opportunity of being present during the inspection.

(4) The inspector shall not be bound to defer an inspection if the appellant or the Agency or their representative is not present at the appointed time.

Procedure after inquiry—appeals to be determined by the Secretary of State

52.—(1) This regulation applies where an inquiry has been held for the purposes of any appeal determined by the Secretary of State.

(2) After the close of an inquiry the inspector shall make a report in writing to the Secretary of State which shall include his conclusions and his recommendations or his reasons for not making any recommendations.

(3) Where an assessor has been appointed, he shall, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise.

(4) Where an assessor makes such a report, the inspector shall append it to his own report and shall state in his own report how far he agrees or disagrees with the assessor's report and, where he disagrees with the assessor, his reasons for that disagreement.

(5) When making her decision the Secretary of State may disregard any written representations, evidence or other document received after the close of the inquiry.

(6) If, after the close of the inquiry, the Secretary of State—

- (a) differs from the inspector on any matter of fact mentioned in, or appearing to her to be material to, a conclusion reached by the inspector, or
- (b) takes into consideration any new evidence or new matter of fact,

and is for that reason disposed to disagree with a recommendation made by the inspector, she shall not come to a decision which is at variance with that recommendation without first notifying the appellant and the Agency, and any other person who appeared at the inquiry, of her disagreement and the reasons for it, and affording them an opportunity of making written representations to her or of asking for the re-opening of the inquiry.

(7) Those persons making written representations or requesting the inquiry to be re-opened under paragraph (6) shall ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the Secretary of State's notification under that paragraph.

(8) The Secretary of State may, if she thinks fit, cause an inquiry to be re-opened, and she shall do so if asked by the appellant or the Agency in the circumstances mentioned in paragraph (6) and within the period mentioned in paragraph (7); and where an inquiry is re-opened (whether by the same or a different inspector)—

- (a) the Secretary of State shall send to the persons who appeared at the inquiry a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (3), (6) and (7) of regulation 43 shall apply as if the references to an inquiry were to a re-opened inquiry.

Procedure after inquiry—transferred appeals

53.—(1) This regulation applies for the purposes of an inquiry held for the purposes of a transferred appeal.

(2) Where an assessor has been appointed, he shall, after the close of the inquiry, make a report in writing to the inspector in respect of the matters on which he was appointed to advise, and the inspector shall state in the notification of his decision pursuant to regulation 55 that such a report was made.

(3) When making his decision the inspector may disregard any written representations or evidence or other document received after the close of the inquiry.

(4) If, after the close of the inquiry, an inspector proposes to take into consideration any new evidence or any new matter of fact which was not raised at the inquiry, and which he considers to be material to his decision, he shall not come to a decision without first—

- (a) notifying the persons entitled to appear at the inquiry who appeared at it of the matter in question; and
- (b) affording them an opportunity of making written representations to him or of asking for the inquiry to be re-opened;

and they shall ensure that such written representations are received by the Secretary of State within three weeks of the date of the notification.

(5) An inspector may, if he thinks fit, cause an inquiry to be re-opened, and he shall do so if asked by the appellant or the Agency in the circumstances and within the period mentioned in paragraph (4); and where an inquiry is re-opened—

- (a) the inspector shall send to the persons entitled to appear at the inquiry who appeared at it a written statement of the matters with respect to which further evidence is invited; and
- (b) paragraphs (3), (6) and (7) of regulation 43 shall apply as if the references to an inquiry were references to a re-opened inquiry.

Notification of decision—appeals determined by the Secretary of State

54.—(1) This regulation applies where an inquiry has been held for the purposes of any appeal to be determined by the Secretary of State.

(2) The Secretary of State shall, as soon as practicable, notify her decision on an appeal, and her reasons for it, in writing to—

- (a) the appellant and the Agency; and
- (b) any other person who—
 - (i) appeared at the inquiry, or
 - (ii) has made representations to the Secretary of State under regulation 21(c).

(3) Where a copy of the inspector’s report is not sent with the notification of the decision, the notification shall be accompanied by a statement of his conclusions and of any recommendations made by him, and if a person entitled to be notified of the decision has not received a copy of that report, he shall be supplied with a copy of it on written application to the Secretary of State.

(4) In this regulation, “report” includes any assessor’s report appended to the inspector’s report but not any other documents so appended; but any person who has received a copy of the report may apply to the Secretary of State, in writing, within six weeks of the date of the Secretary of State’s decision, for an opportunity of inspecting such documents, and the Secretary of State shall afford him such an opportunity.

(5) Any person applying to the Secretary of State under paragraph (3) or (4) shall ensure that his application is received by the Secretary of State within four weeks of the Secretary of State’s determination.

Notification of decision—transferred appeals

55.—(1) This regulation applies where an inquiry has been held for the purposes of a transferred appeal.

(2) The inspector shall, as soon as practicable, notify his decision on the appeal, and his reasons for it, in writing to—

- (a) the appellant and the Agency;
- (b) any other person who—
 - (i) appeared at the inquiry, or
 - (ii) has made representations to the Secretary of State under regulation 21(c).

(3) Any person entitled to be notified of the inspector’s decision under paragraph (2) may apply to the Secretary of State in writing for an opportunity to inspect any documents listed in the notification and any report made by an assessor, and the Secretary of State shall afford him that opportunity.

(4) Any person making an application pursuant to paragraph (3) shall ensure that it is received by the Secretary of State within six weeks of the date of the decision.

CHAPTER V

General

Further time and additional copies

56.—(1) The Secretary of State may, at any time and in any particular case, give directions setting later time limits than those prescribed by these Regulations for the taking of any step or the doing of any thing which is required or enabled to be taken or done by virtue of these Regulations; and references in these Regulations to a period within which any step or thing is required or enabled to be taken or done shall be construed accordingly.

(2) The Secretary of State may, at any time before the notification of her decision (in the case of an appeal to be determined by way of written representations), or (in the case of a hearing or inquiry) before the close of the hearing or inquiry, request from any person making written representations or appearing at the hearing or inquiry (as the case may be)—

- (a) further written representations or evidence, or (in the case of a hearing or inquiry) oral evidence with regard to any matter on which she requires further information; and
- (b) copies of (as appropriate)—
 - (i) a statement of case or comments sent in accordance with regulation 21 or 23, respectively;
 - (ii) a proof of evidence sent in accordance with regulation 48; or
 - (iii) any other document or information sent to the Secretary of State before or during a hearing or inquiry;

and may specify a reasonable time within which such representations or copies must be received by her; and any person so requested shall ensure that the representations or copies are received within the period specified.

Inspection and copying of documents

57. The Agency shall afford any person who so requests, an opportunity, at such time and place as the Agency may reasonably determine, to inspect and, where practicable, take copies of—

- (a) the notice of appeal submitted by the appellant pursuant to regulation 16(1);
- (b) the Agency's completed questionnaire (together with any documents referred to in it);
- (c) the notice given by the Secretary of State pursuant to regulation 19;
- (d) all documents submitted by the Agency pursuant to regulation 20, 21(a), 23(b) or 24;
- (e) the statement of case submitted by the appellant pursuant to regulation 21(b);
- (f) any representations made to the Agency in respect of the showing of, or the failure to show, the appeal land as registered common land or open country on a map in draft form;
- (g) any representations made to the Secretary of State in respect of the appeal under regulation 21(c);
- (h) any proof of evidence (together with any written summary) sent by or to the Agency pursuant to regulation 48(1); or
- (i) any statement of common ground prepared by the appellant and the Agency pursuant to regulation 49.

Changes of procedure

58.—(1) If, at any time before the Secretary of State or the inspector, in either case under regulation 27, notifies her or (as the case may be) his decision on an appeal, the appellant, the Agency or the Secretary of State wishes the appeal to be determined no longer by way of written representations but instead by way of a hearing or inquiry, the Secretary of State shall arrange for the appeal to proceed by way of a hearing or inquiry.

(2) Paragraphs (3) and (4) apply at any time before the Secretary of State, under regulation 38 or 54, or an inspector, under regulation 39 or 55, notifies her or (as the case may be) his decision on an appeal.

(3) If the appellant or the Agency wishes an appeal to be determined no longer by way of a hearing or inquiry but instead by way of written representations, the Secretary of State shall consult the other party, and, if both that party and the Secretary of State agree to such a change in procedure, the Secretary of State shall arrange for the appeal to be determined by way of written representations.

(4) If the appellant, the Agency or the Secretary of State wishes an appeal to be determined—

(i) no longer by way of a hearing but instead by way of an inquiry, or

(ii) no longer by way of an inquiry but instead by way of a hearing,

the Secretary of State shall, after consulting the other party or, where the Secretary of State wishes the appeal procedure to be changed, both the parties, decide whether the hearing or inquiry (as the case may be) should proceed no further and an inquiry or hearing (as appropriate) be held instead.

(5) Where the appeal procedure is changed by the Secretary of State under this regulation—

(a) the Secretary of State shall—

(i) notify the appellant, the Agency and any other person who has made representations in respect of the appeal of such change; and

(ii) ensure that a copy of such notice is available for inspection on a website maintained by the Planning Inspectorate Executive Agency until the appeal is determined; and

(b) in relation to the conduct of the appeal thereafter—

(i) any step taken or thing done under these Regulations in relation to the former appeal procedure which could have been done under any corresponding provision of these Regulations relating to the new appeal procedure shall have effect as if taken or done under that corresponding provision; and

(ii) the Secretary of State may give any consequential directions as to the procedure to be applied as she may consider necessary.

Recovery of jurisdiction

59. Where the appointment of an appointed person is revoked under paragraph 2(c) of Schedule 3 to the Act and no new appointment is made at the time of such revocation, the appeal shall proceed as an appeal which falls to be determined by the Secretary of State instead of as a transferred appeal, and any step taken or thing done under these Regulations in relation to the transferred appeal which could have been taken or done in relation to an appeal which falls to be determined by the Secretary of State shall have effect as if it had been taken or done in relation to such an appeal.

Procedure following quashing of a decision

60.—(1) Where the decision of the Secretary of State or an inspector in respect of an appeal is quashed in proceedings before any court, the Secretary of State—

(a) shall send to the appellant, the Agency and any other persons who appeared at the hearing or inquiry or who has made representations to the Secretary of State in respect of the appeal

under regulation 21(c), a written statement of the matters with respect to which further representations are invited for the purposes of her further consideration of the appeal;

- (b) shall afford to those persons the opportunity of making written representations to her in respect of those matters or of asking for the re-opening of the hearing or the inquiry; and
- (c) may, as she thinks fit, cause the hearing or inquiry to be re-opened;

and, where she re-opens the hearing or inquiry, paragraphs (2), (5) and (6) of regulation 28 and paragraphs (3), (6) and (7) of regulation 43 shall apply as if the references to a hearing or inquiry were to a re-opened hearing or inquiry, respectively.

(2) Those persons making representations or asking for the inquiry to be re-opened under paragraph (1)(b) shall ensure that such representations or requests are received by the Secretary of State within three weeks of the date of the written statement sent under paragraph (1)(a).

Use of electronic communications

61.—(1) Any requirement imposed by or under these Regulations as to the giving or sending by one person to another of a notice or other document may be met by means of an electronic communication if—

- (a) the use of such a communication results in the information contained in that notice or document being available to the other person in all material respects as it would appear in a notice or document given or sent in printed form; and
- (b) the other person has consented to the information being made available to him by such means.

(2) Where under paragraph (1) an electronic communication is used for the purposes of giving or sending a notice or document—

- (a) any requirement for the notice or document to be given or sent by a particular time shall be met in respect of the electronic communication only if the conditions mentioned in paragraph (1) are met by that time; and
- (b) any requirement for more than one copy of the notice or document to be sent on any single occasion may be complied with by a single such communication.

(3) For the purposes of paragraph (1)(a), “in all material respects” means in all respects material to an exact reproduction of the content of the information as it would appear in a notice or document given or sent in printed form.

(4) In this regulation—

- (a) “electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(1); and
- (b) “requirement” includes any condition of an authorisation.