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STATUTORY INSTRUMENTS

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**2004 No. 3305**

**The Access to the Countryside (Means of  
Access, Appeals) (England) Regulations 2004**

**PART 2**

**INITIAL STAGES OF APPEAL**

**Manner and period for appeal**

4.—(1) An owner or occupier who wishes to appeal to the Secretary of State under section 38(1) of the Act (appeals against notices under section 36(3) or section 37(1) of the Act concerning works with respect to means of access) shall give notice of appeal to the Secretary of State, by—

- (a) serving on her, within the period specified in paragraph (2), a notice of appeal on a form obtained from her; and
- (b) serving on the access authority a copy of that notice of appeal at the same time as that notice is served on the Secretary of State under sub-paragraph (a).

(2) The period mentioned in paragraph (1) is—

- (a) where the appeal is against a notice under section 36(3) of the Act, the period specified in that notice within which the works specified in that notice are required to be carried out;
- (b) where the appeal is against a notice under section 37(1) of the Act, the period specified in that notice after which the access authority intend to carry out the works specified in that notice.

(3) Where the access authority give notice under section 36(3) of the Act to any person as the owner or occupier of any land, the access authority shall give a copy of that notice to every other owner or occupier of the land.

(4) An appellant may withdraw his appeal at any time before it is determined by giving notice in writing to the Secretary of State, and the Secretary of State shall, as soon as practicable, send a copy of that notice to—

- (a) the access authority;
- (b) every other owner or occupier of the appeal land whose address is known to the Secretary of State; and
- (c) where the address of the local access forum is known to the Secretary of State, the local access forum.

**Notification of receipt of documents**

5.—(1) 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 access authority of this in writing.

(2) The notice to the access authority under paragraph (1) shall be accompanied by a questionnaire in respect of the information required by the Secretary of State concerning the appeal.

**Preliminary information to be supplied by the access authority.**

6. The access authority shall ensure that, within two weeks of the receipt by them of the notification in accordance with regulation 5, the following have been received by the Secretary of State and a copy has been received by the appellant—

- (a) the 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 name and address of any person who made representations to the access authority in respect of the notice given under sections 36(3) or 37(1) of the Act (as the case may be);
- (c) the address of the local access forum; and
- (d) details of the time and place at which the access authority intend to make documents available for the purpose of regulation 39 (inspection and copying of documents).

**Notification of start of appeal etc.**

7.—(1) The Secretary of State shall, as soon as practicable after receipt of the information to be supplied to her in accordance with regulation 6, give notice in writing to the appellant, the access authority, any person who has made representations as mentioned in regulation 6(b) and the local access forum stating –

- (a) the start date;
- (b) whether the appeal will take the form of a hearing or inquiry or will be determined on the basis of written representations;
- (c) whether the appeal will be determined by the Secretary of State or an inspector;
- (d) the reference number allocated to the appeal;
- (e) the address (including an e-mail address) to which written communications to the Secretary of State about the appeal are to be sent;
- (f) the time and place where documents relating to the appeal are to be made available by the access authority under regulation 39;
- (g) the name of the appellant and the location of the appeal land in sufficient detail to enable it to be identified;
- (h) that, as the case may be—
  - (i) the appeal is in respect of a notice given under section 36(3) of the Act concerning works which the owner or occupier is required to carry out for the purpose of remedying the failure to observe a restriction in an agreement under section 35 of the Act with respect to means of access, or
  - (ii) the appeal is in respect of a notice given under section 37(1) of the Act that the access authority intend to take all necessary steps for carrying out the works specified in that notice with respect to means of access,and in either case the notice given by the Secretary of State shall provide a brief description of those works;
- (i) that the access authority –
  - (i) have sent to the Secretary of State and to the appellant the name and address of any person, other than the appellant, who has made representations to the authority with

respect to the notice given under sections 36(3) or 37(1) of the Act, as the case may be, and

- (ii) are required to send a copy of those representations to the Secretary of State and to the appellant;
- (j) that if any such person wishes his representations to be disregarded by the Secretary of State for the purposes of the appeal, he should notify the Secretary of State in writing of this within six weeks of the start date;
- (k) that any person who has made 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 within six weeks of the start date;
- (l) that any other person may also make representations to the Secretary of State in respect of the appeal by ensuring that they are received within 6 weeks of the start date; and
- (m) that, if there is to be a hearing or an inquiry—
  - (i) the appellant and the access authority shall be entitled to appear, and
  - (ii) the inspector may permit any other person to appear and that such permission shall not to be unreasonably withheld.

(2) The Secretary of State shall ensure that a copy of the notice given by her under paragraph (1) 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 access authority**

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

- (a) any representations made to them as mentioned in regulation 7(1)(i); and
- (b) any correspondence between the appellant and the access authority relating to the issue of the notice under sections 36(3) or 37(1) of the Act (as the case may be).

#### **Submission of statements of case etc.**

9. Within six weeks of the start date –

- (a) the access authority 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**

10. The Secretary of State shall, as soon as practicable after receipt of copies of the documents referred to in regulation 9 –

- (a) send to the appellant a copy of the statement of case submitted by the access authority;
- (b) send to the access authority a copy of the statement of case submitted by the appellant; and
- (c) send to the appellant and the access authority a copy of any representations submitted by any interested person as mentioned in regulation 9(c).

**Comments on statements of case**

- 11.—(1) 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 statement of case of the access authority; and
    - (ii) any representations made by any interested person; and
  - (b) the access authority shall ensure that the Secretary of State has received any comments which they may wish to make on the statement of case of the appellant or on any such representations.
- (2) The Secretary of State shall, as soon as practicable after receipt of the comments referred to in paragraph (1), send–
- (a) to the access authority a copy of the comments received from the appellant under paragraph (1)(a), and
  - (b) to the appellant a copy of the comments received from the access authority under paragraph(1)(b).

**Provision of further information**

- 12.—(1) The Secretary of State or the inspector may require such further information as she may specify from –
- (a) the appellant;
  - (b) the access authority; or
  - (c) any interested person;
- and all such information shall be provided in writing within such period as the Secretary of State or the inspector may reasonably require.
- (2) The Secretary of State shall, as soon as practicable after receipt of any further information required under paragraph (1), send a copy of the documents received–
- (a) in the case of information received from the appellant or the access authority, to the other party; and
  - (b) in the case of information received from any interested person, to the appellant and the access authority.