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STATUTORY INSTRUMENTS

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**2010 No. 1976**

**The Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010**

**PART 5**

**HEARINGS AND LOCAL INQUIRIES**

*Application and interpretation of Part 5*

**Application and interpretation of Part 5**

**12.**—(1) This Part applies where AP decides to hold a hearing or a local inquiry in connection with the consideration of an objection.

(2) In this Part “representation” means a representation—

- (a) under paragraph 7(1) of the Reports Schedule, or
- (b) in response to an invitation in a notice under paragraph 10 of that Schedule,

which is made in accordance with the applicable requirements of regulation 4 (objections and representations about a report) or 6 (representations in response to an invitation in a notice under paragraph 10 of the Reports Schedule) (as the case may be).

*Hearings and inquiries: common provisions*

**Notice of the hearing or inquiry**

**13.**—(1) As soon as possible after the decision to hold a hearing or inquiry, AP must—

- (a) publish notice of the hearing or inquiry in accordance with paragraph (2); and
- (b) give notice of the hearing or inquiry to the persons specified in paragraph (3).

(2) The notice must be published—

- (a) in one or more local or regional newspapers circulating in the area to which the relevant report relates;
- (b) on AP’s website; and
- (c) in any other manner that AP thinks appropriate for drawing the attention of members of the public to the notice.

(3) The notice must be given to—

- (a) Natural England;
- (b) the access authority for the area in which relevant land is situated;
- (c) the person or persons who made the objection;
- (d) any other person with a relevant interest in relevant land; and

- (e) any person who has made representations relevant to—
  - (i) the objection,
  - (ii) a modification of the proposals proposed by the objection, or
  - (iii) a relevant alternative modification contained in Natural England’s comments on the objection.
- (4) The notice of the hearing or inquiry must—
  - (a) specify its date of issue;
  - (b) state that AP intends to determine the objection by way of a hearing or inquiry;
  - (c) state the date, time and place of the hearing or inquiry;
  - (d) give details of the place and times at which documents relating to the hearing or inquiry may be available for inspection; and
  - (e) give a brief description of—
    - (i) the relevant report,
    - (ii) the relevant land, and
    - (iii) the objection.
- (5) The date fixed for the hearing or inquiry must be not less than six weeks after the date of first publication of the notice of hearing or inquiry on AP’s website.
- (6) Subject to paragraph (5), AP may change the date, time or place of the hearing or inquiry, provided that AP gives reasonable notice of the change to those persons to whom notice of the hearing or inquiry was originally given under paragraph (3).
- (7) AP is not required to give notice of an adjourned hearing or inquiry if the date, time and place of the adjourned hearing or inquiry are announced at the hearing or inquiry before its adjournment.
- (8) In this regulation “the relevant report” means the report to which the objection relates.

**Appearances at the hearing or inquiry**

- 14.—(1) Any person to whom notice must be given under paragraph (3) of regulation 13 (notice of the hearing or inquiry) is entitled to appear at the hearing or inquiry.
- (2) Any other person may appear at the hearing or inquiry if AP so permits.
- (3) Any person appearing at the hearing or inquiry may appear in person or be represented by any other person.

**Procedure at the hearing or inquiry**

- 15.—(1) AP is to determine the procedure at the hearing or inquiry.
- (2) At the start of the hearing or inquiry, AP must—
  - (a) confirm AP’s appointment;
  - (b) state AP’s name; and
  - (c) identify the following—
    - (i) the issues which AP thinks are the main issues to be considered, and
    - (ii) any matters on which AP requires further explanation from any person appearing at the hearing or inquiry.
- (3) But other issues and matters may be considered or referred to, provided that AP thinks them relevant.

(4) AP may proceed with the hearing or inquiry in the absence of any person entitled to appear at it.

(5) Any person who is entitled to appear at the hearing or inquiry may give, or call another person to give, oral evidence.

(6) Where AP thinks that any evidence or matter is irrelevant or repetitious—

(a) AP may refuse to permit that evidence to be given or that matter to be presented; but

(b) AP may permit that evidence or matter to be given to AP in writing—

(i) before the close of the hearing or inquiry, or

(ii) if AP so permits, within a specified time of the close of the hearing or inquiry.

(7) AP may take into account any representation, evidence or other document received by AP before or during the hearing or inquiry, provided that AP discloses it at the hearing or inquiry.

(8) AP may request any person appearing or entitled to appear at the hearing or inquiry to provide AP, within a period of time specified in the request, with any information or documents in that person's possession.

(9) A person receiving such a request must provide the information or documents within the specified period.

(10) AP may consider and determine an objection in the absence of any information or documents which were required to be provided under paragraph (8) but were not so provided.

(11) Where AP thinks that any person appearing or present at the hearing or inquiry is behaving in a disruptive manner, AP may do any of the following—

(a) require that person to leave;

(b) refuse to allow that person to return;

(c) permit that person to return on specified conditions.

(12) AP may adjourn the hearing or inquiry.

(13) The hearing or inquiry may be adjourned to a site which is affected land, and may be concluded at that site, if—

(a) no reasonable argument against such a course has been put forward by Natural England or by the person or persons who made the objection; and

(b) AP is satisfied that—

(i) the hearing or inquiry would proceed satisfactorily,

(ii) no person would be placed at a disadvantage, and

(iii) all persons present would have an opportunity to attend the adjourned hearing or inquiry.

### **Inspection of land**

**16.**—(1) AP may carry out a site inspection of affected land, provided that—

(a) AP has invited any person entitled or permitted to appear at the hearing or inquiry to be present or be represented at the inspection; and

(b) AP has given any person who is to be present at the inspection reasonable notice of the date and time of the inspection.

(2) AP may be accompanied at the inspection by any other person AP thinks appropriate.

(3) The inspection does not need to be deferred if a person to whom notice of the inspection was given is not present at the appointed time of the inspection.

### **Cancellation of the hearing or inquiry**

17. AP may give notice cancelling a hearing or inquiry where the objection has been withdrawn before the start of that hearing or inquiry.

#### *Hearings: specific provisions*

### **Procedure at the hearing**

18.—(1) The hearing is to take the form of a discussion led by AP and cross-examination is not permitted.

(2) But where AP thinks that cross-examination is required to ensure a thorough examination of the issues—

- (a) AP must consider whether the hearing should be closed and an inquiry held instead, after consulting every person who—
  - (i) is entitled or permitted to appear at the hearing, and
  - (ii) is present at the hearing; and
- (b) AP may permit cross-examination.

#### *Inquiries: specific provisions*

### **Pre-inquiry meeting**

19.—(1) Before holding an inquiry, AP may hold a meeting to consider what may be done to ensure that the inquiry is conducted efficiently and expeditiously (a “pre-inquiry meeting”).

(2) AP must give not less than 14 days’ notice in writing of the pre-inquiry meeting to any person to whom notice of the inquiry must be given under regulation 13(3).

(3) Notice of the pre-inquiry meeting must specify the date, time and place of the meeting.

(4) At the pre-inquiry meeting, AP must—

- (a) preside;
- (b) determine the matters to be discussed and the procedure to be followed; and
- (c) determine the nature of any documentation that must be submitted to the inquiry and the deadlines for doing so.

(5) Where AP thinks that any person present at the pre-inquiry meeting is behaving in a disruptive manner, AP may do any of the following—

- (a) require that person to leave;
- (b) refuse to allow that person to return or to attend any further pre-inquiry meeting;
- (c) permit that person to return or to attend any further meeting on specified conditions.

(6) AP may hold a further pre-inquiry meeting, and must give such notice of that further meeting as AP thinks necessary.

(7) AP may give notice cancelling a pre-inquiry meeting where the objection has been withdrawn before the start of that meeting.

### **Procedure at the inquiry**

20.—(1) The inquiry is to take the form of a formal examination of the issues led by AP.

(2) Natural England must appear first at the inquiry (unless AP determines otherwise).

- (3) AP must determine the order in which other persons appear at the inquiry.
- (4) Any person appearing at the inquiry may cross-examine any other person appearing at the inquiry.
- (5) Where AP thinks that a line of cross-examination is irrelevant or repetitious, AP may require that cross-examination to be discontinued.