

Regulatory Appraisal

The Countryside Access (Dedication of Land as Access Land) (Wales) Regulations 2002

Introduction

1. Part I of the Countryside and Rights of Way Act 2000 (the Act) provides for a new public right of access on foot to open country and registered common land. Section 16 of the Act allows the owner of any land (lowland, woodland, etc), or a lessee with not less than 90 years of the lease remaining, formally to dedicate that land for public access. Dedication of land is irrevocable, binding successive owners and occupiers of the land, except where the lessee makes a dedication for the un-expired term of the lease or where the land subsequently becomes 'excepted land' under the provisions of the Act.

Purpose

2. Section 16(1) of the Act enables regulations to be made to prescribe the steps to be taken in dedicating land for access and section 16(6) of the Act enables regulations to be made to prescribe the form of any instrument to be used for such purpose.

Assessment of Risk

3. As the dedication of land is irrevocable it is important that the main steps to be taken are prescribed in regulations to ensure that the dedication is valid. The Regulations will prescribe those interests whose agreement is required by the dedicator prior to dedication; the information the dedicator must provide to any person whose consent is required in order for the dedication to be made; and the minimum information required to be included in the dedication instrument.

Options

4. The non-regulatory option of covering the dedication requirements in guidance is not available. The Act requires that dedication take place in accordance with regulations. The proposed Regulations prescribe the essential legal procedures of the dedication process, and further guidance will be issued to prospective dedicators of land to assist them in deciding whether to dedicate their land for access and, if so, how to proceed.

Costs

5. Dedication of land under section 16 is voluntary. The guidance to dedicators will recommend that they seek advice from a solicitor prior to dedicating their land, due to the irrevocable nature of dedication. The guidance will also include model dedication instruments for the dedicators' use, which should reduce legal costs. The Regulations are designed to make the dedication process as straightforward as possible. It is estimated that a

legal dedication should cost around £400 – £500, which is the cost of a standard conveyance of residential property. This figure may be higher where there are a number of interests involved and/or where the complexity of the legal title held by the dedicator(s) raises issues. The process of dedication will also create administration costs for the relevant authorities (the Countryside Council for Wales, National Park Authorities and the Forestry Commission) in making the public aware of the access opportunities offered by dedicated land and in processing applications for temporary restrictions needed for land management purposes. These costs are being met from resources allocated to them by the National Assembly.

Benefits

6. The main benefit arising from these Regulations is the additional access opportunities across Wales, from people wishing to dedicate their land. The Forestry Commission has already indicated its intention to dedicate important parts of its woodland estate in Wales (especially where the land is held on a freehold basis). Due to the irrevocable nature of dedicated land, it is important that it is undertaken in a comprehensive way, where everybody is aware of the consequences, and there is no room for confusion within the dedication process.

Consultation

7. Public consultation has been undertaken with a wide range of interests on the proposed content of the Regulations and some improvements have been made to them as a result. Overall the scope and content of the draft Regulations was endorsed by the key interests consulted as sensible and proportionate.

Review

8. The Welsh Assembly Government will monitor the operation of these Regulations, with a review being undertaken after 5 years of them coming into force.

November 2002.

**Countryside Division
Welsh Assembly Government**