

Explanatory Memorandum to the Countryside and Rights of Way Act 2000 (Review of Maps) (Amendment) (Wales) Regulations 2023

This Explanatory Memorandum has been prepared by the Economy, Skills and Natural Resources Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Countryside and Rights of Way Act 2000 (Review of Maps) (Amendment) (Wales) Regulations 2023.

Lesley Griffiths MS
Minister for Rural Affairs and North Wales, and Trefnydd

3 February 2023

PART 1

1. Description

The Countryside and Rights of Way Act 2000 (CRoW) places a duty on Natural Resources Wales (NRW) to, in respect of Wales, prepare maps which together show all open country and all registered common land and issue in conclusive form.

Under section 10(1) and (2) of CRoW, NRW has a duty to review the conclusive map at intervals of not more than 10 years.

The Countryside and Rights of Way Act 2000 (Review of Maps) (Amendment) (Wales) Regulations 2023 amends the requirement for a decadal review of maps in conclusive form to a process of review of not more than every 15 years.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

These Regulations are made using the powers under section 10(3) and 45(1) of the Countryside and Rights of Way Act 2000. The powers under that Act, which were conferred on the then National Assembly for Wales, were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

These Regulations are being made under the negative resolution procedure.

4. Purpose and intended effect of the legislation

NRW has a duty to undertake a first mapping review of open access (open country and registered common land) not more than ten years after the issue of the map in conclusive form. Subsequent reviews must take place not more than ten years after the previous review. NRW completed the first mapping review in 2014 which means the next review is due in 2024.

The decadal review is a significant undertaking as it requires the preparation of the open access maps at each of three sequential stages (draft, provisional and conclusive), with each stage including a consultation period that includes allowing stakeholders to make representations and appeals concerning the mapped area. There is also a significant amount of time required at the start of the process in establishing the review and with initial engagement with stakeholders. While the review process is largely undertaken by NRW, it also involves the Planning Inspectorate (to handle mapping appeals) and Welsh

Government officials, as well as requiring input from land managers, other sectoral interests and the public.

As part of its Access Reform Programme, the Welsh Government is considering proposals to move from a decadal review to a continuous review process. This SI changes the period for subsequent mapping reviews from 10 years to 15 years, which means the next review will be due in 2029. This avoids NRW expending unnecessary time and resources on a review process that is currently being considered for further reform, to introduce a continual review process.

An extension of the intervals between mapping reviews does not favour one particular set of interests. A review enables considerations for applications seeking a reduction in the amount of land classified as open access, as well as those seeking an increase. Neither interest is believed to be disadvantaged overall.

5. Consultation

The Welsh Government is considering the introduction of a continual review process which may mean the CRoW Act will need to be substantively amended. A suitable replacement process is currently being considered by Welsh Government and NRW.

NRW has advised that it does not have the resources and expertise to undertake these two tasks simultaneously (reviewing the current open access map under current statutory deadlines and moving to a continuous review process). Consequently, NRW requested that Welsh Government use the powers provided by CRoW section 10 (3) to set a new date of 2029 for completion of the next review of the open access mapping.

As the Regulations provide a limited amendment, affecting a small number of individuals and does not reflect a major change in the Welsh Government's policy, a formal public consultation did not take place. There was, however, engagement with NRW who is directly affected by the amendment

6. Regulatory Impact Assessment (RIA)

An RIA has not been prepared for these Regulations, as it is a technical amendment changing the review period from 10 to 15 years. There are no changes to the purpose or significant effect of the law. This is in line with the policy set out in the Welsh Ministers' Code of Practice for carrying out Regulatory Impact Assessments for subordinate legislation