

Coastal Access: National Parks and Access to the Countryside Act 1949, Schedule 1A (inserted by Schedule 19 to the Marine and Coastal Access Act 2009)

Consultation on proposed regulations setting out procedures for making representations about and objections to Natural England's coastal access reports

March 2010

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Contents

Contents	1
Executive Summary	3
How to Respond	4
Chapter 1: Background	5
History	5
Natural England's coastal access report and the representation and objections procedures	5
Outline of procedure in Schedule 1A	7
Introduction to the consultation	9
Chapter 2: Regulations on advertisements and notices of coastal access reports	10
Background	10
Paragraphs 2(1)(a), 2(3)(a) and (c) (Advertisements)	10
Manner of advertisement	10
Form of advertisement	11
Form of representations	11
Timing of advertisement	12
Paragraphs 2(1)(b), 2(3)(b) and (c) (Notices)	12
Manner of notice	12
Form of notice	13
Timing of notice	14
Chapter 3: Regulations on objections considered by the appointed person	16
Background	16
Paragraph 10(6)(a) and (b)	16
Manner of publication	16
Form of notice	17
Timing of notice	18
Paragraph 10(6)(c)	18

Chapter 4: Regulations on local inquiries and hearings and supplementary provisions on objections	19
Background	19
Determination by the appointed person of an objection	19
Written objections	19
Procedure for determination	19
Inspection of land	19
Hearing	20
Procedure for determination	20
Timing of a hearing	21
Appearances at a hearing	21
Notification of the name of the appointed person	21
Procedure at a hearing	21
Inspection of land	22
Inquiry	23
Pre-inquiry	23
Consideration of two or more objections	24
Chapter 5: Regulations on preliminary consultation by the Secretary of State	25
Background	25
Paragraph 15(1)	25
Chapter 6: Regulations on determinations made by the Secretary of State	26
Background	26
Paragraphs 16(4) and 16(6)	26
Chapter 7: Additional issues	28
Use of electronic communications	28
Further documentation	28
Inspection and copying of documents	28
Annex A: Flow diagram summarising the representations and objections procedures	29
Annex B: Glossary of the main terms	31
Annex C: Summary of consultation questions	33

The context

The Marine and Coastal Access Act ("the Act") received Royal Assent on 12 November 2009. It includes at Part 9 provision for improving access to the English coast. A copy of the Act, explanatory notes and impact assessment can be found on the Defra website at <http://www.defra.gov.uk/environment/marine/legislation/mcaa/key-docs.htm>.

Section 302 of the Act inserts new sections into the National Parks and Access to the Countryside Act 1949 ("the 1949 Act") which cover the coastal access report ("the report") that Natural England must prepare under section 51 of the 1949 Act proposing a coastal long-distance route and the associated coastal margin. The Act also introduces a new Schedule 1A to the 1949 Act which is contained in Schedule 19 to the Act.

Schedule 1A provides a process in which representations may be made about Natural England's coastal access proposals. It also provides for objections to be made about Natural England's coastal access proposals by persons with a relevant interest in affected land and for those objections to be referred to an appointed person. This consultation seeks views on the regulations we propose to make under Schedule 1A. These regulations will set out procedures for advertising and giving notice of the report, making representations and objections, and for the appointed person to consider those representations and objections.

Request for comments

We are seeking views on a number of questions under each chapter. Please do not feel that you have to comment on all the questions – responses on any number are welcome. The closing date for receipt of responses is 14 June 2010.

How to respond

This is your chance to contribute to a consultation on the regulations to be made under Schedule 19 to the Act. There are a number of specific questions throughout the document and these are summarised in Annex C. Don't feel that you have to respond to all the questions if you do not wish to do so.

You can view a copy of the consultation on the Defra website. We have also prepared an electronic template which we hope you will find helpful in responding to the consultation, although responses in any format are welcome. The consultation and a copy of the template are available at <http://www.defra.gov.uk/corporate/consult/coastal-access2010/index.htm>

The commencement date of this consultation is 22 March 2010. The closing date for responses is **14 June 2010**. Written responses should be sent to: Coast.consultation@defra.gsi.gov.uk

Alternatively, you can send your response to:

Coastal Access Team
1/01 Temple Quay House
2 The Square
Bristol BS1 6EB

When responding please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

In line with the Government's policy of openness the information you submit may be made available to other parties. The information they contain may also be published in a summary of responses. If you do not consent to this, you must clearly request that your response be submitted confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. You should be aware that there may be circumstances in which we will be required to communicate this information to third parties on request in order to comply with our obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

The Defra Information Resource Centre will supply copies of consultation responses to personal callers or in response to telephone requests (tel: 020 7238 6575) or to email requests (email: defra.library@defra.gsi.gov.uk). Wherever possible, personal callers should give the library 24 hours notice of their requirements. An administrative charge will be made to cover photocopying and postage costs.

A summary of responses will be made available on Defra's website in due course.

If you have any comments or complaints about the consultation process, as opposed to comments about any of the issues in this consultation paper, please address them to:

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London SW1P 3JR
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History

- 1.1 Part 9 of the Marine and Coastal Access Act 2009 (“the Act”) makes provision for improving access to the English coast. The Act received Royal Assent on 12 November 2009. The coastal access provisions place a duty on the Secretary of State and Natural England to secure two linked objectives:
 - a. that there is a route for the whole of the English coast consisting of one or more long-distance routes and available to the public for recreational journeys on foot or by ferry, and
 - b. that in association with the route there is a margin of land along the length of the English coast which the public can access and enjoy for the purpose of recreation.
- 1.2 The Act introduces amendments to existing public access legislation to enable the objectives to be implemented: the National Parks and Access to the Countryside Act 1949 (“the 1949 Act”) to provide a procedure for the designation of a coastal route or routes; and the Countryside and Rights of Way Act 2000 (“the CROW Act”) under which the right of public access to the route and wider margin will be provided.
- 1.3 A copy of the Act, explanatory notes and impact assessment can be found on the Defra website at <http://www.defra.gov.uk/environment/marine/legislation/mcaa/key-docs.htm>. We have not prepared a separate impact assessment for this consultation paper because the impact assessment for the Act includes assumptions which are reflected in this paper.

Natural England’s coastal access report and the representation and objections procedures

- 1.4 Section 302 of the Act inserts new sections into the 1949 Act which make provision for the coastal access report (the report) that Natural England must prepare under section 51 of the 1949 Act proposing a coastal long-distance route and the associated coastal margin. The report will include a map showing the landward boundary of the relevant coastal access land or a description of the boundary which is sufficient to identify that land. The report will include details of any restrictions to, or exclusion of, the right of access that Natural England intends to put in place if the proposals are approved by the Secretary of State. The right of access under the CROW Act will come into force for any particular stretch of the coast on a date specified by the Secretary of State. Natural England is required under the Act to consult a number of persons and bodies before the report is prepared in addition to requirements under section 51(4) of the 1949 Act.¹ These persons and bodies are:
 - a. persons with a relevant interest in affected land;
 - b. access authority for an area in which affected land is situated;
 - c. London borough councils in which affected land is situated;
 - d. local access forum for an area in which affected land is situated;
 - e. Secretary of State for any defence and national security issues;
 - f. Historic Buildings and Monuments Commission;²
 - g. Environment Agency.

¹ Section 51(4) of the 1949 Act makes it clear that before preparing a report Natural England must consult every national park authority, joint planning board and county district council through whose park or area the route passes.

² Commonly known as “English Heritage”.

Chapter 1: Background

- 1.5 For this purpose the term “affected land” is defined in section 55J(1) of the 1949 Act (as amended by section 302(1) of the Act) as meaning:
- (a) *land over which the route, or any alternative route, to which the proposals relate passes, and*
 - (b) *any other land which:*
 - (i) *is relevant coastal margin, or an alternative route strip in relation to such an alternative route, and*
 - (ii) *is not excepted land*
- and “relevant interest” is also defined in section 55J(2) of the 1949 Act (as amended by section 302(1) of the Act) as meaning that a person has a relevant interest in affected land if the person:
- (a) *is the owner of the land,*
 - (b) *holds a term of years absolute in the land, or*
 - (c) *is in lawful occupation of the land.*
- 1.6 Section 55E of the Act (inserted by section 302 of the 2009 Act) introduces a new Schedule 1A to the 1949 Act which is contained in Schedule 19 to the Act. The new Schedule 1A provides a process in which representations may be made about Natural England’s coastal access proposals. A representation may be made by any person about any matter relating to the proposals in Natural England’s report. In contrast, objections may only be made by those with a relevant interest in affected land, about matters set out in the Schedule. These are:
- a. the position of the route;
 - b. proposals for the route where the land is or may be subject to coastal erosion;
 - c. proposals for alternative routes;
 - d. proposals for the margin of coastal land to coincide with a physical feature;
 - e. restrictions and exclusions of access; and
 - f. the exercise of Natural England’s discretion to propose the location of the route where the coast is interrupted by a river estuary.
- 1.7 Schedule 1A also provides that objections by a person with a relevant interest in affected land must be referred to an appointed person, who it is currently envisaged will be an inspector from the Planning Inspectorate³. The appointed person may hold a hearing or inquiry, and make recommendations to the Secretary of State. The objection to Natural England’s proposals for the route must be made on the grounds that the proposals do not strike a fair balance⁴ within the meaning of section 297(3) of the Act in such respects as are specified in the objection as a result of any of the particular matters listed in the paragraph above.
- 1.8 The Secretary of State must consider the proposals in Natural England’s report under section 52(1) of the 1949 Act. Before making a determination under that section, he must have regard to any objections that may have been made; Natural England’s comments on them; any representations forwarded to him by Natural England and the recommendation of the appointed person.

³ The 2009 Act does not make a direct reference to the Planning Inspectorate as being the appointed person. The Inspectorate might alter, disappear or might change its name in future. As such the Act preserves the ability for the Secretary of State to change the appointed person if necessary and to refer an objection to someone other than the Planning Inspectorate.

⁴ Section 297(3) of the Act states that “They [Natural England and the Secretary of State] must aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land.”

Outline of procedure in Schedule 1A

- 1.9 Schedule 1A to the 1949 Act sets out the following procedure for making and considering objections and representations about a report:
- Natural England must advertise a report and must take reasonable steps to give notice of the report to those with a relevant interest in affected land and to certain bodies, and to persons set out in regulations. It also says that the Secretary of State may make regulations relating to the form, manner and timing of advertisements and notices (*paragraph 2*).
 - People with a relevant interest in affected land may make an objection to Natural England's report on the grounds that its proposals fail to strike a fair balance as a result of certain issues including the position of any part of the proposed route; proposals for routes subject to erosion; proposals for alternative routes; proposals for the boundary of the coastal margin to coincide with a physical feature; proposals for exclusions and restrictions of access, and any decision to treat the relevant upstream waters of a river as part of the coast (*paragraph 3*).
 - The person making the objection must specify the reasons they are of the opinion a fair balance has not been struck and they may propose modifications of the proposal, but the modifications must meet the criteria that they must be practicable, take account of the considerations mentioned in sections 297(2) and section 301(4) (where the proposals in the report include a river estuary), and must be in accordance with Natural England's approved coastal access scheme. The Secretary of State may make regulations about the steps to be taken by Natural England to make persons with a relevant interest in affected land aware of their entitlement to make objections, and the form and manner in which, and period within which, objections are to be made (*paragraph 3*).
 - Any objection received by Natural England must be forwarded to the Secretary of State who must refer the objection to the appointed person. The paragraph also includes details about the appointment of the appointed person (*paragraph 4*).
 - The appointed person must decide if the objection is admissible and must give notice of that determination to the person who made the objection, Natural England and the Secretary of State (*paragraph 5*).
 - Natural England has to provide comments on any objections to the Secretary of State, and the appointed person may require Natural England's comments to include information on any relevant alternatives or rejected options (*paragraph 6*).
 - Anyone may make a representation to Natural England about a report. Any representations that have been made from those persons and bodies to whom Natural England had to give a notice, as set out in paragraph 2(2)(b) to (f) of the Schedule, will be sent in full to the Secretary of State together with Natural England's comments on them. Other representations will be summarised by Natural England and sent to the Secretary of State with Natural England's comments on them (*paragraphs 7 and 8*).
 - The Secretary of State must send to the appointed person a number of documents which are relevant to an admissible objection including Natural England's report and any representations (*paragraph 9*).

Chapter 1: Background

- The appointed person must determine whether in his view the proposals in Natural England's report fail, in the respects specified in the objection, to strike a fair balance. The appointed person will consider the information and if he is minded to decide that a fair balance has not been struck the appointed person must publish a notice including the details of the objection and inviting representations. If this happens anyone can make representations to the appointed person. But this will be necessary only if the appointed person considers that a fair balance may not have been struck. If he considers a fair balance has been struck in Natural England's proposals, he must make a report recommending that the Secretary of State makes a determination to that effect (*paragraphs 10 and 11*).
- The appointed person must give a report to the Secretary of State in which he recommends whether the Secretary of State should determine that Natural England's proposals do not fail to strike a fair balance, or that they do fail to strike a fair balance. If he recommends that Natural England's proposals do fail to strike a fair balance, then the appointed person must recommend either that no modification would strike the fair balance, a certain modification would strike the fair balance, or a certain modification may strike the fair balance. Where he recommends that no modification would strike a fair balance, he may additionally make a recommendation that a certain modification would, or may, mitigate the effects of the failure to strike a fair balance (*paragraph 11*).
- The appointed person may ask for other relevant information from Natural England or the Secretary of State (*paragraph 12*).
- The appointed person may hold a hearing or a local inquiry where he considers it necessary or expedient to do so (*paragraph 13*).
- The Secretary of State may make regulations regarding the consideration of objections by the appointed person which may allow two or more objections to be considered together by the appointed person; he may make provision for the appointed person to conduct an inspection of land and may make provision for the conduct of a hearing or local inquiry (*paragraph 14*).
- The Secretary of State has a power to make provisions for procedures to be followed where he may wish to consider modifications to Natural England's proposals (these would be modifications other than those proposed by the appointed person with reference to an objection) (*paragraph 15*).
- The Secretary of State makes a determination on the report as a whole and in making that determination he must consider certain information including any objections, Natural England's comments on them, the appointed person's report, any representations and Natural England's comments on them. In making a determination, the Secretary of State may approve proposals relating to one or more parts of the route only, and may reject the remaining proposals. He may also approve proposals subject to modifications (section 52(1) of the 1949 Act). He may make regulations about the procedure to be followed where he is minded to approve the proposals with modifications other than modifications contained in the appointed person's report. The Secretary of State will also be bound by a statement of a finding of fact in the appointed person's report, unless he is satisfied on a number of grounds, for example, that there was insufficient evidence to make the finding, or the finding was made by reference to irrelevant facts, or that the finding involves an assessment of the significance of a matter to a person with a relevant interest in land or to the public (*paragraph 16*).

- The Secretary of State must give notice of his determination to persons with a relevant interest in affected land, or publish such notice, and in addition he must give notice to certain bodies, including local authorities and local access authorities. The notice must include, so far as relevant to the objection, a statement of his reasons for the determination (*paragraph 17*).

1.10 A flow diagram summarising the representations and objections procedures under Schedule 1A is included at **Annex A** to the paper. A glossary of the main terms used in the paper, which is intended to assist in the reading of the consultation paper but which should not be regarded as an authoritative interpretation of the legislation, is at **Annex B**.

Introduction to the consultation

1.11 The purpose of this consultation is to seek views on the detailed proposals for the regulations below that are to be made under the powers set out in the following paragraphs of Schedule 1A. The proposals for regulations are set out in the following chapters:

Chapter 2 – the form and manner by which Natural England’s reports are to be advertised and notices given, and the form and manner in which objections and representations about Natural England’s reports are to be made, and their timing (**regulations to be made under paragraphs 2(3), 3(7) and 7(2)**).

Chapter 3 – the form and manner by which notices about objections are to be published by the appointed person (**regulations to be made under paragraph 10(6)**).

Chapter 4 – consideration of objections by the appointed person including procedures for local inquiries and hearings (**regulations to be made under paragraph 14(1)**).

Chapter 5 – procedures where the Secretary of State wishes to identify or investigate possible modifications of proposals (**regulations to be made under paragraph 15(1)**).

Chapter 6 – procedures where the Secretary of State is minded to approve proposals with modifications (**regulations to be made under paragraphs 16(4) and (6)**).

Chapter 7 – we are also seeking views on a number of other issues on the use of electronic communications, further documentation and the inspection and copying of documents.

1.12 Under each chapter there is an explanation of our proposed approach and a number of questions on which we are seeking views. Your comments in response to any or all of the questions are welcome. A summary of the questions is at **Annex C** to the paper.

Chapter 2: Regulations on advertisements and notices of coastal access reports

- 2.1 This chapter deals with regulations providing for the form and manner by which Natural England's reports are to be advertised and notices given, and the form and manner in which objections and representations about Natural England's reports are to be made, and the timing of such advertisements and notices under paragraphs 2(3), 3(7) and 7(2) of Schedule 1A.

Background

- 2.2 Paragraph 2 (1) of Schedule 1A provides that Natural England must:
- a. advertise a coastal access report, and
 - b. take such steps as are reasonable to give notice of the report to such persons within sub-paragraph (2).
- 2.3 Persons within sub-paragraph (2) are:
- a. persons with a relevant interest in affected land;
 - b. each access authority for an area in which affected land is situated;
 - c. each local access forum for an area in which affected land is situated;
 - d. Historic Buildings and Monuments Commission for England;
 - e. Environment Agency;
 - f. such other persons as may be specified in regulations made by the Secretary of State.
- 2.4 Paragraph 2(3) of Schedule 1A provides powers to make regulations about:
- a. the form and manner in which reports are to be advertised under sub-paragraph (1)(a);
 - b. the form and manner in which notices are to be given under sub-paragraph (1)(b);
 - c. the timing of any advertisement or the giving of any notice.

Paragraphs 2(1)(a), 2(3)(a) and (c) (Advertisements)

- 2.5 Under paragraphs 2(1)(a), 2(3)(a) and (c) of Schedule 1A, regulations may be made about the form and manner in which Natural England's reports are to be advertised, and also the timing of any advertisement.

Manner of advertisement

- 2.6 We propose that the regulations should set out where Natural England's advertisement should appear, and that they must state where Natural England's full report on any particular stretch of the English coast might be available for inspection.
- 2.7 We propose that Natural England's report must be advertised as follows:
- a. in one or more local or regional newspapers circulating in the area to which the report relates;
 - b. on Natural England's website;
 - c. in any other way that Natural England thinks appropriate for drawing the attention of members of the public to the report; and
 - d. at the offices of the access authority in or close to the area to which the report relates.

Chapter 2: Regulations on advertisements and notices of coastal access reports

Form of advertisement

- 2.8 We propose that the regulations should provide that an advertisement of a report should take the following form and should:
- a. state the date the report was submitted to the Secretary of State;
 - b. be in terms which:
 - i. clearly indicate the land to which the report relates and the nature of the proposed public rights over it; and
 - ii. are sufficient to enable reference to be made to the report either on a website or by inspection at a place indicated in the advertisement.
- 2.9 The form should also:
- a. invite representations on the report;
 - b. state that representations upon the report must be received by Natural England within 6 weeks from the date of the advertisement; and
 - c. indicate that representations must be made on a form and that the form may be obtained from Natural England, either from its website or by writing to Natural England.
- 2.10 We envisage that Natural England will make the report available for inspection at the following places:
- a. on Natural England's website;
 - b. at the offices of Natural England in or close to the area to which the report relates during normal office opening hours;
 - c. at the offices of the access authority in or close to the area to which the report relates during normal office opening hours; and
 - d. at any other location that Natural England thinks would provide access to members of the public with an interest in the area to which the report relates.

Form of representations

- 2.11 Paragraph 7(2) of Schedule 1A provides a power to make regulations providing for the steps to be taken by Natural England to make people aware of their entitlement to make representations and the form and manner in which, and the period within which, representations are to be made. We propose that the regulations should set out the details of what is provided for in the power in paragraph 7(2). The regulations will provide that representations must:
- a. be made in writing to Natural England;
 - b. be sent to Natural England at the address given in the notice or advertisement; and
 - c. be made to Natural England within 6 weeks of the date of the advertisement of the report.
- 2.12 We consider that in the interests of the person making a representation and the efficient conduct of the representation process, there should be a standard form for representations to be made to Natural England. We propose therefore to prescribe in a Schedule to the regulations a form to be completed where a representation is to be made.

Chapter 2: Regulations on advertisements and notices of coastal access reports

Timing of advertisement

- 2.13 We propose that the regulations under paragraph 2(3)(c) should require Natural England to advertise a report on, or as soon as is reasonably practicable, after the date on which it is submitted to the Secretary of State.

Question 1: Do you have any comments on the proposals for the form and manner in which Natural England's reports are to be advertised, and the timing of any advertisement?

Paragraphs 2(1)(b), 2(3)(b) and (c) (Notices)

- 2.14 Under paragraphs 2(1)(b), 2(3)(b) and (c) of Schedule 1A, regulations may be made about the form and manner in which notices are to be given and also the timing of any notice. Natural England must give notice of a report to those people and bodies which are listed in paragraph 2(2)(a) to (f) of Schedule 1A:
- persons with a relevant interest in affected land;
 - each access authority for an area in which affected land is situated;
 - each local access forum for an area in which affected land is situated;
 - Historic Buildings and Monuments Commission;
 - Environment Agency;
 - such other persons as may be specified in regulations made by the Secretary of State.
- 2.15 Any representations made by the persons and bodies in paragraph 2.14 above will be forwarded in full to the Secretary of State, other than those people in paragraph (a).
- 2.16 During the Parliamentary passage of the Marine and Coastal Access Bill in 2009 Ministers made a commitment to consult on such other persons it would be appropriate to include in the regulations under paragraph 2(2)(f). Ministers said that they envisaged it would include several national organisations representing recreational, sporting, and land-owning and land management interests (such as the British Mountaineering Council, Country Land and Business Association, National Farmers Union, Open Spaces Society and Ramblers Association) and owners of sporting rights (and those with a sporting tenancy). Subject to the responses to this consultation we propose to include a Schedule in the regulations listing the bodies to be included under paragraph 2(2)(f).

Question 2: Do you agree that the British Mountaineering Council, Country Land and Business Association, National Farmers Union, Open Spaces Society and Ramblers Association and owners of sporting rights (and those with a sporting tenancy) should be included under paragraph 2(2)(f)?

Question 3: Are there any other persons you consider should be included under paragraph 2(2)(f)?

Manner of notice

- 2.17 Natural England must give notice of their report to those people and bodies listed in paragraphs 2(2)(a) to (f) of Schedule 1A which includes all those with a "relevant interest" in affected land as defined in section 297(4) of the Act.

Chapter 2: Regulations on advertisements and notices of coastal access reports

- 2.18 Natural England will be undertaking an extensive process of consultation prior to the issue of each report and it has stated at paragraph 3.3.5 of the consultation version of the Scheme (which is required to be approved by the Secretary of State under section 298 of the Act) that:

"We will take all reasonable steps to identify and contact owners, tenants and lawful occupiers who are likely to be affected. We will make use as appropriate of information we already hold, local publicity, raising awareness through relevant organisations and the personal knowledge of other local owners or occupiers. If we have been unable to identify the owner or occupier by any other means, we will place a notice on the land asking them to contact us. These steps will also bring to our attention other interests in the land, for example holders of sporting rights."

- 2.19 We propose that Natural England should send the notice to those bodies and organisations listed in paragraph 2(2)(b) to (f) of Schedule 1A either by recorded delivery or by email. Natural England should give notice of the report to those persons with a relevant interest in the land – those at paragraph 2(2)(a) – either by delivering the notice to their last known address or by sending the notice to that person by recorded delivery. We do not think that it is sufficient for the regulations to provide for Natural England to send the notice to a person with a relevant interest in the land **only** by email unless the use of email would ensure that the information contained in the notice is available to the person in all material respects as it would appear if the notice were sent, and the person has consented to the information being made available to them by such means.

Form of notice

- 2.20 We propose that the regulations should provide a standard form of a notice which sets out certain information. There will be two types of a form of notice. The first will be for Natural England to send to those who are only able to make representations on the report, that is those persons or bodies which are mentioned at paragraph 2(2)(b) to (f) of Schedule 1A. The notice should enclose a form on which representations may be made, and:
- a. indicate the date the report was submitted;
 - b. be in terms which:
 - i. clearly indicate the land to which the report relates and the nature of the proposed public rights over it; and
 - ii. are sufficient to enable reference to be made to the report either on a website or by inspection at a place indicated in the notice;
 - c. invite representations on the report, to be received by Natural England within 6 weeks from the date of the notice, indicating the address (including the website address) to which representations must be sent.
- 2.21 Where a notice is being sent to a person who has a right to make both an objection and a representation to the report (ie those with a relevant interest in the land at paragraph 2(2)(a) of Schedule 1A) there will be a different form of notice which will be prescribed in the regulations and which will inform the person of their right to make both representations and objections about the report. Any person to whom a notice is sent may, if they so wish, make a representation about Natural England's report rather than an objection.

Chapter 2: Regulations on advertisements and notices of coastal access reports

- 2.22 The form of notice for an objection should enclose a form on which an objection and representations may be made, and:
- a. indicate the date the report was submitted;
 - b. be in terms which:
 - i. clearly indicate the land to which the report relates and the nature of the proposed public rights over it; and
 - ii. are sufficient to enable reference to be made to the report either on a website or by inspection at a place indicated in the notice;
 - c. invite objections and representations on the report, to be received by Natural England within 6 weeks from the date of the notice, indicating the address (including the website address) to which any objection or representations must be sent;
- 2.23 The objection should be made in the form for objections set out in the Schedule to the regulations. The form would require the person making the objection to:
- a. identify the land to which the objection relates;
 - b. state the objector's interest in the land;
 - c. state under which of the grounds in paragraph 3(3)⁵ the objection is made, and the objection itself; and
 - d. explain why, in the opinion of the objector, Natural England's report has failed to strike a fair balance between the interests of the public in having rights over the land, and the interests of the objector.
- 2.24 We also propose that the grounds and matters upon which an objection may be made – these are specified in paragraph 3(3) of the Schedule – will be set out in a multiple choice box on the form and these will need to be completed. We think that this would provide a simple process enabling a person who is making an objection to tick the relevant grounds for an objection and say why he believes the grounds apply. It will ensure that the information the appointed person may want to consider is included. The form for objections would also include a question about any modifications the person with a relevant interest in the land may propose.
- 2.25 The regulations will provide that objections must be sent to Natural England:
- a. within 6 weeks of the date of the issue of the notice or advertisement; and
 - b. to the address given in the notice or advertisement.

Timing of notice

- 2.26 We propose that the regulations under paragraph 2(3)(c) of Schedule 1A should require Natural England to give notice of their report on, or as soon as is reasonably practicable, after the date of its submission to the Secretary of State.

⁵ See paragraph 1.6 on page 6

Chapter 2: Regulations on advertisements and notices of coastal access reports

- 2.27 We propose to make provision in the regulations that a person who has made either an objection or a representation about Natural England's report should be able to withdraw any such objection or representation that he has made at any time. If the person wishes to do this he must do so in writing to Natural England. We propose to give guidance to Natural England that where Natural England has already sent any such objection (under paragraph 4(1) of Schedule 1A) or any such representation (under paragraph 8(1) of the Schedule) to the Secretary of State, Natural England will then take such steps as are reasonable to notify the Secretary of State of the withdrawal of either the objection or representation.
- 2.28 The Secretary of State will then notify the appointed person of the withdrawal of any objection. No further action will be required by the Secretary of State on a representation other than to note that it has been withdrawn and that it should not be considered when the Secretary of State comes to determine the report under section 52 of the 1949 Act. In the event of the withdrawal of an objection at any time before an inquiry or a hearing has been convened by the appointed person the regulations will provide that the appointed person may give notice cancelling the hearing or inquiry.

Question 4: Do you have any comments on the proposals for the form and manner in which a notice about Natural England's report is to be given, and the timing of any notice?

Chapter 3: Regulations on objections considered by the appointed person

- 3.1 This chapter deals with regulations providing for the form and manner by which notices about objections are to be published by the appointed person under paragraph 10(6) of Schedule 1A.

Background

- 3.2 Ministers stated during the Parliamentary passage of the Marine and Coastal Access Bill that they intended to appoint the Planning Inspectorate in the role of appointed person under paragraph 4(3) of Schedule 1A. The appointed person must determine whether in his view the proposals in Natural England's report fail, in the respects specified in any objection, to strike a fair balance as required under section 297(3) of the Act. The appointed person will consider the information and if he is minded to decide that Natural England's proposals **fail** to strike a fair balance the appointed person will publish the objection and invite anyone to make representations on the objection to him.
- 3.3 In this situation, paragraph 10(4) of Schedule 1A requires the appointed person to publish a notice containing:
- a. details of the objection and Natural England's comments on it under paragraph 6 of the Schedule;
 - b. a statement that the appointed person is minded to determine that the proposals fail to strike a fair balance; and
 - c. an invitation for representations to be made to the appointed person about:
 - i. the objection (including any modifications proposed by the objector);
 - ii. any relevant alternative modifications as defined in paragraph 6 of the Schedule in Natural England's comments under that paragraph; and
 - iii. any observations which the appointed person has made in the notice.
- 3.4 Paragraph 10(6) of Schedule 1A provides that regulations may be made about:
- a. the form and manner in which notices are to be published or given – 10(6)(a);
 - b. the timing of the publication or giving of notices – 10(6)(b); and
 - c. the form and manner in which, and the period within which, representations are to be made in response to an invitation in a notice – 10(6) (c).

Paragraph 10(6)(a) and (b)

Manner of publication

- 3.5 The word "published" in paragraph 10(6)(a) of Schedule 1A indicates that the notice is to be published to the general public. The regulations should therefore set out where the notice is to appear and what the notice must contain. It is proposed that the notice should be given the following publicity:
- a. published on the appointed person's website;
 - b. published in one or more local or regional newspapers circulating in the area to which the report relates; and
 - c. in any other way that the appointed person thinks appropriate for drawing the attention of members of the public to the notice.

Chapter 3: Regulations on objections considered by the appointed person

- 3.6 Under paragraph 10(6)(a) of Schedule 1A the appointed person must give a copy of the notice mentioned above to Natural England and the persons listed in paragraph 2(2)(b) to (f) ie.
- access authority for an area in which affected land relevant to the objection is situated;
 - each local access forum for an area in which affected land relevant to the objection is situated;
 - Historic Buildings and Monuments Commission;
 - Environment Agency;
 - such other persons as may be specified in regulations made by the Secretary of State.
- 3.7 The appointed person must also give a copy of that notice to any person with a relevant interest in affected land – those listed in paragraph 2(2)(a) of Schedule 1A – to which the objection relates. He must also give notice to any person with a relevant interest in land which is not affected land but which would become affected land if any of the modifications to Natural England’s proposals which an objector had proposed, or any alternative modifications which Natural England had made in its comments, were made to the proposals. These are the persons referred to in paragraph 10(5) (b) of Schedule 1A.
- 3.8 We propose that the appointed person should send the notice to Natural England and those bodies and organisations listed in paragraph 2(2)(b) to (f) of Schedule 1A either by recorded delivery or by email. The appointed person should send the notice to persons with a relevant interest in the land to the last known address by recorded delivery. We do not think that it is sufficient for the regulations to provide for the appointed person to send the notice to persons with a relevant interest in the land **only** by email unless the use of email would ensure that the information contained in the notice is available to the person in all material respects as it would appear if the notice were sent, and the person has consented to the information being made available to them by such means.
- 3.9 Paragraph 10(7) of Schedule 1A provides a power to require the Secretary of State at his expense to discharge the appointed person’s duty to publish or give notice under paragraph 6, and to forward such representations to the appointed person.

Form of notice

- 3.10 We propose that we should prescribe a form to be included in the regulations which contains blanks for the details below to be inserted:
- the date the notice was published;
 - a summary of the grounds of the objection identifying the land involved and the relevant section of the report;
 - where the report and a map of the area indicating the proposed line of the route and, (if applicable) the boundaries of the margin, which is the subject of the objection may be available for inspection;
 - a summary of the details of Natural England’s comments on the objection;
 - a statement that the appointed person is minded to determine that Natural England’s proposals fail to strike a fair balance; and

Chapter 3: Regulations on objections considered by the appointed person

- f. any representations on:
 - i. the objection (including any modifications of the proposals proposed by the objection);
 - ii. any relevant alternative modifications in Natural England's comments under paragraph 6 of the Schedule; and
 - iii. any observations which the appointed person made in the notice on any relevant alternative modifications or any modifications proposed by the objection.
- 3.11 In the case of persons to whom a copy of the notice is given under paragraph 10(5) of Schedule 1A the form on which a representation may be made will be sent with the notice. In other cases the form of notice will state that a form for representations is available from Natural England.

Timing of notice

- 3.12 Under paragraph 10(6)(b) to Schedule 1A regulations may make provision for the period within which the appointed person must give notice. We expect the time it will take the appointed person to decide that he is minded to determine that Natural England's proposals fail to strike a fair balance will vary from objection to objection according to the issues and complexity of the objection involved. The appointed person's decision at this time will mean that he intends to invite representations to be made to him on the objection under paragraph 10(4)(c) and **not** that he has made a final decision on the objection.
- 3.13 Given the varying time the appointed person may take on any objection we do not think it would be appropriate for the regulations to include a set time for the appointed person to be required to publish or give a notice but instead that he should be required to do so, on or as soon as is reasonably practicable for him to do so, after having reached a decision.

Question 5: Do you have any comments on the proposals for the manner in which notices are to be published or given and the timing of a notice?

Paragraph 10(6)(c)

- 3.14 Paragraph 10(6) (c) of Schedule 1A enables regulations to be made prescribing the form and manner in which and period within which representations are to be made in response to an invitation in a notice under this paragraph. In the interests of the person making a representation and the efficient conduct of the representation process, we consider that there should be a standard form for a representation to be made under paragraph 10(4)(c) of the Schedule. We therefore propose that we should prescribe a form in a Schedule to be included in the regulations which a person making a representation in response to an invitation in a notice should be required to use. This would follow the format of the form mentioned in paragraph 3.10 above.
- 3.15 The regulations should provide that representations must:
- a. be made in the prescribed form to the appointed person
 - b. be sent to the appointed person at the address given in the notice; and
 - c. be made to the appointed person within 6 weeks of the date of the issue of the notice.

Question 6: Do you have any comments on the proposals for the manner in which representations are to be made in response to an invitation in a notice and the timing of a notice?

Chapter 4: Regulations on local inquiries and hearings and supplementary provisions on objections

- 4.1 This chapter deals with regulations providing for the consideration of objections by the appointed person including procedures for local inquiries and hearings under paragraphs 13(1), 14(1) and (2) of Schedule 1A.

Background

- 4.2 Paragraph 13(1) of Schedule 1A allows the appointed person, where he thinks it necessary or expedient to do so, to hold a local inquiry (where witnesses are often cross-examined) or other hearing (a discussion of an objection) before determining the objection.
- 4.3 Subsections (2) to (5) of section 250 of the Local Government Act 1972 (local inquiries: evidence and costs) apply to local inquiries or other hearings held under Schedule 19. This provides that:
- the appointed person may require any person to attend by summons to give evidence or produce documents;
 - costs would be paid by Natural England or any other party as the appointed person directs and that failure to do so renders that party liable for a fine; and
 - the appointed person may make other orders as to the parties' costs.
- 4.4 Paragraph 14(1) of Schedule 1A enables regulations to be made about the consideration of objections by the appointed person. Paragraph 14(2) provides that regulations may in particular:
- allow the appointed person to consider two or more objections together – 14(2)(a);
 - enable the appointed person to conduct an inspection of land – 14(2)(b); and
 - make provision for the conduct of a hearing or local inquiry – 14(2)(c).

Determination by the appointed person of an objection

- 4.5 Paragraphs 4.6 to 4.19 of the consultation paper cover the procedures to be followed in each of the circumstances where the appointed person has decided to determine an objection either by way of written representations, a hearing or a local inquiry. The procedure type for determining an objection will be decided by the appointed person and will depend on a number of different factors which could include such things as scale, complexity, interest (either public interest or the extent to which a person's interests are affected) and the implications of the objection.

Written objections

Procedure for determination

- 4.6 The regulations should allow the appointed person to determine an objection without holding a hearing or local inquiry.

Inspection of land

- 4.7 Under paragraph 14(2)(b) the regulations may enable the appointed person to conduct an inspection of land. We propose that the regulations should provide the following:
- that the appointed person may arrange for an inspection of the land which is the subject of the objection under consideration where it appears to him that it is necessary or expedient to do so;

Chapter 4: Regulations on local inquiries and hearings and supplementary provisions on objections

- b. the appointed person must ask the person making the objection and Natural England whether they wish to be present or be represented at such an inspection;
- c. where the person making the objection or Natural England have indicated that they wish to be present, the appointed person must give the person and Natural England reasonable notice of the date and time of the inspection, and must afford the person and Natural England the opportunity of being present during the inspection; and
- d. the inspection does not need to be deferred if the person making the objection or Natural England is not present at the appointed time of the inspection.

Question 7: Do you have any comments on the proposals in the case of where an objection is to be determined by way of a written representation?

Hearing

Procedure for determination

- 4.8 We propose that the appointed person should give written notice if he intends to determine the objection by way of a hearing and should give this notice as soon as possible after he has decided that a hearing is necessary. The notice should:
- a. state the date of the notice;
 - b. state that the appointed person intends to determine the objection by way of an hearing;
 - c. state the date, time, and place of the hearing; and
 - d. give a brief description of:
 - i. the affected land and the report to which the hearing relates;
 - ii. the objection/objections to be considered at the hearing; and
 - iii. details about where and when documents relating to the hearing may be available for inspection.
- 4.9 The notice must be given to:
- a. Natural England;
 - b. the person or persons who made the objections which will be the subject of the hearing; and
 - c. any person who has made representations that are relevant to those objections or the proposed modifications.
- 4.10 We propose that the notice must also be given the following publicity. It must be:
- a. published in one or more local or regional newspapers circulating in the locality to which the report relates;
 - b. published on the appointed person's website; and
 - c. in any other way that the appointed person thinks appropriate for drawing the attention of members of the public to the notice.

Chapter 4: Regulations on local inquiries and hearings and supplementary provisions on objections

Timing of a hearing

4.11 It is proposed that the date fixed by the appointed person for a hearing shall not be less than 6 weeks after the publication of the notice. Subject to this, the regulations should allow the appointed person at any time to change the date, time or place fixed for the hearing and require that where he does so, he must give such notice of the change as appears to him to be reasonable to those to whom he had originally notified of the original date of the hearing.

Appearances at a hearing

4.12 The persons entitled to appear at the hearing should be:

- a. Natural England;
- b. the person or persons making the objection which will be the subject of the hearing; and
- c. any person who has made a representation either that is relevant to those objections or the proposed modifications.

4.13 In addition the regulations should provide that any other person may appear at the hearing with the permission of the appointed person and that any person, who may be entitled or permitted to appear at the hearing may appear in person or be represented by any other person.

Notification of the name of the appointed person

4.14 The appointed person must at the commencement of the hearing, announce his name and the fact of his appointment.

Procedure at a hearing

4.15 We propose that the regulations will provide that the procedure to be followed at a hearing should be determined by the appointed person except as otherwise provided. The procedure will be as follows:

- a. a hearing is to take the form of a discussion led by the appointed person, and cross examination is not be permitted unless the appointed person considers that cross examination is required to ensure a thorough examination of the main issues;
- b. where the appointed person considers that cross examination is required he must, after consulting every person who is entitled or permitted to appear at the hearing, and is present at that hearing, consider whether the hearing should be closed and an inquiry should be held instead;
- c. at the start of the hearing the appointed person must 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 does not preclude any person in the course of the hearing from referring to issues which they consider relevant to the consideration of the objection but which are not issues so identified by the appointed person;
- d. the objector and Natural England are to be entitled to give, or call another person to give, oral evidence if permitted by the appointed person at his discretion, but the appointed person 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;

Chapter 4: Regulations on local inquiries and hearings and supplementary provisions on objections

- e. where the appointed person refuses to permit the giving of oral evidence, or presentation of any matter, he may permit that evidence to be given to him in writing before the close of the hearing or within a specified time of the close of the hearing at the discretion of the appointed person;
- f. the appointed person may require any person to leave the hearing if he is behaving in a disruptive manner and may refuse to permit that person to return or permit him to return only on such conditions as the appointed person may specify;
- g. the appointed person may proceed with the hearing in the absence of any person entitled to appear at it;
- h. the appointed person may take into account any written representations or evidence or any other document received by him from any person before a hearing starts or during the hearing provided he discloses it to the hearing; and
- i. the appointed person may adjourn a hearing and if the date, time and place for a further hearing are announced before the adjournment, no further notice shall be required.

Inspection of land

- 4.16 We propose that the appointed person may carry out a site inspection of the affected land to which the objection relates where an objection is to be determined on the basis of a hearing. The appointed person may take any persons with him (if he chooses to do so) and, if he does so decide to make an inspection, he will give a right to those persons entitled or permitted to appear at an hearing to accompany him (if they choose to exercise it).
- 4.17 If the appointed person decides to make an inspection he should give the person(s) who is/are to accompany him reasonable notice of the date and time of the inspection and the opportunity of being present. The inspection however does not need to be deferred if the person making the objection or Natural England is not present at the appointed time of the inspection.
- 4.18 We propose that the regulations should provide that once the hearing has started the appointed person may adjourn the hearing to the land that is the subject of the hearing and may conclude the hearing there, if he is satisfied that:
- a. the hearing would proceed satisfactorily and that no party would be placed at a disadvantage;
 - b. all parties present would have an opportunity to attend the adjourned hearing; and
 - c. neither the objector nor Natural England have raised any reasonable objections to its being continued at the site of the affected land.

Question 8: Do you have any comments on the proposals in the case of where an objection is to be determined by way of a hearing?

Chapter 4: Regulations on local inquiries and hearings and supplementary provisions on objections

Inquiry

- 4.19 We propose that the same considerations and procedures that apply where the appointed person intends to determine the objection by way of a hearing – as set out in paragraphs 4.8 to 4.18 – should also apply where he intends instead to determine the objection by way of an inquiry but with the following changes:
- a. that the procedure at an inquiry will consist of a formal examination of the issues led by the appointed person;
 - b. unless in a particular case the appointed person otherwise determines, Natural England must begin and any other persons appearing at the inquiry must be heard in such order as the appointed person shall determine; and
 - c. any person appearing at the inquiry may cross-examine any person giving evidence orally or in writing or presenting any matter at the inquiry but the appointed person may, at any stage in the inquiry, refuse to permit the person continuing the cross-examination of evidence or presentation of any matter which the appointed person considers to be irrelevant or repetitious.

Question 9: Do you have any comments on the proposals in the case of where an objection is to be determined by way of an inquiry?

Pre-inquiry

- 4.20 We consider that the regulations should make provision for a pre-inquiry meeting or meetings where the appointed person considers it to be necessary. By “pre-inquiry meeting” we mean a meeting held before an inquiry to consider what may be done to ensure that the inquiry is conducted efficiently and expeditiously.
- 4.21 We propose that the regulations should cover:
- a. that the appointed person may hold a pre-inquiry meeting or meetings if it appears to him to be necessary;
 - b. the appointed person must give notice in writing of the pre-inquiry meeting to:
 - i. Natural England;
 - ii. the person or persons making the objection; and
 - iii. anyone who has made a representation in relation to the report or in response to an invitation in a notice under paragraph 10(4)(c) of the Schedule; and
 - c. the notice must contain:
 - i. the date, time and place of any such meeting; and
 - ii. procedures to be followed at the meeting.
- 4.22 We propose that the appointed person shall give not less than 2 week’s notice of a pre-inquiry meeting to every person to whom the notice of the inquiry is to be given. In addition where a pre-inquiry meeting is held the appointed person may decide to hold a further pre-inquiry meeting if it thinks it necessary and must give such notice of that further meeting as appears to him necessary.

Chapter 4: Regulations on local inquiries and hearings and supplementary provisions on objections

- 4.23 At the pre-inquiry meeting the appointed person:
- a. must preside at the pre-inquiry meeting;
 - b. must determine the matters to be discussed and the procedure to be followed;
 - c. may require any person present at the pre-inquiry meeting who, in his opinion, is behaving in a disruptive manner to leave;
 - 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; and
 - e. shall determine the nature of any documentation that must be submitted to the inquiry and the deadlines for doing so.

Question 10: Do you have any comments on the proposal to hold a pre-inquiry?

Consideration of two or more objections

- 4.24 Under paragraph 14(2)(a) of Schedule 1A regulations may allow the appointed person to consider two or more objections together. We propose that the regulations should set out the circumstances where we consider this may be appropriate and these are:
- a. where the objections relate to the same area of affected land in a report (whether or not they also relate to other land);
 - b. where all the objections relate to adjacent, or contiguous areas of affected land;
 - c. where all objections relate to the same issue or ground and the appointed person considers the circumstances in which they arise are sufficiently similar to warrant the objections being considered together; and
 - d. where the appointed person otherwise considers that it would be expedient to consider two or more objections together.

Question 11: Do you have any comments on or suggestions for any other circumstances where the appointed person might wish to consider determining two or more objections together?

Chapter 5: Regulations on preliminary consultation by the Secretary of State

- 5.1 This chapter deals with the regulations providing for procedures where the Secretary of State wishes to identify or investigate possible modifications of proposals under paragraph 15(1) of Schedule 1A.

Background

- 5.2 The purpose of the power under paragraph 15 of Schedule 1A is to enable the Secretary of State to identify or investigate further any modification which he would like to consider to Natural England's proposals other than one proposed by the appointed person. This allows the Secretary of State to consult people with a view to investigating what possible modifications it might be appropriate to give further consideration to, or as to their views on any given proposed modification.

Paragraph 15(1)

- 5.3 Regulations under paragraph 15(1) of Schedule 1A may make provision about the procedure to be followed where, before determining whether or not to approve the proposals in a report, the Secretary of State wishes:
- to identify or investigate possible modifications of the proposals to which it might be appropriate to give further consideration; and
 - to consult persons for the purposes of identifying or investigating such modifications.
- 5.4 Where the Secretary of State wishes to consult for this purpose, we propose that the regulations should say that the persons he must consult are:
- Natural England;
 - any person with a relevant interest in affected land who has made an objection which has caused the Secretary of State to identify the possible modification as one to which it might be appropriate to give further consideration;
 - any person with a relevant interest in land which might become affected land; and
 - any other person with a relevant interest in affected land whom it appears to the Secretary of State it is appropriate to consult.
- 5.5 This is the stage at which the Secretary of State will be looking into any further possible modifications. Any modifications which the Secretary of State wishes to make as a result of this consultation process, will then go through similar procedures as the initial report which is set out in the regulations under paragraph 16 of the Schedule and which we deal with in chapter 6 of the consultation paper.

Question 12: Do you have any comments on the proposals that allow the Secretary of State to consult people with a view to investigating what possible modifications it might be appropriate to give further consideration?

Chapter 6: Regulations on determinations made by the Secretary of State

- 6.1 This chapter deals with regulations providing for procedures where the Secretary of State is minded to approve proposals with modifications under paragraphs 16(4) and (6) of Schedule 1A.

Background

- 6.2 The Secretary of State is required to make a determination on Natural England's report as a whole under section 52 of the 1949 Act and in so doing he must consider:
- any objections which the appointed person had deemed were admissible;
 - Natural England's comments on any admissible objections;
 - the report of the appointed person on any admissible objections;
 - any representations made about Natural England's report, or summary of such representations, and comments by Natural England on them; and
 - any information or document which has been sent to him by Natural England.

In making a determination on the report, the Secretary of State may approve proposals relating to one or more parts of the route only, and may reject the remaining proposals. Under section 51(1) of the 1949 Act he may approve the report with or without modifications.

- 6.3 Paragraphs 16(4) to (6) of Schedule 1A gives the Secretary of State power to make provision in regulations about the procedure to be followed where he is minded to approve proposals with modifications (other than modifications made or in accordance with the recommendation by the appointed person) and to apply any provision of Schedule 1A. The reason for the power in paragraph 16(4) is to provide for consultation where the Secretary of State is minded to approve Natural England's report with a modification which the appointed person has not recommended in his report to the Secretary of State.

Paragraphs 16(4) and 16(6)

- 6.4 In order to ensure that those persons potentially affected by modifications proposed by the Secretary of State are able to make representations on them, we propose that the existing procedures relating to representations and objections set out in Schedule 1A and the proposed regulations should apply in these circumstances.
- 6.5 Regulations may make provision about the procedure to be followed where the Secretary of State is minded to approve proposals with modifications (other than modifications made or in accordance with a recommendation made to him by the appointed person under paragraphs 11(7)(b) or (c) or (8)(a) or (b) of Schedule 1A). Paragraph 16(6) enables regulations under paragraph 16(4) to apply any provision of the Schedule with or without modifications.
- 6.6 Procedures under the regulations made under paragraph 16(4) of Schedule 1A will apply to all modifications that the Secretary of State is minded to make other than those set out in the report of the appointed person under paragraph 11 of Schedule 1A.

Chapter 6: Regulations on determinations made by the Secretary of State

- 6.7 We propose that the regulations should provide that paragraphs 2(1) and (2), 3(1) to (6), 4, 5, 6, 7(1), 8, 9, 10(1) to (5) and (7), 11, 12, and 13 of Schedule 1A, and the provisions of any regulations made under paragraphs 2(3), 3(7), 7(2), 10(6) and 14, should apply in relation to such a modification proposed by the Secretary of State, as they apply in relation to a coastal access report (with appropriate modifications to the wording of those paragraphs and provisions of the regulations).

Question 13: Do you have any comments on the proposals where the Secretary of State is minded to approve proposals with modifications other than the modifications made by the appointed person?

Chapter 7: Additional issues

- 7.1 This chapter deals with a number of additional issues on which we would welcome any views. These are as follows:

Use of electronic communications

- 7.2 We consider that any requirement for a representation or an objection to be sent in writing may be met by means of an electronic communication. Any notification or passing of any document in writing may also be met by means of an electronic communication, except where a notice is given to those persons with a relevant interest in the land (as set out in paragraphs 2.19 and 3.8). However an electronic communication may be used in such a case where its use would ensure that the information contained is available to the person in all material respects as it would appear if the document were sent, and the person has consented to the information being made available to them by such means.

Further documentation

- 7.3 We propose that there should be a general provision in the regulations allowing the appointed person to request Natural England and anyone who has made an objection to supply the appointed person upon request with any further documentation or information in order to assist him in coming to a determination on an objection. This would be under the power in paragraph 14(1) of Schedule 1A.

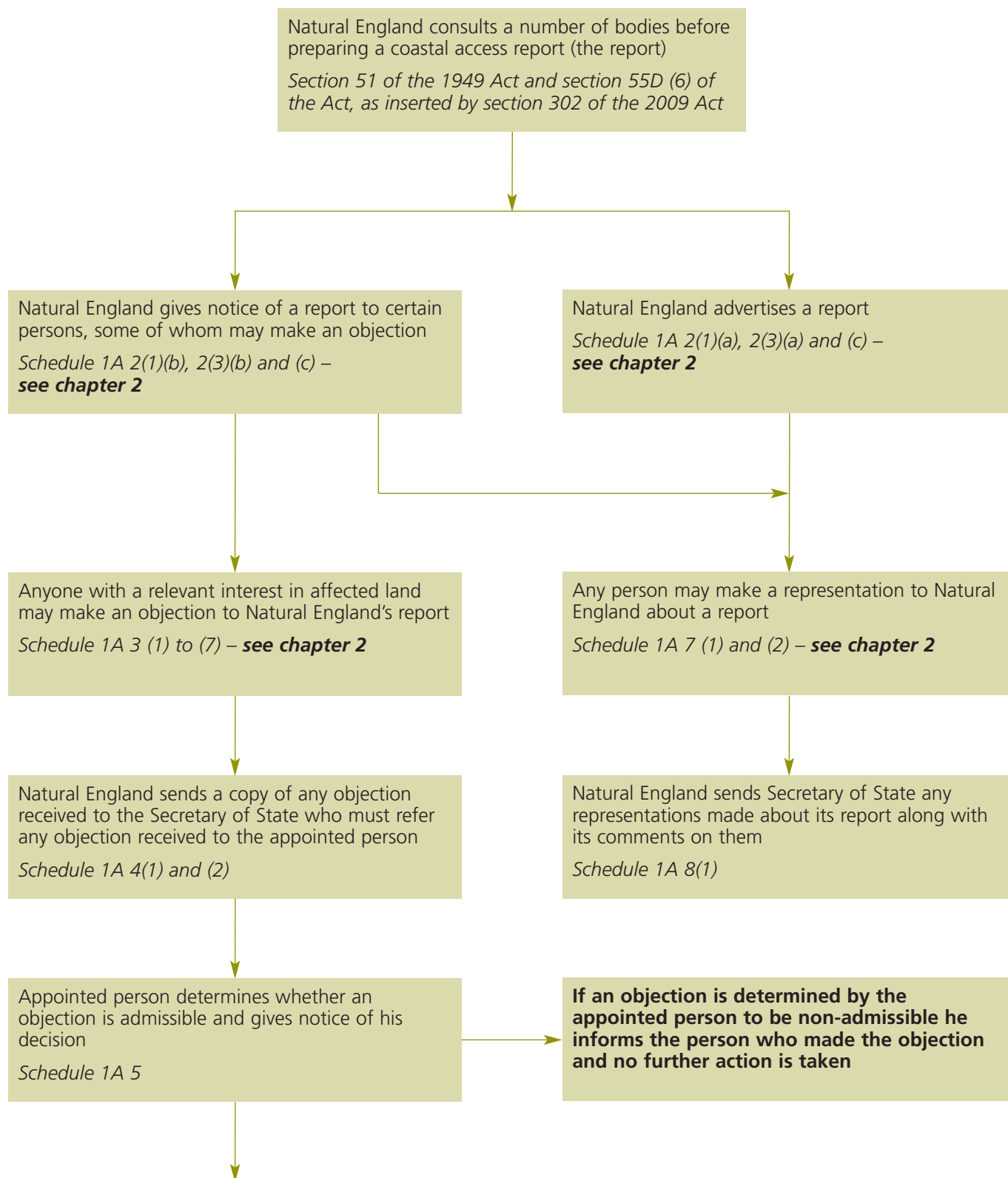
Inspection and copying of documents

- 7.4 The regulations should enable the appointed person to request from any person, who is entitled or permitted to appear at a hearing or an inquiry, copies of any document or available to that person, and to specify a reasonable time within which such copies should be received by the appointed person. The regulations should state that any person who has been requested to provide a copy of such a document should ensure that the copies are received by the appointed person within the period specified. This would be under the power in paragraph 14(2)(c) of Schedule 1A.

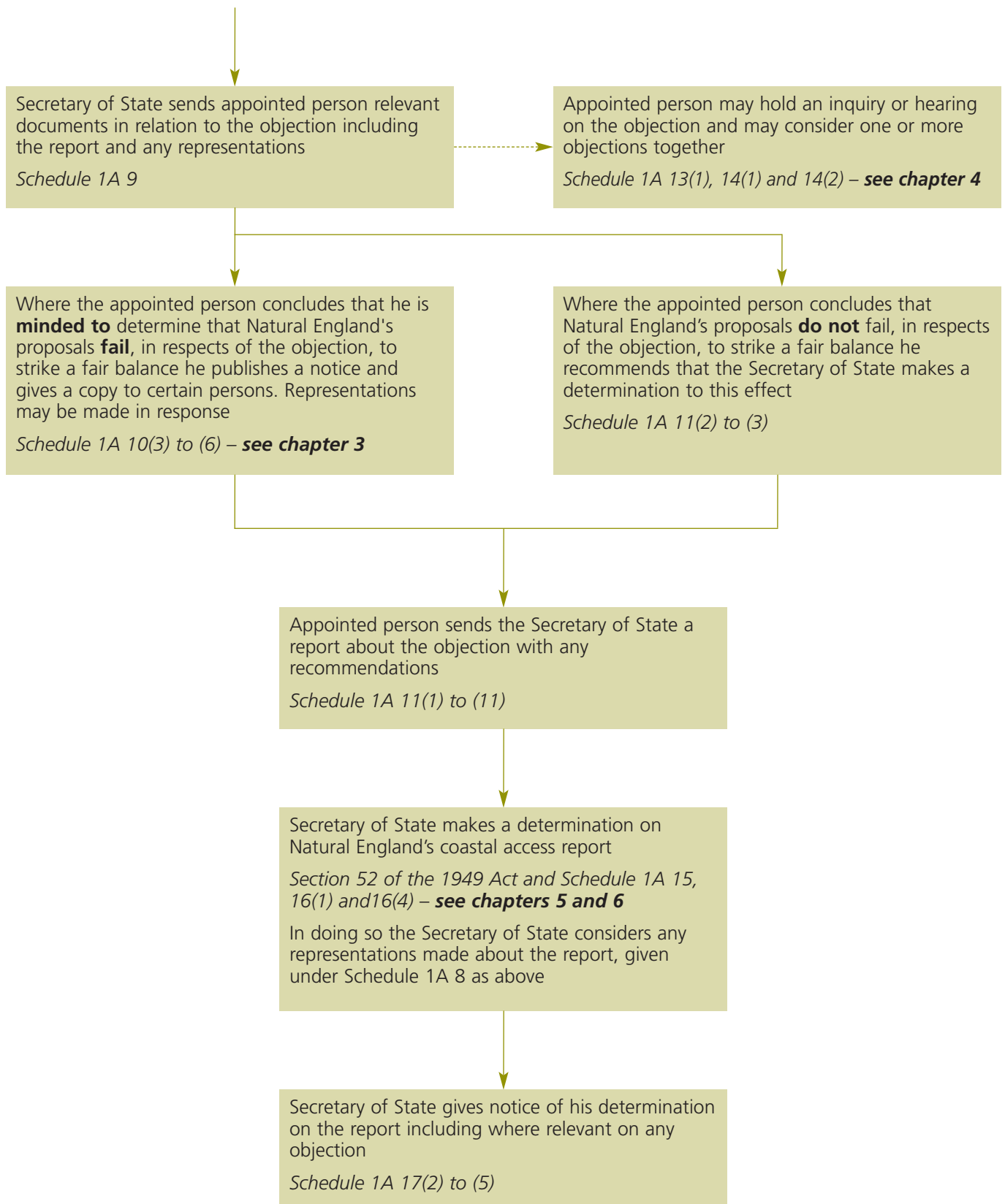
Question 14: Do you have any comments on the proposals for:

- a. the use of electronic communications;**
- b. further documentation; or**
- c. the inspection and copying of documents?**

Annex A: Flow diagram summarising the representations and objections procedures under Schedule 1A to 1949 Act



Annex A: Flow diagram summarising the representations and objections procedures under Schedule 1A to 1949 Act



Annex B: Glossary of the main terms used in the consultation

Affected land

Affected land is land which relates to a proposal in a coastal access report by Natural England. It includes land over which the coastal route or any alternative route passes, and other relevant land within the wider coastal margin. It does not include excepted land. A person with a *relevant interest* in affected land may make an *objection* to a proposal in a coastal access report.

Appointed person

Refers to a person appointed by the Secretary of State to consider an *objection*, made by someone with a *relevant interest*, to a proposal by Natural England set out in a *coastal access report*. The appointed person must determine whether these proposals fail to strike a fair balance in the terms set out in the objection. The appointed person must report to the Secretary of State on his determination and recommendations, which the Secretary of State must consider before reaching a decision on Natural England's proposals. The appointed person is likely to be an inspector from the Planning Inspectorate.

Coastal access report

A coastal access report is a report prepared by Natural England setting out its recommendation for the position of the coastal route on a particular stretch of the English coast. A report will also give details of the extent of the wider margin of land that will be accessible to the public as a result of the proposed position of the route and any restrictions or exclusions of access that Natural England proposes to apply on the route or margin. The Secretary of State may approve the proposals for the route in the report with or without *modifications*. He may approve the proposals for one or more parts of the route only and reject the remaining proposals.

Modification

- (a) A person making an *objection* can suggest changes (modifications) to Natural England's proposals where, in their view, the suggested modifications would meet or mitigate the concerns to which the objection relates.
- (b) The *appointed person* may include in his report setting out his conclusions with regard to an *objection*, a recommendation that the Secretary of State include, or consider, certain modifications to Natural England's proposals.
- (c) The Secretary of State may choose to approve the proposals in a *coastal access report* with or without modifications.

Objection

An objection to a proposal in a *coastal access report* by Natural England may be made by a person with a *relevant interest* in *affected land*. An objection must be based on certain specified grounds. Objections will be considered by an *appointed person* who will make a recommendation to the Secretary of State. The Secretary of State must take an objection, and the recommendations of the *appointed person* regarding the objection, into account in reaching a decision on Natural England's proposal for a coastal route.

Annex B: Glossary of the main terms used in the consultation

Relevant interest

A person making an *objection* to a proposal in a *coastal access report* by Natural England must have a relevant interest in *affected land*. This means that they must be the owner, a leaseholder, or otherwise in lawful occupation of the *affected land*.

Representation

A representation to a proposal in a *coastal access report* by Natural England may be made by any person. A representation may be made on any grounds, and may include statements in support of Natural England's proposals as well as against them. Natural England must send a copy of representations made by certain organisations and persons, and a summary of other representations, to the Secretary of State together with its comments on them. The Secretary of State must take the representations, and Natural England's comments on them, into account in reaching a decision on Natural England's proposal for a coastal route.

Annex C: Summary of consultation questions

Chapter 2

- Question 1: Do you have any comments on the proposals for the form and manner in which Natural England's reports are to be advertised, and the timing of any advertisement?
- Question 2: Do you agree that the British Mountaineering Council, Country Land and Business Association, National Farmers Union, Open Spaces Society and Ramblers Association, and owners of sporting rights (and those with a sporting tenancy) should be included under paragraph 2(2)(f)?
- Question 3: Are there any other persons you consider should be included under paragraph 2(2)(f)?
- Question 4: Do you have any comments on the proposals for the form and manner in which a notice about Natural England's report is to be given, and the timing of any notice?

Chapter 3

- Question 5: Do you have any comments on the proposals for the manner in which notices are to be published or given and the timing of a notice?
- Question 6: Do you have any comments on the proposals for the manner in which representations are to be made in response to an invitation in a notice and the timing of a notice?

Chapter 4

- Question 7: Do you have any comments on the proposals in the case of where an objection is to be determined by way of a written representation?
- Question 8: Do you have any comments on the proposals in the case of where an objection is to be determined by way of a hearing?
- Question 9: Do you have any comments on the proposals in the case of where an objection is to be determined by way of an inquiry?
- Question 10: Do you have any comments on the proposal to hold a pre-inquiry?
- Question 11: Do you have any comments on, or suggestions for, any other circumstances where the appointed person might wish to consider determining two or more objections together?

Annex C: Summary of consultation questions

Chapter 5

Question 12: Do you have any comments on the proposals that allow the Secretary of State to consult people with a view to investigating what possible modifications it might be appropriate to give further consideration?

Chapter 6

Question 13: Do you have any comments on the proposals where the Secretary of State is minded to approve proposals with modifications other than the modifications made by the appointed person?

Chapter 7

Question 14: Do you have any comments on the proposals for:

- a. the use of electronic communications;
- b. further documentation; or
- c. the inspection and copying of documents?