

Title - CROW ACT 2000 – SECTION 28 INDEFINITE DIRECTION FIVE YEAR REVIEW

Start and end date of the consultation 0900 on Monday 20th November - 2345 on Friday 15th December

Summary – A five year review of sites at which the Ministry of Defence use an Indefinite Direction under Section 28 of the Countryside and Rights of Way Act 2000.

Description

The Defence Infrastructure Organisation (DIO) is undertaking a review of sites at which the Ministry of Defence (MOD) use an Indefinite Direction under Section 28 of the Countryside and Rights of Way Act 2000 ('the Act').

Most sites where hazardous or sensitive activities take place are covered by byelaw made under the Military Lands Act 1892 (MLA). These provide arrangements for safe public access (when this is permitted) and give approval for appropriate activities. All land under MLA byelaws is excepted from the provisions of the Act (under Schedule 1). Therefore the Act does not apply at these sites.

Some minor facilities and lower profile secure sites are not covered by byelaw. As a general rule responsible use by the public has meant that there has been no need to formalise access arrangements this way. However, most ranges and secure sites are by nature open areas. As a consequence the Countryside Agency's original habitat mapping exercise identified many non-byelawed MOD sites as matching the criteria for access land. Additionally, because of the benign land management regime, many of these sites are wildlife havens and have nature conservation designations.

The MOD has a programme to review and update the byelaws and it is expected new byelaws will be introduced for the majority of these sites in the future. In the meantime, the MOD continues to use Section 28 of the Act to regularise public access arrangements for reasons of defence effectiveness and public safety where this is compromised by the prospect of open access.

Section 28 allows the Secretary of State for Defence to make a 'Direction' that excludes or restricts access for the purpose of Defence onto land covered by the Act. These can be for short-term, long-term or indefinite periods. Indefinite Directions are made when it is reasonable to assume that the area requires special arrangements for public access for the foreseeable future.

Indefinite Directions have to be reviewed within five years, with the last review having been undertaken in 2012. Five years on it is time to review the Directions again. DIO have reviewed all Directions internally and can demonstrate a sound military justification for the continued application of s28.

The Regulations require, as part of the review, public consultation to be undertaken for a minimum of two weeks. The consultation runs Monday 20th November until Friday 15th December, during which time responses and comments may be made. All responses will be reviewed and due regard will be taken of observations made. The Secretary of State will then be advised to finalise the Directions.

Please see the 'Frequently Asked Questions' document which offers a further explanation of the review.

Ways to respond

All representations, observations or comments are to be sent to DIOSEE-EPSESCAccess@mod.uk.