

Public Consultation Process for Byelaws Review

Introduction

When making new or revised byelaws the Department must comply with the statutory requirements set out in the Military Lands Act 1892.

Section 17(1) of the Military Lands Act 1892 sets out a requirement to consult and provides that—

“A Secretary of State, before making any byelaws under this Act, shall cause the proposed byelaws to be made known in the locality, and give an opportunity for objections being made to the same, and shall receive and consider all objections made.”

The way the Department complies with this requirement is reflected in the process set out in section 2 below.

Where the proposed byelaws will regulate an area of sea, tidal water, or shore, there is an additional requirement which is set out in section 2(2A)(a) of the Military Lands Act 1900.

Section 2(2A) provides that—

“Before making any such byelaws the Secretary of State must—

(a) take all reasonable steps to ascertain whether the byelaws would injuriously affect any public rights; ...”

Depending on the particular site and rights affected, the consultation process can be used to ascertain this information.

The Consultation Process

2. The process is as follows:

a) The proposed new byelaws are publicized as follows:

(i) Notices explaining the Department’s intention to make new byelaws, the period allowed for consultation and how members of the public may comment are published twice in two local newspapers and the London, Edinburgh or Belfast Gazette; copies are also sent to local councils and post offices.

ii) Notices together with copies of the proposed new byelaws are displayed at the entrances to the affected MOD site and are sent for display to the local library and to constituency MPs and other interested parties as appropriate.

(iii) The proposed new byelaws are advertised online at Gov.UK.

(iv) Copies of the proposed new byelaws are available on request from the Byelaws Review Team (BRT) whose contact details are provided on the notices and at Gov.UK.

b) Consultation Period - A period of 35 days is normally allowed during which comments on the proposed new byelaws can be made¹. However, for some sites that period will be insufficient to enable interested members of the public to comment, and where this is determined, a longer consultation period will be given.

d) The BRT considers all responses received in writing during the consultation period and advises the appropriate Defence Minister of any objections to the proposed byelaws. The Minister will also receive a summary of all comments received.

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Comments received may also be published in a summary of responses. Where this is unacceptable to those making comments the initiator must clearly request that their comments be treated confidentially. Any confidentiality disclaimer generated by their IT system in Email responses will not be treated as such a request. There may also be circumstances in which MOD will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 or the Environmental Information (Scotland) Regulations 2004. Any data released will be compliant with current data protection legislation.