EXPLANATORY MEMORANDUM TO

THE ACCESS TO THE COUNTRYSIDE (DEDICATION OF LAND) (AMENDMENT) (ENGLAND) REGULATIONS 2011

2011 NO. 2020

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Section 16 of the Countryside and Rights of Way Act 2000 ("the CROW Act") enables persons to dedicate their land for the purposes of Part 1 of that Act, which established a new regime for access to the countryside. Part 9 of the Marine and Coastal Access Act 2009 ("the 2009 Act") amends section 16 to make provision to enable persons to dedicate land which is coastal margin or adjacent to it as coastal margin.

2.2 This instrument makes a number of changes to the existing regulations the Access to the Countryside (Dedication of Land) (England) Regulations 2003 (SI 2003 No.2004) to allow the freehold owner or a long leaseholder of land to be able to dedicate land on or adjacent to the coastal margin as coastal margin under section 16 of the CROW Act. In particular they:

i. provide for the information required to be provided to persons requested to consent to a dedication of land to include a statement as to whether or not the land is to be dedicated as coastal margin (regulation 4);
ii. provide for an instrument of dedication to include a statement as to whether or not the land is dedicated as coastal margin (regulation 5); and
iii. enable a previous dedication under section 16 to be amended to provide that the land is dedicated as coastal margin and that any exclusion or restriction of access in effect on the land immediately prior to dedication of land as coastal margin shall cease to have effect (regulation 7).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The new right of access to the English coast is provided for in Part 9 of the Marine and Coastal Access Act 2009. The 2009 Act amends Part 4 of the National Parks and Access to the Countryside Act 1949 ("the 1949 Act") to provide for the designation of a long-distance coastal route, and also Part 1 of the Countryside and Rights of Way Act 2000 to provide a right of access to the route and an associated margin of land linked to the route.

4.2 The coastal access provisions in the 2009 Act place a duty on the Secretary of State and Natural England to secure two linked objectives:

- that there is a route for the whole of the English coast consisting of one or more long-distance routes along which the public are enabled to make recreational journeys on foot or by ferry, and

- that in association with the route there is a margin of land along the length of the English coast which the public can have access to and enjoy for the purpose of open-air recreation.

4.3 Once Natural England's coastal access report for a particular stretch of the English coast has been approved by the Secretary of State the right of access for that stretch of the English coast will come into force on an appointed date by way of an Order made by the Secretary of State under section 3A(10) of the CROW Act (inserted by section 303(5) of the 2009 Act).

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Part 9 of the 2009 Act aims to improve public access to and enjoyment of the English coastline, providing secure and consistent rights for people to enjoy the coast with confidence and certainty. It will do this by making a margin of land available for public access on foot around the coast of England. Within this margin people will be able to walk along the length of the English coast (subject to some exceptions), and in addition will have access to wider areas of suitable coastal land such as beaches, cliffs, rocks and dunes for open-air recreation on foot.

8. Consultation outcome

8.1 A 12 week consultation ran from 1 April to 24 June 2011 seeking views on the main measures intended to be contained in the instrument. The consultation also sought views on proposed regulations for appeals against works notices and on exclusions or restrictions of access.

8.2 A total of 15 responses were received overall to the consultation from a range of individuals and organisations including local access forums, national park authorities, wildlife and recreation organisations, landowners/managers and their representative organisations. 11 responses were specifically made about the measures on dedication intended to be contained in the instrument.

8.3 In the light of responses to the consultation paper a change was made to remove the proposal that a description rather than a map of the land to be dedicated could be provided where the consent of a person was requested to such a dedication.

8.4 An analysis of the consultation responses will be available at www.defra.gov.uk/consult/2011/04/01/coastal-access-1104/.

9. Guidance

9.1 We will be looking to provide non-statutory guidance on the provisions in section 16 of the 2000 Act and the regulations made under that section.

10. Impact

10.1 There will be no regulatory requirements placed on business, charities or the voluntary sector as a result of implementation of the coastal access provisions in the 2009 Act. There will however be some costs to persons and organisations, such as a business, charity or the voluntary sector, which has a relevant interest in land and which may be affected by the coastal access route and where they wish to make an objection about Natural England's coastal access report. There will be some costs for any person and organisation who wishes to make a representation about a report. The costs for participating in Natural England's consultation on the line of the route and some loss of production where the new right of access affects farmed land are estimated to be £8 million over 20 years. Offsetting these costs will be economic benefits to local coastal economies from the increased visitor spending in coastal areas that is expected to occur where improved access encourages additional visitors. For example, it has been estimated that the South West Coast Path brings over £300m per year spending into the regional economy. The coastal route will provide new opportunities for business, with tourism related businesses most likely to envisage new commercial opportunities from greater access. Analysis of results from studies done in coastal areas and on long distance paths have suggested that the uplift in spending is £6 – £9 per non-resident day visitor per day and £35 – £45 per tourist (overnight) visit per day.

10.2 The cost to the public sector of identifying and implementing the new right of access at Weymouth Bay, in time for the Olympic and Paralympic games in 2012, and a further five lead areas by 2015 is estimated to be £0.465m including the costs of the physical establishment of the coastal route eg gates and signs. These costs will fall to Natural England. There will be in addition the salary costs of the Natural England staff who are involved in delivering the new right of access at Weymouth and the five lead areas. There will be some costs, estimated at £3m, which will fall to the Department for Environment, Food and Rural Affairs for dealing with any objections which are made to proposals in Natural England's coastal access reports under the procedures in Schedule 1A to the 1949 Act, as inserted by Schedule 19 to the 2009 Act.

10.3 A separate Impact Assessment has not been prepared in respect of these Regulations, because the Impact Assessment which was prepared for Part 9 of the 2009 Act examined the impact of the implementation of Part 9 of which these Regulations form part. The Impact Assessment which was prepared for the 2009 Act is available at http://archive.defra.gov.uk/environment/marine/documents/legislation/marine-ia-0410.pdf.

11. Regulating small business

11.1 The legislation applies to any small business whose land may be affected by the coastal access route and the associated coastal margin. There will only be some costs where that business wishes to make a dedication of coastal land.

12. Monitoring & review

12.1 Natural England will monitor progress as implementation of the coastal route and associated coastal margin is rolled out throughout England. Under section 298 of the 2009 Act Natural England is required to set out in a scheme its approach to proposing the coastal route and margin, and for that scheme to be approved by the Secretary of State. The initial scheme was approved on 23 March 2010. Under section 299 of that Act Natural England must complete the first review of the scheme within three years of the date of approval of the scheme. Benefits and costs will also be monitored as implementation of the coastal route is rolled out and will be reviewed within 5 years of completion.

13. Contact

Richard Hepburn at the Department for Environment, Food and Rural Affairs [Tel: 0117 372 3553 or email: richard.hepburn@defra.gsi.gov.uk] can answer any queries regarding the instrument.