EXPLANATORY MEMORANDUM TO

THE COUNTRYSIDE AND RIGHTS OF WAY ACT 2000 (REVIEW OF MAPS) (ENGLAND) REGULATIONS 2019

2019 No. 1069

1. Introduction

1.1 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 10(2) of the Countryside and Rights of Way Act 2000 ("the CROW Act") prescribes the time limits by when Natural England (as the appropriate countryside body in relation to England) is required to review the conclusive maps prepared under the Act showing all open country (mountain, moor, heath and down) and registered common land in England (excluding inner London).

2.2 Section 10(2)(a) of the Act requires the first such review of any such conclusive map to be undertaken not more than fifteen years after its issue. These Regulations amend the CROW Act in relation to England by extending the timing of the first review by five years, changing the deadline to not more than twenty years, while preserving the existing time limit in relation to Wales.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The extent of this instrument is to England and Wales in line with Parliamentary Counsel's preference that primary legislation should not be amended with less than its existing extent or application so as to avoid having two or more different versions of the "same" provision.

4.2 However, the substance of the amendments only changes the law as respects England.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble, has made the following statement regarding Human Rights:

"In my view the provisions of the Countryside and Rights of Way Act 2000 (Review of Maps) (England) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument is being made to extend the deadline placed on Natural England by the CROW Act and subsequent regulations to review Open Access maps by not more than 15 years from first issue. The deadline is being extended by 5 years, to review the maps not more than 20 years from first issue.

6.2 Subsequent reviews are unchanged from the original legislation, this being 20 years after the previous review.

7. Policy background

What is being done and why?

7.1 The right of public access to open-air recreation under Part 1 of the CROW Act applies to any land which has been mapped as open country or registered common land. The completed map showing available land for public access under the CROW Act is known as the conclusive map.

7.2 Section 10(2)(a) of the CROW Act requires the first review of any such conclusive map in England to be undertaken not more than fifteen years after its first issue. This fifteen year timeframe includes a five year extension previously implemented by The Countryside and Rights of Way Act 2000 (review of maps) (England) regulations 2013, which extended the initial period from ten years to fifteen years.

7.3 Given the delivery of the England Coast Path (ECP) the Department for Environment, Food and Rural Affairs has decided that it would be more cost effective to undertake the first review alongside the newly created coastal margin of the ECP thereby removing potential duplication of work on those areas already covered by the coastal margin. The Department is therefore extending the deadline by five years so that the map review can be better sequenced with the delivery of the England Coast Path.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There is no intention to consolidate this legislation.

10. Consultation outcome

10.1 The Department of Environment, Food and Rural Affairs did not carry out a public consultation about the deferment of the review of the conclusive maps because there is no formal requirement to consult. However the Department and Natural England held discussions with the British Mountaineering Council, the Country Land and Business Association, the National Farmers Union, the Ramblers and the Open Spaces Society.

10.2 These organisations accepted the decision to delay the review in order to avoid duplication of work on those areas covered by the England Coast Path. They also acknowledged that the delay in undertaking the review will allow for a detailed examination of the review approach and the development of a mapping methodology to identify the boundaries of mapped areas.

11. Guidance

11.1 No guidance will be published.

12. Impact

12.1 There will be no regulatory requirements placed on business, charities or the voluntary sector as a result of this instrument.

12.2 A separate Impact Assessment has not been prepared in respect of these Regulations. Insofar as these Regulations have effect in relation to the right of public access on foot for open-air recreation under Part 1 of the CROW Act, no impact on the private, voluntary or public sector is foreseen.

13. Regulating small business

13.1 There will be no regulatory requirements placed on small businesses as a result of this instrument.

14. Monitoring & review

14.1 The Department and Natural England will hold further discussions with the British Mountaineering Council, Open Spaces Society and the Ramblers along with the National Farmers' Union and Country Land and Business Association on the scope and extent of the now delayed review.

14.2 These discussions will be held well in advance of Natural England beginning work on the review in accordance with the revised deadlines. The Department will consider the scope and extent of any regulations necessary on the procedures to be followed on a review under section 10 (see section 11(1) and (2)(k)) of the CROW Act, and in due course carry out a public consultation on any necessary regulations.

15. Contact

15.1 Michelle Luscombe at the Department for Environment, Food and Rural Affairs Telephone: 0208 225 8391 or email: michelle.luscombe@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Marie Southgate, Deputy Director for Land Use, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Parliamentary Under-Secretary of State for Rural Affairs and Biosecurity, Lord Gardiner of Kimble at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.