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To:
Chief Planning Officers in England

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Dear Sir/Madam

**GUIDANCE ON THE APPLICATION OF THE HEDGEROWS REGULATIONS 1997:
CRITERIA FOR DETERMINING "IMPORTANT" HEDGEROWS**

You may be aware of the Judicial Review case Flintshire County Council -v- NAW & Mr J T Morris. The case concerned the meaning of Schedule 1, Part II, paragraph 5 of the Hedgerows Regulations 1997. That paragraph lays down criteria for determining the importance of hedgerows that form part of, or are associated with, field systems pre-dating the Inclosure Acts.

The case has now been concluded. The outcome confirms that paragraph 5(a) may determine that a hedgerow is important regardless of the current completeness of the historic field system.

Based on the outcome of the case, our opinion on the provisions of paragraph 5 may be summarized as follows:

- ◆ Regulation 4 provides that a hedgerow is "important" if it has existed for 30 years or more and satisfies at least one of the criteria in Part II of Schedule 1.
- ◆ Paragraph 5(a) in Part II of Schedule 1 reads: "The hedgerow is recorded in a document held at the relevant date at a Record Office as an integral part of a field system pre-dating the Inclosure Acts". "Relevant date" means the date when the Hedgerows Regulations were made (24th March 1997: see Part I of Schedule 1). The earliest Inclosure Act mentioned in the Short Titles Act 1896 was made in 1845.
- ◆ Paragraph 5(a) looks at the field system as recorded in the Record Office document, and not at existing field patterns. A hedgerow for which such historic records exist is "important" if the record shows it was integral to the field system. The completeness of the field pattern at the present date is irrelevant. A hedgerow recorded in such a document as an integral part of a pre-1845 field system would still be important if it is now the only remaining part of the pre-1845 field system.



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