



# Highways Act 1980

## 1980 CHAPTER 66

### PART III **E+W**

#### CREATION OF HIGHWAYS

#### **31 Dedication of way as highway presumed after public use for 20 years. **E+W****

- (1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

[<sup>F1</sup>(1A) Subsection (1)—

- (a) is subject to section 66 of the Natural Environment and Rural Communities Act 2006 (dedication by virtue of use for mechanically propelled vehicles no longer possible), but
  - (b) applies in relation to the dedication of a restricted byway by virtue of use for non-mechanically propelled vehicles as it applies in relation to the dedication of any other description of highway which does not include a public right of way for mechanically propelled vehicles.]
- (2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.
- (3) Where the owner of the land over which any such way as aforesaid passes—
- (a) has erected in such manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway, and
  - (b) has maintained the notice after the 1st January 1934, or any later date on which it was erected,

the notice, in the absence of proof of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.

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- (4) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so, however, that no injury is done thereby to the business or occupation of the tenant.
- (5) Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as a highway is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as a highway.
- (6) An owner of land may at any time deposit with the appropriate council—
- (a) a map of the land <sup>F2</sup>..., and
  - (b) a statement indicating what ways (if any) over the land he admits to have been dedicated as highways;

<sup>F3</sup>and, in any case in which such a deposit has been made, ... declarations<sup>[F4: in valid form]</sup> made by that owner or by his successors in title and lodged by him or them with the appropriate council at any time—

- (i) within <sup>F5</sup>the relevant number of] years from the date of the deposit, or
- (ii) within <sup>F6</sup>the relevant number of] years from the date on which any previous declaration was last lodged under this section.

to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgment of such previous declaration, as the case may be, are, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.

<sup>F7</sup>(6A) Where the land is in England—

- (a) a map deposited under subsection (6)(a) and a statement deposited under subsection (6)(b) must be in the prescribed form,
- (b) a declaration is in valid form for the purposes of subsection (6) if it is in the prescribed form, and
- (c) the relevant number of years for the purposes of sub-paragraphs (i) and (ii) of subsection (6) is 20 years.

(6B) Where the land is in Wales—

- (a) a map deposited under subsection (6)(a) must be on a scale of not less than 6 inches to 1 mile,
- (b) a declaration is in valid form for the purposes of subsection (6) if it is a statutory declaration, and
- (c) the relevant number of years for the purposes of sub-paragraphs (i) and (ii) of subsection (6) is 10 years.]

<sup>F8</sup>(6C) Where, under subsection (6), an owner of land in England deposits a map and statement or lodges a declaration, the appropriate council must take the prescribed steps in relation to the map and statement or (as the case may be) the declaration and do so in the prescribed manner and within the prescribed period (if any).]

- (7) For the purposes of the foregoing provisions of this section “owner”, in relation to any land, means a person who is for the time being entitled to dispose of the fee

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simple in the land; and for the purposes of subsections (5) <sup>[F9]</sup>, (6), (6C) and (13) ] “the appropriate council” means the council of the county <sup>[F10]</sup>, metropolitan district] or London borough in which the way (in the case of subsection (5)) or the land (in the case of <sup>[F11]</sup>subsections (6), (6C) and (13))] is situated or, where the way or land is situated in the City, the Common Council.

<sup>[F12]</sup>(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the definitive map and statement.

(7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.]

(8) Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over that land as a highway if the existence of a highway would be incompatible with those purposes.

(9) Nothing in this section operates to prevent the dedication of a way as a highway being presumed on proof of user for any less period than 20 years, or being presumed or proved in any circumstances in which it might have been presumed or proved immediately before the commencement of this Act.

(10) Nothing in this section or section 32 below affects <sup>[F13]</sup>section 56(1) of the Wildlife and Countryside Act 1981 (which provides that a definitive map and statement] are conclusive evidence as to the existence of the highways shown on the map and as to certain particulars contained in the statement),. . . <sup>F14</sup>

<sup>[F15]</sup>(10A) Nothing in subsection (1A) affects the obligations of the highway authority, or of any other person, as respects the maintenance of a way.]

(11) For the purposes of this section “land” includes land covered with water.

<sup>[F16]</sup>(12) For the purposes of subsection (1A) “ mechanically propelled vehicle ” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (electrically assisted pedal cycle). ]

<sup>[F17]</sup>(13) The Secretary of State may make regulations for the purposes of the application of subsection (6) to land in England which make provision—

- (a) for a statement or declaration required for the purposes of subsection (6) to be combined with a statement required for the purposes of section 15A of the Commons Act 2006;
- (b) as to the fees payable in relation to the depositing of a map and statement or the lodging of a declaration (including provision for a fee payable under the regulations to be determined by the appropriate council).

(14) For the purposes of the application of this section to land in England “ prescribed ” means prescribed in regulations made by the Secretary of State.

(15) Regulations under this section made by the Secretary of State may make—

- (a) such transitional or saving provision as the Secretary of State considers appropriate;
- (b) different provision for different purposes or areas.]

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### Textual Amendments

- F1** S. 31(1A) inserted (2.5.2006 for E. and 16.11.2006 for W.) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 68\(2\)](#); S.I. 2006/1176, [art. 6](#); S.I. 2006/2992, [art. 2](#)
- F2** Words in s. 31(6)(a) omitted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(2\)\(a\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F3** Word in s. 31(6) omitted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(2\)\(b\)\(i\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F4** Words in s. 31(6) inserted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(2\)\(b\)\(ii\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F5** Words in s. 31(6)(i) substituted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(2\)\(c\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F6** Words in s. 31(6)(ii) substituted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(2\)\(c\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F7** S. 31(6A)(6B) inserted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(3\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F8** S. 31(6C) inserted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(4\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F9** Words in s. 31(7) substituted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(5\)\(a\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F10** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 8, Sch. 4 para. 7](#)
- F11** Words in s. 31(7) substituted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(5\)\(b\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))
- F12** S. 31(7A)(7B) inserted (2.5.2006 for E. and 16.11.2006 for W.) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 69](#); S.I. 2006/1176, [art. 6](#); S.I. 2006/2992, [art. 2](#)
- F13** Words substituted by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\), s. 72\(11\)](#)
- F14** Words repealed by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\), s. 73, Sch. 17 Pt. II](#)
- F15** S. 31(10A) inserted (2.5.2006 for E. and 16.11.2006 for W.) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 68\(3\)](#); S.I. 2006/1176, [art. 6](#); S.I. 2006/2992, [art. 2](#)
- F16** S. 31(12) inserted (2.5.2006 for E. and 16.11.2006 for W.) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 68\(4\)](#); S.I. 2006/1176, [art. 6](#); S.I. 2006/2992, [art. 2](#)
- F17** S. 31(13)-(15) inserted (25.6.2013 for specified purposes, 1.10.2013 in so far as not already in force) by [Growth and Infrastructure Act 2013 \(c. 27\), ss. 13\(6\)](#), 35(1); S.I. 2013/1488, [art. 4\(a\)](#); S.I. 2013/1766, [art. 3\(a\)](#) (with [art. 4](#))

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- s. 337(c) inserted by [2024 asc 3 Sch. 3 para. 2\(10\)\(b\)](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)