



# Rights of Way Act 1990

## 1990 CHAPTER 24

### 1 Amendment of Part IX of Highways Act 1980.

- (1) Part IX of the <sup>M1</sup>Highways Act 1980 (lawful and unlawful interference with highways and streets) is amended as follows.
- (2) After section 131 insert the following—

#### “131A Disturbance of surface of certain highways.

- (1) A person who, without lawful authority or excuse, so disturbs the surface of—
  - (a) a footpath,
  - (b) a bridleway, or
  - (c) any other highway which consists of or comprises a carriageway other than a made-up carriageway,

as to render it inconvenient for the exercise of the public right of way is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

- (2) Proceedings for an offence under this section shall be brought only by the highway authority or the council of the non-metropolitan district, parish or community in which the offence is committed; and, without prejudice to section 130 (protection of public rights) above, it is the duty of the highway authority to ensure that where desirable in the public interest such proceedings are brought.”

- (3) For section 134 (ploughing of footpath or bridleway) substitute—

#### “134 Ploughing etc. of footpath or bridleway.

- (1) Where in the case of any footpath or bridleway (other than a field-edge path) which passes over a field or enclosure consisting of agricultural land, or land which is being brought into use for agriculture—
  - (a) the occupier of the field or enclosure desires in accordance with the rules of good husbandry to plough, or otherwise disturb the surface of, all or part of the land comprised in the field or enclosure, and

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- (b) it is not reasonably convenient in ploughing, or otherwise disturbing the surface of, the land to avoid disturbing the surface of the path or way so as to render it inconvenient for the exercise of the public right of way,
- the public right of way shall be subject to the condition that the occupier has the right so to plough or otherwise disturb the surface of the path or way.
- (2) Subsection (1) above does not apply in relation to any excavation or any engineering operation.
- (3) Where the occupier has disturbed the surface of a footpath or bridleway under the right conferred by subsection (1) above he shall within the relevant period, or within an extension of that period granted under subsection (8) below,—
- (a) so make good the surface of the path or way to not less than its minimum width as to make it reasonably convenient for the exercise of the right of way; and
- (b) so indicate the line of the path or way on the ground to not less than its minimum width that it is apparent to members of the public wishing to use it.
- (4) If the occupier fails to comply with the duty imposed by subsection (3) above he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (5) Proceedings for an offence under this section in relation to a footpath or bridleway shall be brought only by the highway authority or the council of the non-metropolitan district, parish or community in which the offence is committed.
- (6) Without prejudice to section 130 (protection of public rights) above, it is the duty of the highway authority to enforce the provisions of this section.
- (7) For the purposes of this section “the relevant period”,—
- (a) where the disturbance of the surface of the path or way is the first disturbance for the purposes of the sowing of a particular agricultural crop, means fourteen days beginning with the day on which the surface of the path or way was first disturbed for those purposes; or
- (b) in any other case, means twenty-four hours beginning with the time when it was disturbed.
- (8) On an application made to the highway authority before the disturbance or during the relevant period, the authority may grant an extension of that period for an additional period not exceeding twenty-eight days.
- (9) In this section “minimum width”, in relation to a highway, has the same meaning as in Schedule 12A to this Act.”
- (4) For section 135 (temporary diversion of path or way ploughed under section 134) substitute—

**“135 Authorisation of other works disturbing footpath or bridleway.**

- (1) Where the occupier of any agricultural land, or land which is being brought into use for agriculture, desires to carry out in relation to that land an excavation or engineering operation, and the excavation or operation—

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- (a) is reasonably necessary for the purposes of agriculture, but
- (b) will so disturb the surface of a footpath or bridleway which passes over that land as to render it inconvenient for the exercise of the public right of way,

he may apply to the highway authority for an order that the public right of way shall be subject to the condition that he has the right to disturb the surface by that excavation or operation during such period, not exceeding three months, as is specified in the order (“the authorisation period”).

- (2) The highway authority shall make an order under subsection (1) above if they are satisfied either—

- (a) that it is practicable temporarily to divert the path or way in a manner reasonably convenient to users; or
- (b) that it is practicable to take adequate steps to ensure that the path or way remains sufficiently convenient, having regard to the need for the excavation or operation, for temporary use while it is being carried out.

- (3) An order made by a highway authority under subsection (1) above—

- (a) may provide for the temporary diversion of the path or way during the authorisation period, but shall not divert it on to land not occupied by the applicant unless written consent to the making of the order has been given by the occupier of that land, and by any other person whose consent is needed to obtain access to it;
- (b) may include such conditions as the authority reasonably think fit for the provision, either by the applicant or by the authority at the expense of the applicant, of facilities for the convenient use of any such diversion, including signposts and other notices, stiles, bridges, and gates;
- (c) shall not affect the line of a footpath or bridleway on land not occupied by the applicant;

and the authority shall cause notices of any such diversion, together with a plan showing the effect of the diversion and the line of the alternative route provided, to be prominently displayed throughout the authorisation period at each end of the diversion.

- (4) An order made by a highway authority under subsection (1) above may include such conditions as the authority reasonably think fit—

- (a) for the protection and convenience during the authorisation period of users of the path or way;
- (b) for making good the surface of the path or way to not more than its minimum width before the expiration of the authorisation period;
- (c) for the recovery from the applicant of expenses incurred by the authority in connection with the order.

- (5) An order under this section shall not authorise any interference with the apparatus or works of any statutory undertakers.

- (6) If the applicant fails to comply with a condition imposed under subsection (3) (b) or (4)(a) or (b) above he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

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- (7) Proceedings for an offence under this section in relation to a footpath or bridleway shall be brought only by the highway authority or (with the consent of the highway authority) the council of the non-metropolitan district, parish or community in which the offence is committed.
  - (8) Without prejudice to section 130 (protection of public rights) above, it is the duty of the highway authority to enforce the provisions of this section.
  - (9) In this section “minimum width”, in relation to a highway, has the same meaning as in Schedule 12A to this Act.”
- (5) After section 137 insert the following—

**“137A Interference by crops.**

- (1) Where a crop other than grass has been sown or planted on any agricultural land the occupier of the land shall from time to time take such steps as may be necessary—
  - (a) to ensure that the line on the ground of any relevant highway on the land is so indicated to not less than its minimum width as to be apparent to members of the public wishing to use the highway; and
  - (b) to prevent the crop from so encroaching on any relevant highway, whether passing over that or adjoining land, as to render it inconvenient for the exercise of the public right of way.
- (2) For the purposes of subsection (1) above, a crop shall be treated as encroaching on a highway if, and only if, any part of the crop grows on, or otherwise extends onto or over, the highway in such a way as to reduce the apparent width of the highway to less than its minimum width.
- (3) For the purposes of the application of subsection (1) above in the case of a particular crop, the crop shall be treated as grass if, and only if—
  - (a) it is of a variety or mixture commonly used for pasture, silage or haymaking, whether or not it is intended for such a use in that case; and
  - (b) it is not a cereal crop.
- (4) If the occupier fails to comply with the duty imposed by subsection (1) above he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (5) Without prejudice to section 130 (protection of public rights) above, it is the duty of the highway authority to enforce the provisions of this section.
- (6) In this section—
  - “minimum width”, in relation to a highway, has the same meaning as in Schedule 12A to this Act; and
  - “relevant highway” means—
    - (a) a footpath,
    - (b) a bridleway, or
    - (c) any other highway which consists of or comprises a carriageway other than a made-up carriageway.”

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(6) After section 160 insert the following—

**“160A Further powers of highway authorities and district councils in  
relation to highways.**

Schedule 12A to this Act shall have effect.”

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**Marginal Citations**

**M1** 1980 c. 66.

**Status:**

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**Changes to legislation:**

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