



# Countryside and Rights of Way Act 2000

## 2000 CHAPTER 37

### PART I **E+W**

#### ACCESS TO THE COUNTRYSIDE

### CHAPTER IV **E+W**

#### GENERAL

#### **40 Powers of entry for purposes of Part I. **E+W****

- (1) A person who is authorised by the appropriate countryside body to do so may enter any land—
  - (a) for the purpose of surveying it in connection with the preparation of any map under this Part or the review of any map issued under this Part,
  - (b) for the purpose of determining whether any power conferred on the appropriate countryside body by Chapter II should be exercised in relation to the land,
  - (c) for the purpose of ascertaining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (d) in connection with an appeal under any provision of this Part, or
  - (e) for the purpose of determining whether to apply to the Secretary of State or the National Assembly for Wales under section 58.
- (2) A person who is authorised by a local highway authority to do so may enter any land—
  - (a) for the purpose of determining whether the local highway authority should enter into an agreement under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),
  - (b) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (c) for the purposes of erecting or maintaining notices under section 19(1).

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- (3) A person who is authorised by a National Park authority to do so may enter any land—
- (a) for the purpose of enabling the authority to determine whether to exercise any power under Chapter II of this Act in relation to the land,
  - (b) for the purpose of determining whether members of the public are being permitted to exercise the right conferred by section 2(1),
  - (c) in connection with an appeal under any provision of this Part,
  - (d) for the purpose of determining whether the authority should enter into an agreement under section 35, give a notice under section 36(1) or (3) or section 37(1) or carry out works under section 36(1) or (5), section 37(5) or section 39(2)(b),
  - (e) for the purpose of ascertaining whether an offence under section 14 or 39 has been or is being committed, or
  - (f) for the purposes of erecting or maintaining notices under section 19(1).
- (4) A person who is authorised by the Forestry Commissioners to do so may enter any land—
- (a) for the purpose of determining whether any power conferred on the Forestry Commissioners by Chapter II should be exercised in relation to the land, or
  - (b) in connection with an appeal under any provision of this Part.
- (5) A person acting in the exercise of a power conferred by this section may—
- (a) use a vehicle to enter the land;
  - (b) take a constable with him if he reasonably believes he is likely to be obstructed;
  - (c) take with him equipment and materials needed for the purpose for which he is exercising the power of entry;
  - (d) take samples of the land and of anything on it.
- (6) If in the exercise of a power conferred by this section a person enters land which is unoccupied or from which the occupier is temporarily absent, he must on his departure leave it as effectively secured against unauthorised entry as he found it.
- (7) A person authorised under this section to enter upon any land—
- (a) shall, if so required, produce evidence of his authority before entering, and
  - (b) shall produce such evidence if required to do so at any time while he remains on the land.
- (8) A person shall not under this section demand admission as of right to any occupied land, other than access land, unless—
- (a) at least twenty-four hours' notice of the intended entry has been given to the occupier, or
  - (b) it is not reasonably practicable to give such notice, or
  - (c) the entry is for the purpose specified in subsection (2)(b) and (3)(e).
- (9) The rights conferred by this section are not exercisable in relation to a dwelling.
- (10) A person who intentionally obstructs a person acting in the exercise of his powers under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

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#### **41 Compensation relating to powers under s. 40. E+W**

- (1) It is the duty of a body by which an authorisation may be given under section 40 to compensate any person who has sustained damage as a result of—
  - (a) the exercise of a power conferred by that section by a person authorised by that body to do so, or
  - (b) the failure of a person so authorised to perform the duty imposed on him by subsection (6) of that section,except where the damage is attributable to the fault of the person who sustained it.
- (2) Any dispute as to a person's entitlement to compensation under this section or as to its amount shall be referred to an arbitrator to be appointed, in default of agreement—
  - (a) as respects entry on land in England, by the Secretary of State, and
  - (b) as respects entry on land in Wales, by the National Assembly for Wales.

#### **42 References to public places in existing enactments. E+W**

- (1) This section applies to any enactment which—
  - (a) is contained in an Act passed before or in the same Session as this Act, and
  - (b) relates to things done, or omitted to be done, in public places or places to which the public have access.
- (2) Regulations may provide that, in determining for the purposes of any specified enactment to which this section applies whether a place is a public place or a place to which the public have access, the right conferred by section 2(1), or access by virtue of that right, is to be disregarded, either generally or in prescribed cases.

#### **43 Crown application of Part I. E+W**

- (1) This Part binds the Crown.
- (2) No contravention by the Crown of any provision of this Part shall make the Crown criminally liable; but the High Court may declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) The provisions of this Part apply to persons in the public service of the Crown as they apply to other persons.

#### **44 Orders and regulations under Part I. E+W**

- (1) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales is exercisable by statutory instrument.
- (2) Any power to make an order or regulations which is conferred by this Part on the Secretary of State or the National Assembly for Wales includes power—
  - (a) to make different provision for different cases, and
  - (b) to make such incidental, supplementary, consequential or transitional provision as the person making the order or regulations considers necessary or expedient.

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- (3) No order under section 3 or regulations under paragraph 3 of Schedule 2 shall be made by the Secretary of State unless a draft has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any statutory instrument containing regulations made by the Secretary of State under any other provision of this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 45 Interpretation of Part I. **E+W**

- (1) In this Part, unless a contrary intention appears—
- “access authority” has the meaning given by section 1(2);
  - “access land” has the meaning given by section 1(1);
  - “the appropriate countryside body” has the meaning given by section 1(2);
  - “excepted land” has the meaning given by section 1(2);
  - “Inner London” means the area comprising the inner London boroughs, the City of London, the Inner Temple and the Middle Temple;
  - “interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an estate or interest in land or by virtue of a licence or agreement, and in particular includes rights of common and sporting rights, and references to a person interested in land shall be construed accordingly;
  - “livestock” means cattle, sheep, goats, swine, horses or poultry, and for the purposes of this definition “cattle” means bulls, cows, oxen, heifers or calves, “horses” include asses and mules, and “poultry” means domestic fowls, turkeys, geese or ducks;
  - “local highway authority” has the same meaning as in the <sup>M1</sup>Highways Act 1980;
  - “local or private Act” includes an Act confirming a provisional order;
  - “mountain” has the meaning given by section 1(2);
  - “open country” has the meaning given by section 1(2);
  - “owner”, in relation to any land, means, subject to subsection (2), any person, other than a mortgagee not in possession, who, whether in his own right or as trustee for another person, is entitled to receive the rack rent of the land, or, where the land is not let at a rack rent, would be so entitled if it were so let;
  - “prescribed” means prescribed by regulations;
  - “registered common land” has the meaning given by section 1(3);
  - “regulations” means regulations made by the Secretary of State (as respects England) or by the National Assembly for Wales (as respects Wales);
  - “rights of common” has the same meaning as in the <sup>M2</sup>Commons Registration Act 1965;
  - “telecommunications code” and “telecommunications code system” have the same meaning as in Schedule 4 to the <sup>M3</sup>Telecommunications Act 1984.
- (2) In relation to any land which is subject to a farm business tenancy within the meaning of the <sup>M4</sup>Agricultural Tenancies Act 1995 or a tenancy to which the <sup>M5</sup>Agricultural Holdings Act 1986 applies, the definition of “owner” in subsection (1) does not apply where it is excluded by section 2(5) or 21(4) or by paragraph 7(4) of Schedule 2.

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- (3) For the purposes of this Part, the Broads are to be treated as a National Park and the Broads Authority as a National Park authority.
- (4) In subsection (3) “the Broads” has the same meaning as in the <sup>M6</sup>Norfolk and Suffolk Broads Act 1988.

#### Marginal Citations

- M1** 1980 c. 66.  
**M2** 1965 c. 64.  
**M3** 1984 c. 12.  
**M4** 1995 c. 8.  
**M5** 1986 c. 5.  
**M6** 1988 c. 4.

VALID FROM 01/04/2001

#### 46 Repeal of previous legislation, and amendments relating to Part I. **E+W**

- (1) The following provisions (which are superseded by the provisions of this Part) shall cease to have effect—
- in section 193 of the <sup>M7</sup>Law of Property Act 1925, subsection (2) (power by deed to declare land subject to that section), and
  - sections 61 to 63 of the National Parks and Access to the <sup>M8</sup>Countryside Act 1949 (which relate to reviews of access requirements and the preparation of maps).
- (2) No access agreement or access order under Part V of the National Parks and Access to the <sup>M9</sup>Countryside Act 1949 (access to open country) may be made after the commencement of this section in relation to land which is open country or registered common land for the purposes of this Part.
- (3) Schedule 4 (which contains minor and consequential amendments relating to access to the countryside) has effect.

#### Commencement Information

- II** S. 46 partly in force; s. 46 not in force at Royal Assent see s. 103(3); s. 46(1)(b) in force for E. and s. 46(3) in force for certain purposes for E. at 1.4.2001 by [S.I. 2001/114](#), [art. 2\(2\)\(a\)\(b\)](#); s. 46(1)(b) in force for W. and s. 46(3) in force for certain purposes for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(a\)\(b\)](#)

#### Marginal Citations

- M7** 1925 c. 20.  
**M8** 1949 c. 97.  
**M9** 1949 c. 97.

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