



# Countryside and Rights of Way Act 2000

## 2000 CHAPTER 37

### PART II

#### PUBLIC RIGHTS OF WAY AND ROAD TRAFFIC

##### *Public rights of way and definitive maps and statements*

VALID FROM 02/05/2006

#### **47 Redesignation of roads used as public paths.**

- (1) In the <sup>M1</sup>Wildlife and Countryside Act 1981 (in this Act referred to as “the 1981 Act”), section 54 (duty to reclassify roads used as public paths) shall cease to have effect.
- (2) Every way which, immediately before the commencement of this section, is shown in any definitive map and statement as a road used as a public path shall be treated instead as shown as a restricted byway; and the expression “road used as a public path” shall not be used in any definitive map and statement to describe any way.

#### **Marginal Citations**

**M1** 1981 c. 69.

VALID FROM 02/05/2006

#### **48 Restricted byway rights.**

- (1) Subject to subsections (2) and (3), the public shall have restricted byway rights over any way which, immediately before the commencement of section 47, is shown in a definitive map and statement as a road used as a public path.

**Status:** Point in time view as at 01/04/2004. This version of this part contains provisions that are not valid for this point in time.

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- (2) Subsection (1) has effect subject to the operation of any enactment or instrument (whether coming into operation before or after the commencement of section 47), and to the effect of any event otherwise within section 53(3)(a) of the 1981 Act, whereby a highway—
- (a) is authorised to be stopped up, diverted, widened or extended, or
  - (b) becomes a public path;
- and subsection (1) applies accordingly to any way as so diverted, widened or extended.
- (3) Subsection (1) does not apply to any way, or part of a way, over which immediately before the commencement of section 47 there was no public right of way.
- (4) In this Part—
- “restricted byway rights” means—
- (a) a right of way on foot,
  - (b) a right of way on horseback or leading a horse, and
  - (c) a right of way for vehicles other than mechanically propelled vehicles;
- and
- “restricted byway” means a highway over which the public have restricted byway rights, with or without a right to drive animals of any description along the highway, but no other rights of way.
- (5) A highway at the side of a river, canal or other inland navigation is not excluded from the definition of “restricted byway” in subsection (4) merely because the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right over it.
- (6) Subsection (1) is without prejudice to any question whether the public have over any way, in addition to restricted byway rights, a right of way for mechanically propelled vehicles or any other right.
- (7) In subsections (4) and (6) “mechanically propelled vehicle” does not include a vehicle falling within paragraph (c) of section 189(1) of the <sup>M2</sup>Road Traffic Act 1988.
- (8) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the effect of section 47(2) and this section.
- (9) The powers conferred by section 103(5) must be so exercised as to secure that nothing in section 47 or this section affects the operation of section 53 or 54 of, or Schedule 14 or 15 to, the 1981 Act in relation to—
- (a) a relevant order made before the commencement of section 47, or
  - (b) an application made before that commencement for a relevant order.
- (10) In subsection (9) “relevant order” means an order which relates to a way shown in a definitive map and statement as a road used as a public path and which—
- (a) is made under section 53 of the 1981 Act and contains modifications relating to that way by virtue of subsection (3)(c)(ii) of that section, or
  - (b) is made under section 54 of the 1981 Act.
- (11) Where—
- (a) by virtue of an order under subsection (3) of section 103 (“the commencement order”) containing such provision as is mentioned in subsection (5) of that section, an order under Part III of the 1981 Act

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(“the Part III order”) takes effect, after the commencement of section 47, in relation to any way which, immediately before that commencement, was shown in a definitive map and statement as a road used as a public path,

(b) the commencement order does not prevent subsection (1) from having effect on that commencement in relation to that way, and

(c) if the Part III order had taken effect before that commencement, that way would not have fallen within subsection (1),

all rights over that way which exist only by virtue of subsection (1) shall be extinguished when the Part III order takes effect.

#### Marginal Citations

M2 1988 c. 52.

VALID FROM 02/05/2006

#### 49 Provisions supplementary to ss. 47 and 48.

- (1) Every way over which the public have restricted byway rights by virtue of subsection (1) of section 48 (whether or not they also have a right of way for mechanically propelled vehicles or any other right) shall, as from the commencement of that section, be a highway maintainable at the public expense.
- (2) As from the commencement of that section, any liability, under a special enactment (within the meaning of the <sup>M3</sup>Highways Act 1980) or by reason of tenure, enclosure or prescription, to maintain, otherwise than as a highway maintainable at the public expense, a restricted byway to which subsection (1) applies is extinguished.
- (3) Every way which, in pursuance of—
- (a) paragraph 9 of Part III of Schedule 3 to the <sup>M4</sup>Countryside Act 1968, or
- (b) any order made under section 54(1) of the 1981 Act before the coming into force of section 47,
- is shown in any definitive map and statement as a byway open to all traffic, a bridleway or a footpath, shall continue to be maintainable at the public expense.
- (4) Nothing in subsections (1) and (3) or in section 48(1) obliges a highway authority to provide on any way a metalled carriage-way or a carriage-way which is by any other means provided with a surface suitable for cycles or other vehicles.
- (5) Nothing in section 48, or in section 53 of the 1981 Act, limits the operation of orders under the <sup>M5</sup>Road Traffic Regulation Act 1984 or the operation of any byelaws.
- (6) Section 67 of the 1981 Act (application to the Crown) has effect as if this section and sections 47, 48 and 50 were contained in Part III of that Act.

#### Marginal Citations

M3 1980 c. 66.

M4 1968 c. 41.

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M5 1984 c. 27.

VALID FROM 02/05/2006

**50 Private rights over restricted byways.**

- (1) Restricted byway rights over any way by virtue of subsection (1) of section 48 are subject to any condition or limitation to which public rights of way over that way were subject immediately before the commencement of that section.
- (2) Any owner or lessee of premises adjoining or adjacent to a relevant highway shall, so far as is necessary for the reasonable enjoyment and occupation of the premises, have a right of way for vehicular and all other kinds of traffic over the relevant highway.
- (3) In subsection (2), in its application to the owner of any premises, “relevant highway” means so much of any highway maintainable at the public expense by virtue of section 49(1) as was, immediately before it became so maintainable, owned by the person who then owned the premises.
- (4) In subsection (2), in its application to the lessee of any premises, “relevant highway” means so much of any highway maintainable at the public expense by virtue of section 49(1) as was, immediately before it became so maintainable, included in the lease on which the premises are held.
- (5) In this section—
  - “lease” and “lessee” have the same meaning as in the 1980 Act;
  - “owner”, in relation to any premises, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the premises, whether in possession or in reversion, and “owned” shall be construed accordingly; and
  - “premises” has the same meaning as in the 1980 Act.

VALID FROM 31/05/2005

**51 Amendments relating to definitive maps and statements and restricted byways.**

Schedule 5 to this Act (which contains amendments relating to definitive maps and statements and restricted byways) has effect.

**52 Restricted byways: power to amend existing legislation.**

- (1) The Secretary of State may by regulations—
  - (a) provide for any relevant provision which relates—
    - (i) to highways or highways of a particular description,
    - (ii) to things done on or in connection with highways or highways of a particular description, or
    - (iii) to the creation, stopping up or diversion of highways or highways of a particular description,

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not to apply, or to apply with or without modification, in relation to restricted byways or to ways shown in a definitive map and statement as restricted byways, and

- (b) make in any relevant provision such amendments, repeals or revocations as appear to him appropriate in consequence of the coming into force of sections 47 to 50 or provision made by virtue of paragraph (a) or subsection (6)(a).

(2) In this section—

“relevant provision” means a provision contained—

- (a) in an Act passed before or in the same Session as this Act, or
- (b) in any subordinate legislation made before the passing of this Act;

“relevant Welsh provision” means a provision contained—

- (a) in a local or private Act passed before or in the same Session as this Act and relating only to areas in Wales, or
- (b) in any subordinate legislation which was made before the passing of this Act and which the National Assembly for Wales has power to amend or revoke as respects Wales.

(3) In exercising the power to make regulations under subsection (1), the Secretary of State—

- (a) may not make provision which has effect in relation to Wales unless he has consulted the National Assembly for Wales, and
- (b) may not without the consent of the National Assembly for Wales make any provision which (otherwise than merely by virtue of the amendment or repeal of a provision contained in an Act) amends or revokes subordinate legislation made by the Assembly.

(4) The National Assembly for Wales may submit to the Secretary of State proposals for the exercise by the Secretary of State of the power conferred by subsection (1).

(5) The powers conferred by subsection (1) may be exercised in relation to a relevant provision even though the provision is amended or inserted by this Act.

(6) As respects Wales, the National Assembly for Wales may by regulations—

- (a) provide for any relevant Welsh provision which relates—
  - (i) to highways or highways of a particular description,
  - (ii) to things done on or in connection with highways or highways of a particular description, or
  - (iii) to the creation, stopping up or diversion of highways or highways of a particular description,

not to apply, or to apply with or without modification, in relation to restricted byways or to ways shown in a definitive map and statement as restricted byways, and

- (b) make in any relevant Welsh provision such amendments, repeals or revocations as appear to the Assembly appropriate in consequence of the coming into force of sections 47 to 50 or provision made by virtue of subsection (1)(a) or paragraph (a).

(7) Regulations under this section shall be made by statutory instrument, but no such regulations shall be made by the Secretary of State unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

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- (8) Where the Secretary of State lays before Parliament the draft of an instrument containing regulations under subsection (1) in respect of which consultation with the National Assembly for Wales is required by subsection (3)(a), he shall also lay before each House of Parliament a document giving details of the consultation and setting out any representations received from the Assembly.

VALID FROM 25/10/2023

### 53 Extinguishment of unrecorded rights of way.

- (1) Subsection (2) applies to a highway if—
- (a) it was on 1st January 1949 a footpath or a bridleway, is on the cut-off date (in either case) a footpath or a bridleway, and between those dates has not been a highway of any other description,
  - (b) it is not on the cut-off date shown in a definitive map and statement as a highway of any description, and
  - (c) it is not on the cut-off date an excepted highway, as defined by section 54(1).
- (2) All public rights of way over a highway to which this subsection applies shall be extinguished immediately after the cut-off date.
- (3) Where a public right of way created before 1949—
- (a) falls within subsection (4) on the cut-off date, and
  - (b) is not on that date an excepted right of way, as defined by section 54(5),
- that right of way shall be extinguished immediately after the cut-off date.
- (4) A public right of way falls within this subsection if it is—
- (a) a public right of way on horseback, leading a horse or for vehicles over a bridleway, restricted byway or byway open to all traffic which is shown in a definitive map and statement as a footpath;
  - (b) a right for the public to drive animals of any description along a bridleway, restricted byway or byway open to all traffic which is shown in a definitive map and statement as a footpath;
  - (c) a public right of way for vehicles over a restricted byway or byway open to all traffic which is shown in a definitive map and statement as a bridleway; or
  - (d) a public right of way for mechanically propelled vehicles over a byway open to all traffic which is shown in a definitive map and statement as a restricted byway.
- (5) Where by virtue of subsection (3) a highway ceases to be a bridleway, the right of way created over it by section 30 of the <sup>M6</sup>Countryside Act 1968 (riding of pedal cycles on bridleways) is also extinguished.
- (6) In determining—
- (a) for the purposes of subsection (1) whether any part of a highway was on 1st January 1949 a footpath or bridleway, or
  - (b) for the purposes of subsection (3) whether a public right of way over any part of a highway was created before 1st January 1949,
- any diversion, widening or extension of the highway on or after that date (and not later than the cut-off date) is to be treated as having occurred before 1st January 1949.

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(7) Where a way shown on the cut-off date in a definitive map and statement has at any time been diverted, widened or extended, it is to be treated for the purposes of subsections (1) to (5) as shown as so diverted, widened or extended, whether or not it is so shown.

(8) In this section—

“cut-off date” has the meaning given in section 56, and

“mechanically propelled vehicle” does not include a vehicle falling within paragraph (c) of section 189(1) of the <sup>M7</sup>Road Traffic Act 1988.

#### Marginal Citations

**M6** 1968 c. 41.

**M7** 1988 c. 52.

VALID FROM 25/10/2023

## 54 Excepted highways and rights of way.

- (1) A footpath or bridleway is an excepted highway for the purposes of section 53(1) if—
- it is a footpath or bridleway which satisfies either of the conditions in subsections (2) and (3),
  - it is, or is part of, a footpath or bridleway any part of which is in an area which, immediately before 1st April 1965, formed part of the administrative county of London,
  - it is a footpath or bridleway—
    - at the side of (whether or not contiguous with) a carriageway constituting or comprised in another highway, or
    - between two carriageways comprised in the same highway (whether or not the footpath or bridleway is contiguous with either carriageway),
  - it is a footpath or bridleway of such other description as may be specified in regulations made (as respects England) by the Secretary of State or (as respects Wales) by the National Assembly for Wales, or
  - it is a footpath or bridleway so specified.
- (2) A footpath or bridleway (“the relevant highway”) satisfies the first condition if—
- it became a footpath or bridleway on or after 1st January 1949 by the diversion, widening or extension of a footpath or, as the case may be, of a bridleway by virtue of an event within section 53(3)(a) of the 1981 Act,
  - it became a footpath on or after 1st January 1949 by the stopping up of a bridleway,
  - it was on 1st January 1949 a footpath and is on the cut-off date a bridleway,
  - it is so much of a footpath or bridleway as on or after 1st January 1949 has been stopped up as respects part only of its width, or
  - it is so much of a footpath or bridleway as passes over a bridge or through a tunnel,



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and it communicates with a retained highway, either directly or by means of one or more footpaths or bridleways each of which forms part of the same highway as the relevant highway and each of which either falls within any of paragraphs (a) to (e) or satisfies the condition in subsection (3).

- (3) A footpath or bridleway satisfies the second condition if—
- (a) it extends from a footpath or bridleway (“the relevant highway”) which—
    - (i) falls within any of paragraphs (a) to (e) of subsection (2), or
    - (ii) is an excepted highway by virtue of subsection (1)(c),
 to, but not beyond, a retained highway, and
  - (b) it forms part of the same highway as the relevant highway.
- (4) A retained highway for the purposes of subsections (2) and (3) is any highway over which, otherwise than by virtue of subsection (1)(a), section 53(2) does not extinguish rights of way.
- (5) A public right of way is an excepted right of way for the purposes of section 53(3) if—
- (a) it subsists over land over which there subsists on the cut-off date any public right of way created on or after 1st January 1949 otherwise than by virtue of section 30 of the <sup>M8</sup>Countryside Act 1968 (riding of pedal cycles on bridleways),
  - (b) it subsists over the whole or part of a way any part of which is in an area which, immediately before 1st April 1965, formed part of the administrative county of London,
  - (c) it is a public right of way of such other description as may be specified in regulations made (as respects England) by the Secretary of State or (as respects Wales) by the National Assembly for Wales, or
  - (d) it subsists over land so specified.
- (6) Regulations under subsection (1)(d) or (e) or (5)(c) or (d) shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

**M8** 1980 c. 66.

VALID FROM 25/10/2023

#### **55** Bridleway rights over ways shown as bridleways.

- (1) Subject to subsections (2) and (3), the public shall, as from the day after the cut-off date, have a right of way on horseback or leading a horse over any way which—
- (a) was immediately before 1st January 1949 either a footpath or a bridleway, and
  - (b) is, throughout the period beginning with the commencement of this section and ending with the cut-off date,



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a footpath which is shown in a definitive map and statement as a bridleway.

- (2) Subsection (1) has effect subject to the operation of any enactment or instrument (whether coming into operation before or after the cut-off date), and to the effect of any event otherwise within section 53(3)(a) of the 1981 Act, whereby a highway is authorised to be stopped up, diverted, widened or extended; and subsection (1) applies accordingly to any way as so diverted, widened or extended.
- (3) Subsection (1) does not apply in relation to any way which is, or is part of, a footpath any part of which is in an area which, immediately before 1st April 1965, formed part of the administrative county of London.
- (4) Any right of way over a way by virtue of subsection (1) is subject to any condition or limitation to which the public right of way on foot over that way was subject on the cut-off date.
- (5) Where—
  - (a) by virtue of regulations under section 56(2) an order under Part III of the 1981 Act takes effect after the cut-off date in relation to any footpath which, at the cut-off date was shown in a definitive map and statement as a bridleway,
  - (b) the regulations do not prevent subsection (1) from having effect after the cut-off date in relation to that footpath, and
  - (c) if the order had taken effect before that date, that footpath would not have fallen within subsection (1),all rights over that way which exist only by virtue of subsection (1) shall be extinguished when the order takes effect.
- (6) In this section “cut-off date” has the meaning given in section 56.

VALID FROM 25/10/2023

## **56 Cut-off date for extinguishment etc.**

- (1) The cut-off date for the purposes of sections 53 and 55 is, subject to regulations under subsection (2), 1st January 2026.
- (2) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may make regulations—
  - (a) substituting as the cut-off date for the purposes of those sections a date later than the date specified in subsection (1) or for the time being substituted under this paragraph;
  - (b) containing such transitional provisions or savings as appear to the Secretary of State or the National Assembly for Wales (as the case may be) to be necessary or expedient in connection with the operation of those sections, including in particular their operation in relation to any way as respects which—
    - (i) on the cut-off date an application for an order under section 53(2) of the 1981 Act is pending,
    - (ii) on that date an order under Part III of that Act has been made but not confirmed, or

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(iii) after that date such an order or any provision of such an order is to any extent quashed.

(3) Regulations under subsection (2)(a)—

- (a) may specify different dates for different areas; but
- (b) may not specify a date later than 1st January 2031, except as respects an area within subsection (4).

(4) An area is within this subsection if it is in—

- (a) the Isles of Scilly, or
- (b) an area which, at any time before the repeal by section 73 of the 1981 Act of sections 27 to 34 of the National Parks and Access to the <sup>M9</sup>Countryside Act 1949—
  - (i) was excluded from the operation of those sections by virtue of any provision of the 1949 Act, or
  - (ii) would have been so excluded but for a resolution having effect under section 35(2) of that Act.

(5) Where by virtue of regulations under subsection (2) there are different cut-off dates for areas into which different parts of any highway extend, the cut-off date in relation to that highway is the later or latest of those dates.

(6) Regulations under this section shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

**M9** 1949 c. 97.

### *Creation, stopping up and diversion of highways*

#### **57 Creation, stopping up and diversion of highways.**

The <sup>M10</sup>Highways Act 1980 (in this Act referred to as “the 1980 Act”) has effect subject to the amendments in Part I of Schedule 6 (which relate to the creation, stopping up and diversion of highways); and Part II of that Schedule (which contains consequential amendments of other Acts) has effect.

#### Commencement Information

- I1** S. 57 partly in force; s. 57 not in force at Royal Assent see s. 103(3); s. 57 in force for certain purposes for E. at 30.1.2001 by S.I. 2001/114, art. 2(1)(a); s. 57 in force for certain purposes for W. at 1.5.2001 by S.I. 2001/1410, art. 2(c)
- I2** S. 57 in force at 12.2.2003 for specified purposes for E. by S.I. 2003/272, art. 2(a)

#### Marginal Citations

**M10** 1980 c. 66.

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## **58 Application for path creation order for purposes of Part I.**

- (1) An application for the making of a public path creation order under section 26(2) of the 1980 Act for the purpose of enabling the public to obtain access to any access land (within the meaning of Part I) or of facilitating such access, may be made—
  - (a) by the Countryside Agency to the Secretary of State, or
  - (b) by the Countryside Council for Wales to the National Assembly for Wales.
- (2) Before making a request under subsection (1), the body making the request shall have regard to any rights of way improvement plan prepared by any local highway authority whose area includes land over which the proposed footpath or bridleway would be created.

## **59 Effect of Part I on powers to stop up or divert highways.**

- (1) This section applies to any power to stop up or divert a highway of any description or to make or confirm an order authorising the stopping up or diversion of a highway of any description; and in the following provisions of this section—
  - (a) “the relevant authority” means the person exercising the power, and
  - (b) “the existing highway” means the highway to be stopped up or diverted.
- (2) Where the relevant authority is required (expressly or by implication) to consider—
  - (a) whether the existing highway is unnecessary, or is needed for public use,
  - (b) whether an alternative highway should be provided, or
  - (c) whether any public right of way should be reserved,the relevant authority, in considering that question, is not to regard the fact that any land is access land in respect of which the right conferred by section 2(1) is exercisable as reducing the need for the existing highway, for the provision of an alternative highway or for the reservation of a public right of way.
- (3) Where—
  - (a) the existing highway is situated on, or in the vicinity of, any access land, and
  - (b) the relevant authority is required (expressly or by implication) to consider the extent (if any) to which the existing highway would, apart from the exercise of the power, be likely to be used by the public,the relevant authority, in considering that question, is to have regard, in particular, to the extent to which the highway would be likely to be used by the public at any time when the right conferred by section 2(1) is not exercisable in relation to the access land.
- (4) In this section “access land” has the same meaning as in Part I.

### *Rights of way improvement plans*

## **60 Rights of way improvement plans.**

- (1) Every local highway authority other than an inner London authority shall, within five years after the commencement of this section, prepare and publish a plan, to be known as a rights of way improvement plan, containing—
  - (a) the authority’s assessment of the matters specified in subsection (2),

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- (b) a statement of the action they propose to take for the management of local rights of way, and for securing an improved network of local rights of way, with particular regard to the matters dealt with in the assessment, and
  - (c) such other material as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct.
- (2) The matters referred to in subsection (1)(a) are—
- (a) the extent to which local rights of way meet the present and likely future needs of the public,
  - (b) the opportunities provided by local rights of way (and in particular by those within paragraph (a) of the definition in subsection (5)) for exercise and other forms of open-air recreation and the enjoyment of the authority’s area,
  - (c) the accessibility of local rights of way to blind or partially sighted persons and others with mobility problems, and
  - (d) such other matters relating to local rights of way as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may direct.
- (3) An authority by whom a rights of way improvement plan is published shall, not more than ten years after first publishing it and subsequently at intervals of not more than ten years—
- (a) make a new assessment of the matters specified in subsection (2), and
  - (b) review the plan and decide whether to amend it.
- (4) On such a review the authority shall—
- (a) if they decide to amend the plan, publish it as amended, and
  - (b) if they decide to make no amendments to it, publish a report of their decision and of their reasons for it.
- (5) In this section—
- “cycle track”—
- (a) means a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles (other than pedal cycles which are motor vehicles within the meaning of the <sup>M11</sup>Road Traffic Act 1988) with or without a right of way on foot; but
  - (b) does not include a way in or by the side of a highway consisting of or comprising a made-up carriageway (within the meaning of the 1980 Act);
- “inner London authority” means Transport for London, the council of an inner London borough or the Common Council of the City of London;
- “local highway authority” has the same meaning as in the 1980 Act;
- “local rights of way” in relation to a local highway authority, means—
- (a) the footpaths, cycle tracks, bridleways and restricted byways within the authority’s area, and
  - (b) the ways within the authority’s area which are shown in a definitive map and statement as restricted byways or byways open to all traffic.
- (6) In subsection (5) the definition of “local rights of way” has effect until the commencement of section 47 with the substitution for the references to restricted byways and to ways shown in a definitive map and statement as restricted byways of

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a reference to ways shown in a definitive map and statement as roads used as public paths.

#### Commencement Information

**I3** S. 60 wholly in force at 21.11.2002; s. 60 not in force at Royal Assent see s. 103(3)(4); s. 60 in force for W. at 1.11.2002 by S.I. 2002/2615, art. 2; s. 60 in force for E. at 21.11.2002 by S.I. 2002/2833, art. 2

#### Marginal Citations

**M11** 1988 c. 52.

## 61 Rights of way improvement plans: supplemental.

- (1) Before preparing or reviewing a rights of way improvement plan, and in particular in making any assessment under section 60(1)(a) or (3)(a), a local highway authority shall consult—
  - (a) each local highway authority whose area adjoins their area;
  - (b) each district council, and each parish or community council, whose area is within their area;
  - (c) the National Park authority for a National Park any part of which is within their area;
  - (d) where any part of the Broads is within their area, the Broads Authority;
  - (e) any local access forum established for their area or any part of it;
  - (f) the Countryside Agency or the Countryside Council for Wales (as appropriate);
  - (g) such persons as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by regulations prescribe in relation to the local highway authority's area; and
  - (h) such other persons as the local highway authority may consider appropriate.
- (2) In preparing or amending a rights of way improvement plan, a local highway authority shall—
  - (a) publish a draft of the plan or of the plan as amended,
  - (b) publish, in two or more local newspapers circulating in their area, notice of how a copy of the draft can be inspected or obtained and how representations on it can be made to them, and
  - (c) consider any representations made in accordance with the notice.
- (3) As regards their rights of way improvement plan, any draft plan on which representations may be made and any report under section 60(4)(b), a local highway authority shall—
  - (a) keep a copy available for inspection free of charge at all reasonable times at their principal offices, and
  - (b) supply a copy to any person who requests one, either free of charge or on payment of a reasonable charge determined by the authority.
- (4) Local highway authorities shall, in carrying out their functions under section 60 and this section, have regard to such guidance as may from time to time be given to them by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).

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- (5) A local highway authority may make arrangements with—
- (a) any district council whose area is within their area, or
  - (b) the National Park authority for a National Park any part of which is within their area,
- for the functions of the local highway authority under section 60 and this section so far as relating to the area of that council or to the part of the Park within the local highway authority’s area, to be discharged jointly by the local highway authority and by that council or National Park authority.
- (6) Regulations under subsection (1)(g) shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—
- “local highway authority” has the same meaning as in the 1980 Act;
- “the Broads” has the same meaning as in the <sup>M12</sup>Norfolk and Suffolk Broads Act 1988.

#### Commencement Information

**I4** S. 61 wholly in force at 21.11.2002; s. 61 not in force at Royal Assent see s. 103(3)(4); s. 61 in force for W. at 1.11.2002 by [S.I. 2002/2615](#), [art. 2](#); s. 61 in force for E. at 21.11.2002 by [S.I. 2002/2833](#), [art. 2](#)

#### Marginal Citations

**M12** 1988 c. 4.

## 62 Application of ss. 60 and 61 to inner London.

- (1) The council of an inner London borough or the Common Council of the City of London may by resolution adopt sections 60 and 61 as respects their area or any part of it which is specified in the resolution.
- (2) On the passing by any authority of a resolution under subsection (1), sections 60 and 61 shall, as respects their area or the part of it specified in the resolution, apply in relation to that authority—
- (a) as they apply in relation to a local highway authority other than an inner London authority, but
  - (b) with the substitution for the reference in subsection (1) of section 60 to the commencement of that section of a reference to the date on which the resolution comes into operation.

#### Commencement Information

**I5** S. 62 partly in force; s. 62 not in force at Royal Assent see s. 103(3)(4); s. 62 in force for E. at 21.11.2002 by [S.I. 2002/2833](#), [art. 2](#)

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### *Removal of obstructions from highways*

## **63 Enforcement of duty to prevent obstructions.**

(1) After section 130 of the 1980 Act there is inserted—

### **“130A Notices to enforce duty regarding public paths.**

- (1) Any person who alleges, as respects any highway for which a local highway authority other than an inner London authority are the highway authority—
  - (a) that the highway falls within subsection (2) below, and
  - (b) that it is obstructed by an obstruction to which this section applies, may serve on the highway authority notice requesting them to secure the removal of the obstruction from the highway.
- (2) A highway is within this subsection if it is—
  - (a) a footpath, bridleway, or restricted byway, or
  - (b) a way shown in a definitive map and statement as a restricted byway or a byway open to all traffic.
- (3) Subject to subsection (4) below, this section applies to an obstruction of the highway if the obstruction is without lawful authority and either—
  - (a) the powers conferred by section 143, 149 or 154 below are exercisable in respect of it, or
  - (b) it is of a description prescribed by regulations made by the Secretary of State and the authority have power (otherwise than under any of those sections) to secure its removal.
- (4) This section does not apply to an obstruction if—
  - (a) it is or forms part of—
    - (i) a building (whether temporary or permanent) or works for the construction of a building, or
    - (ii) any other structure (including a tent, caravan, vehicle or other temporary or movable structure) which is designed, adapted or used for human habitation,
  - (b) an order may be made in respect of it under section 56 above, or
  - (c) the presence of any person constitutes the obstruction.
- (5) A person serving a notice under subsection (1) above must include in the notice the name and address, if known to him, of any person who it appears to him may be for the time being responsible for the obstruction.
- (6) A highway authority on whom a notice under subsection (1) above is served shall, within one month from the date of service of the notice, serve—
  - (a) on every person whose name and address is, pursuant to subsection (5) above, included in the notice and, so far as reasonably practicable, on every other person who it appears to them may be for the time being responsible for the obstruction, a notice informing that person that a notice under subsection (1) above has been served in relation to the obstruction and stating what, if any, action the authority propose to take, and



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- (b) on the person who served the notice under subsection (1) above, a notice containing the name and address of each person on whom notice is served under paragraph (a) above and stating what, if any, action the authority propose to take in relation to the obstruction.
- (7) For the purposes of this section the persons for the time being responsible for an obstruction include the owner and any other person who for the time being—
  - (a) has possession or control of it, or
  - (b) may be required to remove it.
- (8) A notice under subsection (1) or (6) above shall be in such form and contain such information as may be prescribed by regulations made by the Secretary of State.
- (9) In this section “inner London authority” means Transport for London, the council of an inner London borough or the Common Council of the City of London.
- (10) Subsection (2) above has effect until the commencement of section 47 of the Countryside and Rights of Way Act 2000 with the substitution for the references to a restricted byway and to a way shown in a definitive map and statement as a restricted byway of a reference to a way shown in a definitive map and statement as a road used as a public path.

### **130B Orders following notice under section 130A.**

- (1) Where a notice under section 130A(1) above has been served on a highway authority in relation to any obstruction, the person who served it, if not satisfied that the obstruction has been removed, may apply to a magistrates’ court in accordance with section 130C below for an order under this section.
- (2) An order under this section is an order requiring the highway authority to take, within such reasonable period as may be fixed by the order, such steps as may be specified in the order for securing the removal of the obstruction.
- (3) An order under this section shall not take effect—
  - (a) until the end of the period of twenty-one days from the day on which the order is made; or
  - (b) if an appeal is brought in respect of the order within that period (whether by way of appeal to the Crown Court or by way of case stated for the opinion of the High Court), until the final determination or withdrawal of the appeal.
- (4) Subject to subsection (5) below, the court may make an order under this section if it is satisfied—
  - (a) that the obstruction is one to which section 130A above applies or, in a case falling within subsection (4)(a)(ii) of that section, is one to which that section would apply but for the obstruction having become used for human habitation since service of the notice relating to it under subsection (1) of that section,
  - (b) that the way obstructed is a highway within subsection (2) of that section, and

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- (c) that the obstruction significantly interferes with the exercise of public rights of way over that way.
- (5) No order shall be made under this section if the highway authority satisfy the court—
- (a) that the fact that the way obstructed is a highway within section 130A(2) above is seriously disputed,
  - (b) on any other grounds, that they have no duty under section 130(3) above to secure the removal of the obstruction, or
  - (c) that, under arrangements which have been made by the authority, its removal will be secured within a reasonable time, having regard to the number and seriousness of obstructions in respect of which they have such a duty.
- (6) A highway authority against whom an order is made under this section shall, as soon as practicable after the making of the order, cause notice of the order and of the right to appeal against it to be displayed in such manner and at such places on the highway concerned as may be prescribed by regulations made by the Secretary of State, and the notice shall be in such form and contain such information as may be so prescribed.
- (7) An order under this section may be varied on the application of the highway authority to whom it relates.

### **130C Section 130B: procedure.**

- (1) A person proposing to make an application under section 130B above shall before making the application serve notice of his intention to do so on the highway authority concerned.
- (2) A notice under subsection (1) above shall be in such form and contain such information as may be prescribed by regulations made by the Secretary of State.
- (3) The notice may not be served before the end of two months beginning with the date of service on the highway authority of the notice under section 130A(1) above (“the request notice”).
- (4) An application in respect of which notice has been served under subsection (1) above may be made at any time—
  - (a) after the end of five days beginning with the date of service of that notice, and
  - (b) before the end of six months beginning with the date of service on the highway authority of the request notice.
- (5) On making the application the applicant must give notice to the court of the names and addresses of which notice was given to the applicant under section 130A(6)(b) above.
- (6) On the hearing of the application any person who is, within the meaning of section 130A above, a person for the time being responsible for the obstruction to which the application relates has a right to be heard as respects the matters mentioned in section 130B(4) above.

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- (7) Notice of the hearing, of the right to be heard under subsection (6) above and of the right to appeal against a decision on the application shall be given by the court to each person whose name and address is notified to the court under subsection (5) above.

### **130D Section 130B: costs.**

Where an application under section 130B above is dismissed by virtue of paragraph (a), (b) or (c) of subsection (5) of that section, the court, in determining whether and if so how to exercise its power under section 64(1) of the <sup>M13</sup>Magistrates' Courts Act 1980 (costs), shall have particular regard to any failure by the highway authority to give the applicant appropriate notice of, and information about, the grounds relied on by the authority under that paragraph."

- (2) In section 317 of the 1980 Act (appeals to the Crown Court from decisions of magistrates' courts) after subsection (2) there is inserted—

“(3) Any person who, in relation to the decision of a magistrates' court on an application under section 130B above, does not fall within subsection (1) above but—

- (a) is, within the meaning of section 130A above, a person for the time being responsible for the obstruction to which the application related, or
- (b) when the application was heard, was such a person and was, or claimed to be, heard on the application,

may appeal to the Crown Court against the decision on any ground relating to the matters mentioned in section 130B(4) above.”

#### **Commencement Information**

**I6** S. 63 in force at 13.2.2004 for E. by S.I. 2004/292, art. 2(a)

**I7** S. 63 in force at 1.4.2004 for W. by S.I. 2004/315, art. 2(a)

#### **Marginal Citations**

**M13** 1980 c. 43.

## **64 Power to order offender to remove obstruction.**

- (1) After section 137 of the 1980 Act (penalty for wilful obstruction) there is inserted—

### **“137ZA Power to order offender to remove obstruction.**

- (1) Where a person is convicted of an offence under section 137 above in respect of the obstruction of a highway and it appears to the court that—
- (a) the obstruction is continuing, and
  - (b) it is in that person's power to remove the cause of the obstruction,
- the court may, in addition to or instead of imposing any punishment, order him to take, within such reasonable period as may be fixed by the order, such steps as may be specified in the order for removing the cause of the obstruction.

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- (2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or as extended under this subsection, as the case may be.
  - (3) If a person fails without reasonable excuse to comply with an order under subsection (1) above, he is guilty of an offence and liable to a fine not exceeding level 5 on the standard scale; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding one-twentieth of that level for each day on which the offence is so continued.
  - (4) Where, after a person is convicted of an offence under subsection (3) above, the highway authority for the highway concerned exercise any power to remove the cause of the obstruction, they may recover from that person the amount of any expenses reasonably incurred by them in, or in connection with, doing so.
  - (5) A person against whom an order is made under subsection (1) above is not liable under section 137 above in respect of the obstruction concerned—
    - (a) during the period fixed under that subsection or any extension under subsection (2) above, or
    - (b) during any period fixed under section 311(1) below by a court before whom he is convicted of an offence under subsection (3) above in respect of the order.”
- (2) Subsection (1) does not have effect in relation to any offence under section 137 of the 1980 Act committed before the commencement of this section.

## **65 Overhanging vegetation obstructing horse-riders.**

In section 154 of the 1980 Act (cutting or felling etc. trees etc. that overhang or are a danger to roads or footpaths) in subsection (1) after “public lamp,” there is inserted “or overhangs a highway so as to endanger or obstruct the passage of horse-riders,”.

### *Miscellaneous*

## **66 Making of traffic regulation orders for purposes of conserving natural beauty, etc.**

- (1) In section 22 of the <sup>M14</sup>Road Traffic Regulation Act 1984 (traffic regulation for special areas in the countryside), in subsection (1)(a)—
  - (a) the words “(other than Greater London)” are omitted,
  - (b) at the end of paragraph (vi), the word “or” is omitted, and
  - (c) before the word “and” at the end of paragraph (vii) there is inserted—

“or

(viii) a site of special scientific interest (within the meaning of the Wildlife and Countryside Act 1981);”.

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(2) In subsection (2) of that section, for “the paragraphs of subsection (1) of that section” there is substituted “ paragraphs (a) to (g) of subsection (1) of that section and referred to in section 6(1)(b) of this Act ”.

(3) After subsection (4) of that section there is inserted—

“(5) In subsection (2) above the reference to conserving the natural beauty of an area shall be construed as including a reference to conserving its flora, fauna and geological and physiographical features.”.

(4) After that section there is inserted—

**“22A Traffic regulation on certain roads for purpose of conserving natural beauty.**

(1) This section applies to roads other than—

- (a) roads to which section 22 of this Act applies,
- (b) special roads, or
- (c) any road which is a trunk road, a classified road, a GLA road, a cycle track, a bridleway or a footpath, as those expressions are defined by section 329 of the <sup>M15</sup>Highways Act 1980.

(2) This Act shall have effect as respects roads to which this section applies as if, in relation to the making of provision with respect to vehicular traffic, the list of purposes for which a traffic regulation order under section 1 of this Act may be made, as set out in paragraphs (a) to (g) of subsection (1) of that section and referred to in section 6(1)(b) of this Act, included the purpose of conserving or enhancing the natural beauty of the area.

(3) In subsection (2) above the reference to conserving the natural beauty of an area shall be construed as including a reference to conserving its flora, fauna and geological and physiographical features.”

**Marginal Citations**

M14 1984 c. 27.

M15 1980 c. 66.

**67 Prohibition on driving mechanically propelled vehicles elsewhere than on roads.**

Schedule 7 (which makes amendments relating to the driving of mechanically propelled vehicles elsewhere than on roads) has effect.

**68 Vehicular access across common land etc.**

(1) This section applies to a way which the owner or occupier (from time to time) of any premises has used as a means of access for vehicles to the premises, if that use of the way—

- (a) was an offence under an enactment applying to the land crossed by the way, but
- (b) would otherwise have been sufficient to create on or after the prescribed date, and to keep in existence, an easement giving a right of way for vehicles.

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- (2) Regulations may provide, as respects a way to which this section applies, for the creation in accordance with the regulations, on the application of the owner of the premises concerned and on compliance by him with prescribed requirements, of an easement subsisting at law for the benefit of the premises and giving a right of way for vehicles over that way.
- (3) An easement created in accordance with the regulations is subject to any enactment or rule of law which would apply to such an easement granted by the owner of the land.
- (4) The regulations may in particular—
- (a) require that, where an application is made after the relevant use of the way has ceased, it is to be made within a specified time,
  - (b) specify grounds on which objections may be made and the procedure to apply to the making of objections,
  - (c) require any matter to be referred to and determined by the Lands Tribunal, and make provision as to procedure and costs,
  - (d) make provision as to the payment of any amount by the owner of the premises concerned to any person or into court and as to the time when any payment is to be made,
  - (e) provide for the determination of any such amount,
  - (f) make provision as to the date on which any easement is created,
  - (g) specify any limitation to which the easement is subject,
  - (h) provide for the easement to include any specified right incidental to the right of way,
  - (i) make different provision for different circumstances.
- (5) In this section—
- “enactment” includes an enactment in a local or private Act and a byelaw, regulation or other provision having effect under an enactment;
  - “owner”, in relation to any premises, means—
    - (a) a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the premises, whether in possession or in reversion, or
    - (b) a tenant under a long lease, within the meaning of the <sup>M16</sup>Landlord and Tenant Act 1987;
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made, as respects England, by the Secretary of State and, as respects Wales, by the National Assembly for Wales.
- (6) Regulations under this section shall be made by statutory instrument, and no such regulations 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.

#### Commencement Information

**I8** S. 68 wholly in force at 1.5.2001; s. 68 not in force at Royal Assent see s. 103(3); s. 68 in force for E. at 1.4.2001 by [S.I. 2001/114](#), [art. 2\(2\)\(c\)](#); s. 68 in force for W. at 1.5.2001 by [S.I. 2001/1410](#), [art. 2\(d\)](#)

#### Marginal Citations

**M16** 1987 c. 31.

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VALID FROM 27/09/2005

## 69 Erection or improvement of stiles, etc.

- (1) In section 147 of the 1980 Act (power to authorise erection of stiles etc on footpath or bridleway) after subsection (2) there is inserted—

“(2A) In exercising their powers under subsection (2) above a competent authority shall have regard to the needs of persons with mobility problems.

(2B) The Secretary of State may issue guidance to competent authorities as to matters to be taken into account for the purposes of subsection (2) above; and in exercising their powers under subsection (2) above competent authorities shall have regard to any such guidance issued to them.”

- (2) In subsection (5) of that section, at the end there is inserted “ or for the breeding or keeping of horses. ”
- (3) After that section there is inserted—

### “147ZA Agreements relating to improvements for benefit of persons with mobility problems.

- (1) With respect to any relevant structure, a competent authority may enter into an agreement with the owner, lessee or occupier of the land on which the structure is situated which provides—

- (a) for the carrying out by the owner, lessee or occupier of any qualifying works and the payment by the competent authority of the whole or any part of the costs incurred by him in carrying out those works, or
- (b) for the carrying out by the competent authority of any qualifying works at their own expense or subject to the payment by the owner, lessee or occupier of the whole or any part of the costs incurred in carrying out those works.

- (2) In this section—

- (a) “competent authority” has the same meaning as in section 147 above,
- (b) “relevant structure” means a stile, gate or other structure which—
  - (i) is authorised by a condition or limitation subject to which the public right of way over the footpath or bridleway was created, or
  - (ii) is authorised under section 147 above,
 but does not include a structure to which an agreement falling within section 146(5)(b) above relates, and
- (c) “qualifying works”, in relation to a relevant structure, means works for replacing or improving the structure which will result in a structure that is safer or more convenient for persons with mobility problems.

- (3) An agreement under this section may include such conditions as the competent authority think fit.



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- (4) Those conditions may in particular include conditions expressed to have enduring effect—
  - (a) for the maintenance of the structure as replaced or improved, and
  - (b) for enabling the public right of way to be exercised without undue inconvenience to the public.
- (5) Where an agreement under this section has been entered into in relation to any structure—
  - (a) the public right of way is to be deemed to be subject to a condition that the structure as replaced or improved may be erected and maintained in accordance with the agreement so long as any conditions included by virtue of subsection (4) above are complied with,
  - (b) in a case falling within subsection (2)(b)(i) above, as from the effective date the previous condition or limitation relating to the relevant structure shall cease to have effect, and
  - (c) in a case falling within subsection (2)(b)(ii) above, as from the effective date the previous authorisation under section 147 above shall cease to have effect in relation to the relevant structure.
- (6) In subsection (5) above “the effective date” means—
  - (a) the first anniversary of the day on which the agreement was entered into, or
  - (b) such earlier date as may be specified for the purposes of this subsection in the agreement.
- (7) For the purposes of section 143 above, any stile, gate or other structure replaced or improved in pursuance of an agreement under this section is to be deemed to be erected under this section only if any conditions included by virtue of subsection (4) above are complied with.
- (8) A competent authority may not enter into an agreement under this section except with the consent of every owner, lessee or occupier of the land on which the relevant structure is situated who is not a party to the agreement.
- (9) The Secretary of State may issue guidance to competent authorities as to matters to be taken into account for the purposes of this section; and in exercising their powers under this section competent authorities shall have regard to any such guidance issued to them.”
- (4) In section 146 of the 1980 Act (duty to maintain stiles etc. on footpaths and bridleways) in subsection (5), before the word “or” at the end of paragraph (a) there is inserted—
  - “(aa) if any conditions for the maintenance of the structure imposed by virtue of subsection (4) of section 147ZA below are for the time being in force under that section,”.
- (5) In section 344 of the 1980 Act (application to Isles of Scilly) in subsection (2)(a) after “147,” there is inserted “ 147ZA, ”.

*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are not valid for this point in time.*

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## 70 Minor amendments.

- (1) In section 66(3) of the 1980 Act (works for safeguarding persons using footpaths)—
  - (a) after “footpath” there is inserted “ or bridleway ”, and
  - (b) after “barriers,” there is inserted “ posts, ”.
- (2) In section 134 of that Act, subsection (5) (which limits the persons who may bring proceedings for failure to restore a public path disturbed by ploughing etc.) is omitted.
- (3) In section 300 of that Act (right of local authorities to use vehicles and appliances on footways and bridleways), in subsection (1) after “verges,” there is inserted “ for preventing or removing obstructions to them or otherwise preventing or abating nuisances or other interferences with them, ”.
- (4) In section 21(2)(b) of the <sup>M17</sup>Road Traffic Act 1988 (defence to charge of driving or parking on cycle track for highway authority vehicles), after “verges” there is inserted “ , or the preventing or removing of obstructions to the cycle track or the preventing or abating in any other way of nuisances or other interferences with the cycle track, ”.

### Commencement Information

- I9** S. 70 partly in force; s. 70 not in force at Royal Assent see s. 103(3); s. 70(2)(4) in force for E. at 1.4.2001 by S.I. 2001/114, art. 2(2)(d) (with art. 3); s. 70(2)(4) in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(e) (with art. 3)
- I10** S. 70(1) in force at 13.2.2004 for E. by S.I. 2004/292, art. 2(b)
- I11** S. 70(1)(3) in force at 1.4.2004 for W. by S.I. 2004/315, art. 2(b)
- I12** S. 70(3) in force at 13.2.2004 for E. by S.I. 2004/292, art. 2(c)

### Marginal Citations

- M17** 1988 c. 52.

PROSPECTIVE

## 71 Reports on functions relating to rights of way.

- (1) The Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may make regulations requiring local highway authorities of a description specified in the regulations to publish reports on the performance of any of their functions so far as relating to local rights of way (whether or not those functions are conferred on them as highway authorities).
- (2) Subsection (1) is without prejudice to section 230 of the <sup>M18</sup>Local Government Act 1972 (reports and returns).
- (3) Regulations under subsection (1) may prescribe the information to be given in such reports and how and when reports are to be published.
- (4) Regulations under subsection (1) shall be made by statutory instrument, and a statutory instrument containing such regulations made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In this section—

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“local highway authority” has the same meaning as in the 1980 Act, except that it does not include Transport for London; and

“local rights of way” has the same meaning as in section 60.

#### Marginal Citations

**M18** 1972 c. 70.

## 72 Interpretation of Part II.

(1) In this Part, unless a contrary intention appears—

- (a) “restricted byway” and “restricted byway rights” have the meaning given by section 48(4);
- (b) expressions which are defined for the purposes of Part III of the 1981 Act by section 66(1) of that Act have the same meaning as in that Part.

(2) In this Part any reference to a highway includes a reference to part of a highway.

#### Commencement Information

**I13** S. 72 wholly in force at 1.5.2001; s. 72 not in force at Royal Assent see s. 103(3); s. 72 in force for E. at 30.1.2001 by S.I. 2001/114, art. 2(1)(b); s. 72 in force for W. at 1.5.2001 by S.I. 2001/1410, art. 2(f)

**Status:**

Point in time view as at 01/04/2004. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

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