

2005 No. 2461

HIGHWAYS, ENGLAND

**The Public Rights of Way (Register of Applications under
section 53(5) of the Wildlife and Countryside Act 1981)
(England) Regulations 2005**

<i>Made</i> - - - -	<i>1st September 2005</i>
<i>Laid before Parliament</i>	<i>6th September 2005</i>
<i>Coming into force</i> - -	<i>27th September 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by section 53B(1) to (4) of the Wildlife and Countryside Act 1981(a), hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the Public Rights of Way (Register of Applications under section 53(5) of the Wildlife and Countryside Act 1981)(England) Regulations 2005 and shall come into force on 27th September 2005.

(2) In these Regulations—

“the Act” means the Wildlife and Countryside Act 1981;

“the register” means the register which every surveying authority is required under section 53B(1) of the Act to keep with respect to applications under section 53(5) of the Act (applications for a public right of way modification order); and

“the relevant date” means 31st December 2005.

(3) These Regulations apply to England only(b).

Information to be contained in the register

2.—(1) The register shall contain with respect to each application under section 53(5) of the Act—

- (a) a copy of the application together with a copy of any map submitted with the application;
- (b) a description of the intended effect of the application;

(a) 1981 c.69; section 53B was inserted by section 51 of, and paragraph 2 of Schedule 5 to, the Countryside and Rights of Way Act 2000 (c.37). See section 53B(6) for the definitions of “prescribed” and “regulations”.

(b) The functions of the Secretary of State under section 53B of the Act are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), as extended by section 99 of the Countryside and Rights of Way Act 2000 (c.37).

- (c) a description of the geographical location to which the application relates, which shall be identified by reference to:
 - (i) an Ordnance Survey six-figure grid reference in respect of each end of the public right of way or proposed public right of way, or, where the public right of way is already recorded on the relevant definitive map, the path number;
 - (ii) the address of any property (including its postcode) on which the public right of way or proposed public right of way lies;
 - (iii) the names of the principal cities, towns and villages nearest to the public right of way or proposed public right of way; and
 - (iv) the parish, ward or district in which the public right of way or proposed public right of way lies,

and where the application relates to part only of a public right or way, the particulars to be recorded under (ii) to (iv) shall relate to that part only.

- (d) subject to paragraph (3), the applicant's name and address, including postcode;
- (e) the date the application was received by the surveying authority;
- (f) any unique reference allocated by the surveying authority to the application together with the job title of the person at the surveying authority responsible for dealing with the application, the authority's e-mail address and telephone number;
- (g) any date set by the surveying authority for the determination of the application;
- (h) the terms of any direction by the Secretary of State under paragraph 3(2) of Schedule 14 to the Act (direction to the authority to determine an application within a specified period);
- (i) the date on which the application was determined by the surveying authority;
- (j) the decision of the surveying authority on the determination of the application;
- (k) where the decision was to make an order on determination of the application, details of whether or not the order was confirmed (with or without modifications) in accordance with Schedule 15 to the Act; and
- (l) where the surveying authority has refused an application, the outcome of any appeal against that decision under paragraph 4 of Schedule 14 to the Act.

(2) A surveying authority may record on the register such additional information as it considers appropriate.

(3) Where the surveying authority is satisfied that—

- (a) the inclusion or retention of an applicant's name and address on the register would, or would be likely to, cause substantial damage or substantial distress to the applicant or to another person; and
 - (b) such damage or distress is or would be unwarranted,
- the applicant's name and address shall be removed from the register or shall not be included on the register, and shall be redacted from any documents contained or to be contained on the register.

(4) The particulars included in the register under paragraphs (1) and (2) shall be retained on the register in respect of each application under section 53(5) of the Act, regardless of the outcome of the application.

(5) Every register shall include an index that can be used to assist any person to trace any entry in the register and, in the case of the electronic version of the register, a search facility, which, as a minimum, shall allow postcode and keyword searches to be made.

Manner of keeping the register

3.—(1) The register shall be kept in electronic and paper form.

(2) The paper version of the register shall be kept at the principal office of the surveying authority.

(3) The register may be kept in parts so that each part—

- (a) relates to land within a particular parish, ward or district; and
- (b) contains the particulars to be included in the register under regulation 2 in respect of such land.

(4) In respect of the electronic version of the register, the surveying authority shall—

- (a) make the register available for inspection by the public on its website or on a website maintained by the surveying authority for that purpose; and
- (b) make provision to enable the register to be inspected at the principal office of the surveying authority.

(5) A surveying authority shall keep the register in such manner as is suitable to enable a copy of any of the particulars contained on the register to be taken by or for any person who requests a copy in person at the principal office of the surveying authority.

(6) An entry in the register covering the matters set out in sub-paragraphs (a) to (f) of regulation 2(1) shall be made by the later of:

- (a) the date falling 28 days from the date such application is received by a surveying authority; and
- (b) the relevant date,

and the register shall be updated as soon as reasonably practicable (but in any event not before the relevant date) to take into account any of the matters set out in sub-paragraphs (g) to (l) of regulation 2(1).

(7) A surveying authority shall amend the register if it is satisfied that the register contains a material error.

Transitional provision

4. These Regulations do not apply to any application under section 53(5) of the Act which has been determined by the surveying authority under Schedule 14 to the Act before the relevant date.

1st September 2005

Jim Knight
Parliamentary Under-Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 53(5) of the Wildlife and Countryside Act 1981 (“the Act”) enables any person to apply to a surveying authority (defined in section 66(1) of the Act to include certain local authorities) for an order to modify the definitive map and statement concerning public rights of way.

Section 53B(1) of the Act (inserted by paragraph 2 of Schedule 5 to the Countryside and Rights of Way Act 2000) requires every surveying authority to keep a register of applications under section 53(5) of the Act.

These Regulations prescribe the information to be contained in that register and the manner in which that register is to be kept by the surveying authority (regulations 2 and 3).

These Regulations do not apply to an application under section 53(5) of the Act which has been determined by the surveying authority before the relevant date (regulation 4).

These Regulations apply to England only.

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