

Countryside Rights of Way Act : Part 1

Access to the Countryside

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With the roller-coaster ride of the Parliamentary process behind us, we can at least say we have reached the 'end of the beginning'. But there is still a great deal of work to be done to ensure that the new open access rights under the Countryside and Right of Way (CROW) Act are implemented fairly and effectively.

Most readers of 'Countryside Recreation' will be well-aware of the main provisions for open access but, briefly, the Act will give people the right to walk over large areas of open country (generally mountain, moor, heath, and down) and common land.

The agreed areas will be known as 'access land' and many activities on foot will be permitted there - such as bird watching, climbing, running or simply picnicking or sightseeing. Activities specifically excluded (except with the owners' permission or where there has been an existing right or tradition for these uses on that land) include cycling and horse riding, hang gliding and paragliding, camping, using a metal detector, bathing or wind surfing in non-tidal waters, or taking part in organised games or commercial activities. Schedule 2 of the Act also reminds us of a list of existing criminal offences which are included under the heading 'Restrictions to be observed by persons exercising right of access'!

However, it is likely to be a few years before the new rights can be enjoyed everywhere. Firstly, the Countryside Agency and Countryside Council for Wales (CCW) have to map all open country and consult widely on the draft maps. Consultants were appointed in January 2001 to do this work in England. They will start mapping in NW and SE England, and the methodology, once refined, will be applied region-by-region around the country. The Act then allows for an appeals procedure - which

makes it difficult to predict the end point for production of conclusive maps. It is likely to be towards the end of 2004 before the whole of England is covered.

Meanwhile, other bits of the jigsaw need to be put into place. For example, the Countryside Agency, CCW and the National Park Authorities have to set up systems so that landowners and farmers can apply to restrict access when it is essential for reasons of land management, safety or fire risk. Visitors also need to be able to find out about any restrictions that may be in force when they plan to use access land.

Landowners and managers will also have up to 28 days a year when they can restrict access at their own discretion (though there are strict limits on weekend restrictions), provided that they notify the Agency or park authority.

Where there are strong nature conservation or heritage reasons for restricting access, this will be done on the advice of English Nature and English Heritage (England only).

It is hoped that permanent or long-term closures will be rare and restrictions will be kept to the necessary minimum. Positive management measures should preferably be used - the carrot rather than the stick - and the Agency is preparing best practice advice for land owners and managers.

The new rights will also mean new responsibilities for users. One benefit of the time scale for implementation is that it will allow time to inform people, not only about the new opportunities they will have but also any constraints on them. This will be a combination of education and information,

which will require the involvement of many partners. People will need to recognise which is access land and which is not (through appropriate symbols and discreet signing as well as maps), to be able to check what restrictions may be in force (both before they set out and when they arrive), and to identify alternative access land if the area they want is closed.

In addition, although the Country Code is a good guide for general behaviour (and it will be updated to take the requirements of the new Act into account), there are new details (such as the strict controls on dogs in different places and at different seasons) which people will need to learn and adapt to.

Inevitably, readers will have many questions about how the new rights will be implemented and how it will affect them as countryside staff and managers. Unfortunately, there is not space here to embark on a whole range of other vital issues such as rangers, training, the opportunities for incentives to encourage certain types of access management, the new statutory local access forums and the guidance the Agency will give on byelaws. Nor does this article cover the exciting possibilities of additional access to other types of countryside through the dedication of access land under section 16 of the Act. But it is still early days, more information will become available as Government regulations and circulars are published, and the Agency itself is working on all of these fronts to ensure as smooth a transition as possible to full implementation of the new rights. Exciting times.

A leaflet 'New rights, new responsibilities' (CA 65) summarising the new access rights and key changes to rights of way law published in February is available from Countryside Agency Publications, tel: 0870 120 6466.

To keep up to date with developments, check the access pages on the Agency's website www.countryside.gov.uk/access and keep an eye out for further articles.