

## ***Countryside Rights of Way Act : Part 2 Rights of Way***

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Part II of the Act aims to improve legislation dealing with the administration and management of rights of way. It is, in fact, the Government's response to recommendations made by the Countryside Commission (now Countryside Agency) in 'Rights of way in the 21st century' (1999). This put forward a package of proposals for changes to both legislation and to administrative practice. There was never an expectation that legislation alone would address the widespread failure of highway authorities to carry out their statutory duties effectively.

This means that the legislation must be seen in the context of other changes which will need to take place if highway authorities are ever to meet the National Target for rights of way. The target, which calls for all authorities to address the backlogs of work on recording, managing and publicising their rights of way, was set for the year 2000. Only one authority met the target by that date and the majority of the rest expect at least another decade will be required. The Countryside Agency believes that the public deserve better than this and proper levels of funding must be made available to make sure that the job is done properly. The Government's best value initiative will go some way to ensuring this happens but only if authorities can be convinced that the rights of way network is worth investing in.

We believe that more attention needs to be given to what the public require from their rights of way whether they be regular users, occasional users or aspiring users. Authorities need to find out whether there is demand for more cycling routes, places to walk for exercise near to home, routes to particular attractions, safe places to ride a horse, or perhaps easy circular walks for those who for many different reasons cannot climb stiles, or walk along steep or uneven surfaces. The network must be capable of

responding to the needs of users in order to justify the expenditure required to keep it in good order. Some provisions in the Act will encourage authorities to meet the National Target and consider and plan how their rights of way network could be improved. Other bits have been added for other reasons. The main points, but not every detail, are summarised below.

### **Definitive maps**

A number of provisions in the Act encourage authorities to complete their definitive maps, (the legal record of rights of way). These include:

- The reclassification of all Roads Used as Public Paths (RUPPs) as restricted byways - a new category of highway which will be open to walkers, horse-riders, cyclists and horse-drawn vehicles - will save administrative time;
- The power for an authority to combine definitive maps for different parts of their area will be helpful where local government reorganisation has changed administrative boundaries;
- The ability to combine an order to create, divert or close a right of way with an order to amend the definitive map will save time;
- Changes to the procedure for objecting to proposals to change the legal record will help to avoid wasting time on inquiries to deal with irrelevant matters;
- The extinguishment of old footpaths and bridleways, which existed before 1949, where they are not recorded on the definitive map by 1 January 2026.

The last of these is an interesting one and deserves more explanation. On its own it is not going to ensure that all rights of way are recorded on the definitive map. In fact, it could have the opposite effect if authorities decide to ignore their statutory

responsibility to record routes on the map and could result in the loss of many thousands of miles of rights of way. However, the Government has committed around £5 million to support research to prove the existence of historic rights of way. The Countryside Agency will administer the funds which will be channelled to the voluntary sector. We will ensure that the research is to a high standard and well coordinated. Monitoring systems will also be put in place to measure progress and to ensure the task is complete within the 25 years available.

### **Improving the rights of way network**

Highway authorities will have five years to produce a rights of way improvement plan for their area. The plans must include an assessment of the extent to which rights of way:

- meet the present and likely future needs of the public;
- provide opportunities for exercise, open-air recreation and the enjoyment of the area; and
- are accessible to blind and partially sighted people and others with mobility problems.

The plans must also contain a statement of the action the authority will take to improve the network. They will need to be revised every ten years.

### **Better reports on rights of way work**

Authorities will be required to publish reports on how well they have performed their rights of way functions. The details of what to report on and how often will be specified in regulations. The reports are likely to include progress towards implementing rights of way improvement plans.

Authorities also have new duties to keep registers of:

- applications for definitive map orders;
- applications for all extinguishment and diversion orders;
- information on permissive paths.

All of these registers will need to be available for inspection free of charge at all reasonable hours.

### **Obstructions**

There are new penalties for failing to move an obstruction from a right of way. Members of the public can also exert more pressure on highway authorities to ensure that obstructions are removed. They will also be able to bring a private prosecution against a landowner who does not reinstate a right of way after ploughing.

### **Powers to apply to divert or extinguish rights of way**

Landowners and occupiers will have a new right to apply for a right of way to be diverted or closed and a right of appeal against the decision. The Act prevents a right of way from being stopped up or diverted purely because it is on the new open access land introduced by Part I of the Act.

In response to concerns about rights of way crossing school premises, the Act introduces new grounds to close or divert rights of way to prevent crime (in areas designated by the Secretary of State) or to protect the health and safety of school pupils and staff on school premises.

Diversions will also be allowed to avoid significant damage to SSSIs and it will be possible for farmers and other occupiers to divert a footpath or bridleway for up to 14 days a year in order to carry out works which may endanger the public.

### **Motor vehicles off-road**

The Act now makes it clear that driving any motor vehicle, including motor bikes, quad bikes and scrambler bikes, on footpaths, bridleways, restricted byways or off-road is an offence, unless the driver has lawful authority.

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