



Wildlife and Countryside Act 1981

1981 CHAPTER 69

PART III

PUBLIC RIGHTS OF WAY

Ascertainment of public rights of way

53 Duty to keep definitive map and statement under continuous review

- (1) In this Part "definitive map and statement", in relation to any area, means, subject to section 57(3).—
 - (a) the latest revised map and statement prepared in definitive form for that area under section 33 of the 1949 Act; or
 - (b) where no such map and statement have been so prepared, the original definitive map and statement prepared for that area under section 32 of that Act; or
 - (c) where no such map and statement have been so prepared, the map and statement prepared for that area under section 55(3).
- (2) As regards every definitive map and statement, the surveying authority shall—
 - (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and
 - (b) as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence, on or after that date, of any of those events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event.
- (3) The events referred to in subsection (2) are as follows—
 - (a) the coming into operation of any enactment or instrument, or any other event, whereby—

Status: This is the original version (as it was originally enacted).

- (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
- (ii) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description ; or
- (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path ;
- (b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path ;
- (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows—
 - (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way to which this Part applies;
 - (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description ; or
 - (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.
- (4) The modifications which may be made by an order under subsection (2) shall include the addition to the statement of particulars as to—
 - (a) the position and width of any public path or byway open to all traffic which is or is to be shown on the map; and
 - (b) any limitations or conditions affecting the public right of way thereover.
- (5) Any person may apply to the authority for an order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.
- (6) Orders under subsection (2) which make only such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (a) of subsection (3) shall take effect on their being made; and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of other orders under subsection (2).

54 Duty to reclassify roads used as public paths

- (1) As regards every definitive map and statement, the surveying authority shall, as soon as reasonably practicable after the commencement date.—
 - (a) carry out a review of such of the particulars contained in the map and statement as relate to roads used as public paths; and
 - (b) by order make such modifications to the map and statement as appear to the authority to be requisite to give effect to subsections (2) and (3);
 and the provisions of Schedule 15 shall have effect as to the making, validity and date of coming into operation of orders under this subsection.

- (2) A definitive map and statement shall show every road used as a public path by one of the three following descriptions, namely—
- (a) a byway open to all traffic ;
 - (b) a bridleway;
 - (c) a footpath,
- and shall not employ the expression " road used as a public path " to describe any way.
- (3) A road used as a public path shall be shown in the definitive map and statement as follows—
- (a) if a public right of way for vehicular traffic has been shown to exist, as a byway open to all traffic ;
 - (b) if paragraph (a) does not apply and public bridleway rights have not been shown not to exist, as a bridleway ; and
 - (c) if neither paragraph (a) nor paragraph (b) applies, as a footpath.
- (4) Each way which, in pursuance of an order under subsection (1), is shown in the map and statement by any of the three descriptions shall, as from the coming into operation of the order, be a highway maintainable at the public expense ; and each way which, in pursuance of paragraph 9 of Part III of Schedule 3 to the 1968 Act, is so shown shall continue to be so maintainable.
- (5) In this section " road used as a public path " means a way which is shown in the definitive map and statement as a road used as a public path.
- (6) In subsections (2)(a) and (5) of section 51 of the 1949 Act (long distance routes) references to roads used as public paths shall include references to any way shown in a definitive map and statement as a byway open to all traffic.
- (7) Nothing in this section or section 53 shall limit the operation of traffic orders under the Road Traffic Regulation Act 1967 or oblige a highway authority to provide, on a way shown in a definitive map and statement as a byway open to all traffic, a metalled carriage-way or a carriage-way which is by any other means provided with a surface suitable for the passage of vehicles.

55 No further surveys or reviews under the 1949 Act

- (1) No survey under sections 27 to 32 of the 1949 Act, or review under section 33 of that Act, shall be begun after the commencement date; and where on that date a surveying authority have not completed such a survey or review begun earlier, the Secretary of State may, after consultation with the authority, direct the authority—
- (a) to complete the survey or review; or
 - (b) to abandon the survey or review to such extent as may be specified in the direction.
- (2) Where such a survey or review so begun is abandoned, the Secretary of State shall give such notice of the abandonment as appears to him requisite.
- (3) Where, in relation to any area, no such survey has been so begun or such a survey so begun is abandoned, the surveying authority shall prepare for that area a map and statement such that, when they have been modified in accordance with the provisions of this Part, they will serve as the definitive map and statement for that area.

Status: This is the original version (as it was originally enacted).

- (4) Where such a survey so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement prepared under subsection (3) so as—
- (a) to give effect to any determination or decision of the authority under section 29(3) or (4) of the 1949 Act in respect of which either there is no right of appeal or no notice of appeal has been duly served ;
 - (b) to give effect to any decision of the Secretary of State under section 29(6) of that Act; and
 - (c) to show any particulars shown in the draft map and statement with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections had been withdrawn.
- (5) Where such a review so begun is abandoned after a draft map and statement have been prepared and the period for making representations or objections has expired, the authority shall by order modify the map and statement under review so as—
- (a) to give effect to any decision of the Secretary of State under paragraph 4(4) of Part II of Schedule 3 to the 1968 Act; and
 - (b) to show any particulars shown in the draft map and statement but not in the map and statement under review, and to omit any particulars shown in the map and statement under review but not in the draft map and statement, being (in either case) particulars with respect to which no representation or objection has been duly made, or in relation to which all such representations or objections have been withdrawn.
- (6) Orders under subsection (4) or (5) shall take effect on their being made.

56 Effect of definitive map and statement

- (1) A definitive map and statement shall be conclusive evidence as to the particulars contained therein to the following extent, namely—
- (a) where the map shows a footpath, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover a right of way on foot, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than that right;
 - (b) where the map shows a bridleway, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than those rights ;
 - (c) where the map shows a byway open to all traffic, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way for vehicular and all other kinds of traffic ;
 - (d) where the map shows a road used as a public path, the map shall be conclusive evidence that there was at the relevant date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however -that this paragraph shall

Status: This is the original version (as it was originally enacted).

- be without prejudice to any question whether the public had at that date any right of way other than those rights; and
- (e) where by virtue of the foregoing paragraphs the map is conclusive evidence, as at any date, as to a highway shown thereon, any particulars contained in the statement as to the position or width thereof shall be conclusive evidence as to the position or width thereof at that date, and any particulars so contained as to limitations or conditions affecting the public right of way shall be conclusive evidence that at the said date the said right was subject to those limitations or conditions, but without prejudice to any question whether the right was subject to any other limitations or conditions at that date.
- (2) For the purposes of this section " the relevant date "—
- (a) in relation to any way which is shown on the map other wise than in pursuance of an order under the foregoing provisions of this Part, means the date specified in the statement as the relevant date for the purposes of the map;
- (b) in relation to any way which is shown on the map in pursuance of such an order, means the date which, in accordance with subsection (3), is specified in the order as the relevant date for the purposes of the order.
- (3) Every order under the foregoing provisions of this Part shall specify, as the relevant date for the purposes of the order, such date, not being earlier than six months before the making of the order, as the authority may determine.
- (4) A document purporting to be certified on behalf of the surveying authority to be a copy of or of any part of a definitive map or statement as modified in accordance with the provisions of this Part shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.
- (5) Where it appears to the Secretary of State that paragraph (d) of subsection (1) can have no further application, he may by order made by statutory instrument repeal that paragraph.

57 Supplementary provisions as to definitive maps and statements

- (1) An order under the foregoing provisions of this Part shall be in such form as may be prescribed by regulations made by the Secretary of State, and shall contain a map, on such scale as may be so prescribed, showing the modifications to which the order relates.
- (2) Regulations made by the Secretary of State may prescribe the scale on which maps are to be prepared under section 55(3), and the method of showing in definitive maps and statements anything which is required to be so shown.
- (3) Where, in the case of a definitive map and statement for any area which have been modified in accordance with the foregoing provisions of this Part, it appears to the surveying authority expedient to do so, they may prepare a copy of that map and statement as so modified; and where they do so, the map and statement so prepared, and not the map and statement so modified, shall be regarded for the purposes of the foregoing provisions of this Part as the definitive map and statement for that area.
- (4) The statement prepared under subsection (3) shall specify, as the relevant date for the purposes of the map, such date, not being earlier than six months before the preparation of the map and statement, as the authority may determine.
- (5) As regards every definitive map and statement, the surveying authority shall keep—

Status: This is the original version (as it was originally enacted).

- (a) a copy of the map and statement; and
 - (b) copies of all orders under this Part modifying the map and statement,
- available for inspection free of charge at all reasonable hours at one or more places in each district comprised in the area to which the map and statement relate and, so far as appears practicable to the surveying authority, a place in each parish so comprised; and the authority shall be deemed to comply with the requirement to keep such copies available for inspection in a district or parish if they keep available for inspection there a copy of so much of the map and statement and copies of so many of the orders as relate to the district or parish.
- (6) Notwithstanding anything in subsection (5), an authority shall not be required to keep available for inspection more than one copy of—
- (a) any definitive map and statement; or
 - (b) each order under this Part modifying the map and statement,
- if, as respects the area to which that map and statement relate, a subsequent map and statement have been prepared under subsection (3); and the said single copies may be kept in such place in the area of the authority as they may determine.
- (7) Every surveying authority shall take such steps as they consider expedient for bringing to the attention of the public the provisions of this Part including, in particular, section 53(5) and subsection (5).
- (8) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

58 Application of ss. 53 to 57 to inner London

- (1) Subject to subsection (2), the foregoing provisions of this Part shall not apply to any area to which this subsection applies; and this subsection applies to any area which, immediately before 1st April 1965, formed part of the administrative county of London.
- (2) A London borough council may by resolution adopt the said foregoing provisions as respects any part of their area specified in the resolution, being a part to which subsection (1) applies, and those provisions shall thereupon apply accordingly.
- (3) Where by virtue of a resolution under subsection (2), the said foregoing provisions apply to any area, those provisions shall have effect in relation thereto as if for references to the commencement date there were substituted references to the date on which the resolution comes into operation.

Miscellaneous and supplemental

59 Prohibition on keeping bulls on land crossed by public rights of way

- (1) If, in a case not falling within subsection (2), the occupier of a field or enclosure crossed by a right of way to which this Part applies permits a bull to be at large in the field or enclosure, he shall be liable on summary conviction to a fine not exceeding £200.
- (2) Subsection (1) shall not apply to any bull which—
 - (a) does not exceed the age of ten months ; or

- (b) is not of a recognised dairy breed and is at large in any field or enclosure in which cows or heifers are also at large.
- (3) Nothing in any byelaws, whenever made, shall make unlawful any act which is, or but for subsection (2) would be, made unlawful by subsection (1).
- (4) In this section " recognised dairy breed " means one of the following breeds, namely, Ayrshire, British Friesian, British Holstein, Dairy Shorthorn, Guernsey, Jersey and Kerry.
- (5) The Secretary of State may by order add any breed to, or remove any breed from, subsection (4); and an order under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

60 Regulation of traffic on public rights of way

The Road Traffic Regulation Act 1967 shall have effect in relation to any footpath, bridleway or byway open to all traffic as if—

- (a) any reference to traffic included a reference to foot passengers and persons driving, riding or leading horses or other animals of draught or burden ; and
- (b) any reference in section 1(3A) or 12 to foot passengers included a reference to such persons as aforesaid.

61 Ploughing of public rights of way

- (1) Section 134 of the Highways Act 1980 (ploughing of footpath or bridleway) shall have effect subject to the amendments provided for by subsections (2) to (9).
- (2) Subsection (3) (7 days' notice of intention to plough) shall be omitted.
- (3) In subsection (4) (duty to restore surface of footpath or bridleway), for paragraphs (a) and (b) there shall be substituted the following paragraphs—
 - “(a) not later than 2 weeks from the time when the occupier began to plough the footpath or bridleway, or
 - (b) if prevented from doing so by exceptional weather conditions, as soon as practicable thereafter.”.
- (4) In subsection (5) (failure to comply with subsection (3) or (4)) the words " (3) or " shall be omitted, for paragraphs (a) and (b) there shall be substituted the words " to a fine not exceeding £200 " and for the words " subsection (4) ", in the second place where they occur, there shall be substituted the words " that subsection ".
- (5) After that subsection there shall be inserted the following subsection—
 - “(5A) A person who ploughs any footpath, bridleway or other highway otherwise than in the exercise of a right to plough it shall be guilty of an offence and liable to a fine not exceeding £200.”
- (6) In subsection (6) (enforcement of subsections (3) to (5)) for the words " subsections (3) to (5) above as respects any footpath or bridleway " there shall be substituted the words " subsections (4) to (5A) above as respects any footpath, bridleway or other highway ".

Status: This is the original version (as it was originally enacted).

- (7) In subsection (7) (proceedings by parish or community councils) after the words " subsection (4) " there shall be inserted the words " or (5A) ".
- (8) In subsection (8) (power of competent authority to restore surface of footpath or bridleway) for the words " footpath or bridleway " there shall be substituted the words " footpath, bridleway or other highway ".
- (9) In subsection (10) (competent authorities for the purposes of subsections (8) and (9) for the words " footpath or bridleway ", in both places where they occur, there shall be substituted the words " footpath, bridleway or other highway ".
- (10) In section 135(1) of the said Act of 1980 (temporary diversion of footpath or bridleway ploughed up under section 134) the words " 6 or " and " 6 weeks or " shall be omitted.

62 Appointment of wardens for public rights of way

A local authority may appoint such number of persons as appears to the authority to be necessary or expedient to act as wardens as respects a footpath, bridleway or byway open to all traffic which is both in the countryside and in the area of the authority, and the purpose for which the wardens may be so appointed is to advise and assist the public in connection with the use of the path or way.

63 Orders creating, extinguishing or diverting footpaths and bridleways

The enactments mentioned in Schedule 16 (which relate to the making and confirmation of certain orders creating, extinguishing or diverting footpaths and bridleways) shall have effect subject to the amendments provided for in that Schedule.

64 Publication of dedication of footpaths and bridleways

At the end of section 25 of the Highways Act 1980 (creation of footpath or bridleway by agreement) there shall be inserted the following subsection—

“(6) As soon as may be after the dedication of a footpath or bridleway in accordance with a public path creation agreement, the local authority who are party to the agreement shall give notice of the dedication by publication in at least one local newspaper circulating in the area in which the land to which the agreement relates is situated.”.

65 Signposting of byways open to all traffic

- (1) In section 27 of the 1968 Act (signposting of footpaths and bridleways) for the words " or bridleway ", wherever they occur, there shall be substituted the words " bridleway or byway " ; and for the words " and bridleways " in subsection (6) of that section there shall be substituted the words " bridleways and byways ".
- (2) After subsection (7) of that section there shall be inserted the following subsection—
 - “(8) In this section " byway " means a byway open to all traffic, that is to say, a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purposes for which footpaths and bridleways are so used.”

66 Interpretation of Part III

(1) In this Part—

"bridleway" means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

"byway open to all traffic" means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used ;

"definitive map and statement" has the meaning given by section 53(1);

"footpath" means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road ; "horse" includes a pony, ass and mule, and "horseback" shall be construed accordingly ; "public path" means a highway being either a footpath or a bridleway;

"right of way to which this Part applies" means a right of way such that the land over which the right subsists is a public path or a byway open to all traffic ;

"surveying authority", in relation to any area, means the county or London borough council whose area includes that area.

- (2) A highway at the side of a river, canal or other inland navigation shall not be excluded from any definition contained in subsection (1) by reason only that 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 thereover.
- (3) The provisions of section 30(1) of the 1968 Act (riding of pedal cycles on bridleways) shall not affect the definition of bridleway in subsection (1) and any rights exercisable by virtue of those provisions shall be disregarded for the purposes of this Part.