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) **[**[F1]and 57A(1)**]**,—

(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—

Changes to legislation: *Wildlife and Countryside Act 1981, Section 53 is up to date with all changes known to be in force on or before 04 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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 **[**[F2]or a restricted byway**]**;

(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 **[**[F3]or restricted byway**]** ;

(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 **[**[F4]a right of way such that the land over which the right subsists is a public path **[**[F5], a restricted byway**]** or, subject to section 54A, a byway open to all traffic**]**;

(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 **[**[F6], restricted byway**]** 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.

[[F7](4A) Subsection (4B) applies to evidence which, when considered with all other relevant evidence available to the surveying authority, shows as respects a way shown in a definitive map and statement as a restricted byway that the public have, and had immediately before the commencement of section 47 of the Countryside and Rights of Way Act 2000, a right of way for vehicular and all other kinds of traffic over that way.

(4B) For the purposes of subsection (3)(c)(ii), such evidence is evidence which, when so considered, shows that the way concerned ought, subject to section 54A, to be shown in the definitive map and statement as a byway open to all traffic.**]**

(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.

[[F8](5A) Evidence to which subsection (4B) applies on the commencement of section 47 of the Countryside and Rights of Way Act 2000 shall for the purposes of subsection (5) and any application made under it be treated as not having been discovered by the surveying authority before the commencement of that section.**]**

Changes to legislation: *Wildlife and Countryside Act 1981, Section 53 is up to date with all changes known to be in force on or before 04 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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).

Textual Amendments

F1 Words in s. 53(1) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(2); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

F2 Words in s. 53(3)(a)(iii) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(3); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

F3 Words in s. 53(3)(b) inserted (2.5.2006 for E. and 16.11.2006 for W.) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 70(1)(a)**, 107; S.I. 2006/1176, **art. 6**; S.I. 2006/2992, **art. 2**

F4 Words in s. 53(3)(c)(i) substituted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(4); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

F5 Words in s. 53(3)(c)(i) inserted (2.5.2006 for E. and 16.11.2006 for W.) by Natural Environment and Rural Communities Act 2006 (c. 16), **ss. 70(1)(a)**, 107; S.I. 2006/1176, **art. 6**; S.I. 2006/2992, **art. 2**

F6 Words in s. 53(4)(a) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(5); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

F7 S. 53(4A)(4B) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(6); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

F8 S. 53(5A) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. I para. 1(7); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

Modifications etc. (not altering text)

C1 S. 53: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
S. 53 excluded (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 49(5), 103(3); S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

C2 S. 53(3)(a)(i) modified (3.8.2024) by The Mallard Pass Solar Farm Order 2024 (S.I. 2024/796), arts. 1, **12(5)** (with art. 32, Sch. 15)

Changes to legislation:
Wildlife and Countryside Act 1981, Section 53 is up to date with all changes known to be in force on or before 04 October 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to :

- s. 53(3)(c)(i) words omitted by 2015 c. 20 Sch. 7 para. 2(a)
- s. 53(5) words substituted by 2015 c. 20 Sch. 7 para. 10(a)
- s. 53(6) words substituted by 2015 c. 20 Sch. 7 para. 10(b)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11(1)(ab)-(ad) substituted for s. 11(1)(a)(aa) by 2024 asp 4 s. 6(2)(a)
- s. 11(2)(aa)(ab) inserted by 2024 asp 4 s. 6(2)(c)(ii)
- s. 11(2A) inserted by 2024 asp 4 s. 1(6)(b)
- s. 11(3CA) inserted by 2024 asp 4 s. 6(2)(e)
- s. 12A-12G and cross-heading inserted by 2024 asp 4 s. 7(2)
- s. 16(1A)(c)(d) inserted by 2024 asp 4 s. 6(4)(a)(ii)
- s. 16A(ab) inserted by 2024 asp 4 s. 7(4)(b)
- s. 16A(1A) inserted by 2024 asp 4 s. 7(4)(a)
- s. 16A(5B) inserted by 2024 asp 4 s. 7(4)(c)
- s. 21(ga)(gb) inserted by 2024 asp 4 s. 7(6)
- s. 26(2)(c) inserted by 2024 asp 4 s. 7(7)(a)(ii)
- s. 26(2)(f) and word inserted by 2024 asp 4 s. 6(7)(a)
- s. 26(3)(c) inserted by 2024 asp 4 s. 7(7)(b)(ii)
- s. 26(3)(f) and word inserted by 2024 asp 4 s. 6(7)(b)
- s. 53(3)(c)(ia) inserted by 2015 c. 20 Sch. 7 para. 2(b)
- s. 53B(4A)(4B) inserted by 2015 c. 20 Sch. 7 para. 4
- s. 53ZA inserted by 2015 c. 20 Sch. 7 para. 3
- s. 54B54C inserted by 2015 c. 20 Sch. 7 para. 5
- Sch. 13A inserted by 2015 c. 20 Sch. 7 para. 6
- Sch. 14A inserted by 2015 c. 20 Sch. 7 para. 7