



Countryside and Rights of Way Act 2000

2000 CHAPTER 37

PART I

ACCESS TO THE COUNTRYSIDE

CHAPTER III

MEANS OF ACCESS

34 Interpretation of Chapter III

In this Chapter—

“access land” does not include any land in relation to which the application of section 2(1) has been excluded under any provision of Chapter II either indefinitely or for a specified period of which at least six months remain unexpired;

“means of access”, in relation to land, means—

- (a) any opening in a wall, fence or hedge bounding the land (or part of the land), with or without a gate, stile or other works for regulating passage through the opening,
- (b) any stairs or steps for enabling persons to enter on the land (or part of the land), or
- (c) any bridge, stepping stone or other works for crossing a watercourse, ditch or bog on the land or adjoining the boundary of the land.

35 Agreements with respect to means of access

- (1) Where, in respect of any access land, it appears to the access authority that—
 - (a) the opening-up, improvement or repair of any means of access to the land,
 - (b) the construction of any new means of access to the land,
 - (c) the maintenance of any means of access to the land, or

- (d) the imposition of restrictions—
 - (i) on the destruction, removal, alteration or stopping-up of any means of access to the land, or
 - (ii) on the doing of any thing whereby the use of any such means of access to the land by the public would be impeded,

is necessary for giving the public reasonable access to that land in exercise of the right conferred by section 2(1), the access authority may enter into an agreement with the owner or occupier of the land as to the carrying out of the works or the imposition of the restrictions.

- (2) An agreement under this section may provide—
 - (a) for the carrying out of works by the owner or occupier or by the access authority, and
 - (b) for the making of payments by the access authority—
 - (i) as a contribution towards, or for the purpose of defraying, costs incurred by the owner or occupier in carrying out any works for which the agreement provides, or
 - (ii) in consideration of the imposition of any restriction.

36 Failure to comply with agreement

- (1) If the owner or occupier of any access land fails to carry out within the required time any works which he is required by an agreement under section 35 to carry out, the access authority, after giving not less than twenty-one days' notice of their intention to do so, may take all necessary steps for carrying out those works.
- (2) In subsection (1) “the required time” means the time specified in, or determined in accordance with, the agreement as that within which the works must be carried out or, if there is no such time, means a reasonable time.
- (3) If the owner or occupier of any access land fails to observe any restriction which he is required by an agreement under section 35 to observe, the access authority may give him a notice requiring him within a specified period of not less than twenty-one days to carry out such works as may be specified in the notice, for the purpose of remedying the failure to observe the restriction.
- (4) A notice under subsection (3) must contain particulars of the right of appeal conferred by section 38.
- (5) If the person to whom a notice under subsection (3) is given fails to comply with the notice, the access authority may take all necessary steps for carrying out any works specified in the notice.
- (6) Where the access authority carry out any works by virtue of subsection (1), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works, reduced by their contribution under the agreement, from the person by whom under the agreement the cost (apart from the authority's contribution) of carrying out the works would fall to be borne.
- (7) Where the access authority carry out any works by virtue of subsection (5), the authority may recover the amount of any expenses reasonably incurred by them in carrying out the works from the person to whom the notice under subsection (3) was given.

37 Provision of access by access authority in absence of agreement

- (1) Where, in respect of any access land—
 - (a) it appears to the access authority that—
 - (i) the opening-up, improvement or repair of any means of access to the land,
 - (ii) the construction of any new means of access to the land, or
 - (iii) the maintenance of any means of access to the land,is necessary for giving the public reasonable access to that land, or to other access land, in pursuance of the right conferred by section 2(1), and
 - (b) the access authority are satisfied that they are unable to conclude on reasonable terms an agreement under section 35 with the owner or occupier of the land for the carrying out of the works,the access authority may, subject to subsection (3), give the owner or occupier a notice stating that, after the end of a specified period of not less than twenty-one days, the authority intend to take all necessary steps for carrying out the works specified in the notice for the opening-up, improvement, repair, construction or maintenance of the means of access.
- (2) A notice under subsection (1) must contain particulars of the right of appeal conferred by section 38.
- (3) Where a notice under subsection (1) is given to any person as the owner or occupier of any land, the access authority shall give a copy of the notice to every other owner or occupier of the land.
- (4) An access authority exercising the power conferred by subsection (1) in relation to the provision of a means of access shall have regard to the requirements of efficient management of the land in deciding where the means of access is to be provided.
- (5) If, at the end of the period specified in a notice under subsection (1), any of the works specified in the notice have not been carried out, the access authority may take all necessary steps for carrying out those works.

38 Appeals relating to notices

- (1) Where a notice under section 36(3) or 37(1) has been given to a person in respect of any land, he or any other owner or occupier of the land may appeal against the notice—
 - (a) in the case of land in England, to the Secretary of State, and
 - (b) in the case of land in Wales, to the National Assembly for Wales.
- (2) An appeal against a notice under section 36(3) may be brought on any of the following grounds—
 - (a) that the notice requires the carrying out of any works which are not necessary for remedying a breach of the agreement,
 - (b) that any of the works have already been carried out, and
 - (c) that the period specified in the notice as that before the end of which the works must be carried out is too short.
- (3) An appeal against a notice under section 37(1) may be brought on any of the following grounds—
 - (a) that the notice requires the carrying out of any works which are not necessary for giving the public reasonable access to the access land in question,

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

- (b) in the case of works to provide a means of access, that the means of access should be provided elsewhere, or that a different means of access should be provided, and
 - (c) that any of the works have already been carried out.
- (4) On an appeal under this section, the Secretary of State or the National Assembly for Wales may—
- (a) confirm the notice with or without modifications, or
 - (b) cancel the notice.
- (5) Sections 7 and 8 (and Schedule 3) have effect in relation to an appeal under this section as they have effect in relation to an appeal under section 6.
- (6) Regulations may make provision as to—
- (a) the period within which and manner in which appeals under this section are to be brought,
 - (b) the advertising of such an appeal, and
 - (c) the manner in which such appeals are to be considered.
- (7) Where an appeal has been brought under this section against a notice under section 36(3) or 37(1), the access authority may not exercise their powers under section 36(5) or section 37(5) (as the case may be) pending the determination or withdrawal of the appeal.

39 Order to remove obstruction

- (1) Where at any time two or more access notices relating to a means of access have been given to any person within the preceding thirty-six months, a magistrates' court may, on the application of the access authority, order that person—
- (a) within such time as may be specified in the order, to take such steps as may be so specified to remove any obstruction of that means of access, and
 - (b) not to obstruct that means of access at any time when the right conferred by section 2(1) is exercisable.
- (2) If a person (“the person in default”) fails to comply with an order under this section—
- (a) he is liable on summary conviction to a fine not exceeding level 3 on the standard scale, and
 - (b) the access authority may remove any obstruction of the means of access and recover from the person in default the costs reasonably incurred by them in doing so.
- (3) In this section “access notice” means a notice under section 36(3) or 37(1) in respect of which the period specified in the notice has expired, other than a notice in respect of which an appeal is pending or which has been cancelled on appeal.