

These notes refer to the Natural Environment and Rural Communities Act 2006 (c.16) which received Royal Assent on 30 March 2006

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Rights of way

Section 70: Supplementary

188. *Subsection (1)* amends section 53(3) of the 1981 Act. The purpose of this amendment is to allow the recording on the definitive map and statement for the area of a newly discovered right of way which is a restricted byway.
189. *Subsections (2) to (7)* amend section 34 of the Road Traffic Act 1988. Section 34 makes it an offence to drive a mechanically propelled vehicle on a footpath, bridleway or restricted byway. The amendments create a limited exception for a person who has an interest in land or is a visitor to land and who drives on a restricted byway which came into being under the Countryside and Rights of Way Act 2000 and which before it became a restricted byway was in use for obtaining access to land. Subsection (7) clarifies that the phrase “visitor to the land” does not include those exercising their public rights in relation to access land under section 1 of the Countryside and Rights of Way Act 2000, or other public rights of access listed in section 15(1) of that Act.
190. *Subsection (8)* recognises that the new section 34A of the Road Traffic Act 1988, which was to be inserted by Schedule 7 to the Countryside and Rights of Way Act 2000 is not going to be brought into force, by repealing the relevant provision in Schedule 7. The Government announced in a written Parliamentary statement of 9 December 2003 (Hansard Vol. 415 Col. 80WS) that it would not be implementing section 34A. This is on the basis that the provision appears incompatible with Article 6(2) of the European Convention on Human Rights.