



Natural Environment and Rural Communities Act 2006

2006 CHAPTER 16

PART 6

RIGHTS OF WAY

Rights of way and mechanically propelled vehicles

66 Restriction on creation of new public rights of way

- (1) No public right of way for mechanically propelled vehicles is created after commencement unless it is—
 - (a) created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for such vehicles, or
 - (b) created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.
- (2) For the purposes of the creation after commencement of any other public right of way, use (whenever occurring) of a way by mechanically propelled vehicles is to be disregarded.

67 Ending of certain existing unrecorded public rights of way

- (1) An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement—
 - (a) was not shown in a definitive map and statement, or
 - (b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

But this is subject to subsections (2) to (8).

- (2) Subsection (1) does not apply to an existing public right of way if—

Status: This is the original version (as it was originally enacted).

- (a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles,
 - (b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense),
 - (c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles,
 - (d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or
 - (e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.
- (3) Subsection (1) does not apply to an existing public right of way over a way if—
- (a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,
 - (b) before commencement, the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or
 - (c) before commencement, a person with an interest in land has made such an application and, immediately before commencement, use of the way for mechanically propelled vehicles—
 - (i) was reasonably necessary to enable that person to obtain access to the land, or
 - (ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only.
- (4) “The relevant date” means—
- (a) in relation to England, 20th January 2005;
 - (b) in relation to Wales, 19th May 2005.
- (5) Where, immediately before commencement, the exercise of an existing public right of way to which subsection (1) applies—
- (a) was reasonably necessary to enable a person with an interest in land to obtain access to the land, or
 - (b) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only,
- the right becomes a private right of way for mechanically propelled vehicles for the benefit of the land or (as the case may be) the part of the land.
- (6) For the purposes of subsection (3), an application under section 53(5) of the 1981 Act is made when it is made in accordance with paragraph 1 of Schedule 14 to that Act.
- (7) For the purposes of subsections (3)(c)(i) and (5)(a), it is irrelevant whether the person was, immediately before commencement, in fact—
- (a) exercising the existing public right of way, or
 - (b) able to exercise it.

- (8) Nothing in this section applies in relation to an area in London to which Part 3 of the Wildlife and Countryside Act 1981 (c. 69) does not apply.
- (9) Any provision made by virtue of section 48(9) of the Countryside and Rights of Way Act 2000 (c. 37) has effect subject to this section.

68 Presumed dedication of restricted byways and use by pedal cycles etc.

- (1) Amend section 31 of the Highways Act 1980 (c. 66) (dedication of highway presumed after public use for 20 years) as follows.
- (2) After subsection (1) insert—
 - “(1A) Subsection (1)—
 - (a) is subject to section 66 of the Natural Environment and Rural Communities Act 2006 (dedication by virtue of use for mechanically propelled vehicles no longer possible), but
 - (b) applies in relation to the dedication of a restricted byway by virtue of use for non-mechanically propelled vehicles as it applies in relation to the dedication of any other description of highway which does not include a public right of way for mechanically propelled vehicles.”
- (3) After subsection (10) insert—
 - “(10A) Nothing in subsection (1A) affects the obligations of the highway authority, or of any other person, as respects the maintenance of a way.”
- (4) After subsection (11) insert—
 - “(12) For the purposes of subsection (1A) “mechanically propelled vehicle” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (electrically assisted pedal cycle).”

69 Presumed dedication and applications under section 53(5) of the 1981 Act

- (1) In section 31 of the 1980 Act, after subsection (7) insert—
 - “(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an order making modifications so as to show the right on the definitive map and statement.
 - (7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.”
- (2) The applications in relation to which the amendments made by subsection (1) apply include any application under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) which falls within section 67(3)(a), (b) or (c).

70 Supplementary

- (1) In section 53(3) of the Wildlife and Countryside Act 1981 (modification of definitive map and statement in consequence of certain events)—

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

- (a) in paragraph (b) (expiration of period raising a presumption of dedication), after “public path” insert “or restricted byway”, and
 - (b) in paragraph (c)(i) (discovery of evidence of right of way), after “public path” insert “, a restricted byway”.
- (2) Amend section 34 of the Road Traffic Act 1988 (c. 52) (prohibition of driving mechanically propelled vehicles elsewhere than on roads) as follows.
- (3) In subsection (2), omit “(subject to section 34A of this Act)”.
- (4) After subsection (2) insert—
- “(2A) It is not an offence under this section for a person with an interest in land, or a visitor to any land, to drive a mechanically propelled vehicle on a road if, immediately before the commencement of section 47(2) of the Countryside and Rights of Way Act 2000, the road was—
- (a) shown in a definitive map and statement as a road used as a public path, and
 - (b) in use for obtaining access to the land by the driving of mechanically propelled vehicles by a person with an interest in the land or by visitors to the land.”
- (5) In subsection (6), for “and section 34A of this Act do” substitute “does”.
- (6) In subsection (7), insert at the appropriate place in the alphabetical order—
- ““interest”, in relation to land, includes any estate in land and any right over land (whether exercisable by virtue of the ownership of an estate or interest in the land or by virtue of a licence or agreement) and, in particular, includes rights of common and sporting rights;”.
- (7) After subsection (7) insert—
- “(8) A person—
- (a) entering any land in exercise of rights conferred by virtue of section 2(1) of the Countryside and Rights of Way Act 2000, or
 - (b) entering any land which is treated by section 15(1) of that Act as being accessible to the public apart from that Act,
- is not for the purposes of subsection (2A) a visitor to the land.”
- (8) In Schedule 7 to the Countryside and Rights of Way Act 2000 (c. 37), omit paragraphs 6 and 7.

71 Interpretation

- (1) In sections 66 and 67—
- “interest”, in relation to land, includes any estate in land and any right over land (whether exercisable by virtue of the ownership of an estate or interest in the land or by virtue of a licence or agreement) and, in particular, includes rights of common and sporting rights,
- “mechanically propelled vehicle” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (c. 52) (electrically assisted pedal cycle), and

expressions defined for the purposes of Part 3 of the Wildlife and Countryside Act 1981 (c. 69) by section 66(1) of that Act have the same meaning as in that Part.

- (2) In each of sections 66 and 67 “commencement” means the commencement of that section; and in section 67 “existing” means in existence immediately before commencement.

Traffic regulation in National Parks

72 Traffic regulation on byways etc. in National Parks

After section 22B of the Road Traffic Regulation Act 1984 (c. 27) insert—

“22BB Traffic regulation on byways etc. in National Parks in England and Wales

- (1) This section applies to a road—
- (a) which is in a National Park in England or Wales,
 - (b) which is—
 - (i) shown in a definitive map and statement as a byway open to all traffic, a restricted byway, a bridleway or a footpath, or
 - (ii) a carriageway whose surface, or most of whose surface, does not consist of concrete, tarmacadam, coated roadstone or other prescribed material, and
 - (c) in respect of which no relevant order is in force.
- (2) The National Park authority may—
- (a) for a purpose mentioned in section 1(1)(a) to (g) or 22(2), by order make in respect of the road any such provision as is mentioned in section 2(1), (2) or (3) or 4(1);
 - (b) for the purpose of carrying out an experimental scheme of traffic control, by order make in respect of the road any such provision as is mentioned in section 2(1), (2) or (3) or 4(1);
 - (c) for a reason given in section 14(1)(a) or (b) or for a purpose mentioned in section 14(1)(c) or 22(2), by order make in respect of the road—
 - (i) any such provision as is mentioned in section 2(1), (2) or (3) or 4(1), or
 - (ii) any provision restricting the speed of vehicles.
- (3) This Act has effect, subject to subsection (4) and any prescribed modifications, in relation to an order by a National Park authority under subsection (2)(a), (b) or (c) as it has effect in relation to an order by a local traffic authority under section 1, 9 or 14(1).
- (4) Before making any order under subsection (2), the National Park authority must consult any authority which is a highway authority for the road.

22BC Section 22BB: supplementary

- (1) Expressions used in section 22BB(1)(b) that are defined for the purposes of Part 3 of the Wildlife and Countryside Act 1981 by section 66(1) of that Act have the same meaning as in that Part.
- (2) In section 22BB(1)(c) “relevant order” means—
 - (a) a traffic regulation order,
 - (b) an experimental traffic order,
 - (c) an order under section 14(1),
 - (d) an order under section 22(4), or
 - (e) an order under section 22B,but does not include an order made under section 22BB(2).
- (3) In section 22BB “prescribed” means prescribed by regulations made—
 - (a) in relation to England, by the Secretary of State;
 - (b) in relation to Wales, by the National Assembly for Wales.
- (4) Any functions exercisable by the National Assembly for Wales by virtue of this section are to be treated for the purposes of section 44 of the Government of Wales Act 1998 (parliamentary procedures for subordinate legislation) as if made exercisable by the Assembly by an Order in Council under section 22 of that Act.”