

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 24: Extension of powers to authorise erection of gates at owner's request

131. The background to this section is that section 147 of the Highways Act 1980 authorises the erection of stiles, gates or other works on footpaths or bridleways crossing agricultural land for the purpose of preventing animals coming on to the land or escaping from it (referred to in the legislation as “the ingress or egress of animals”). However, there is no comparable provision for restricted byways or byways open to all traffic (“byways”). The main effect of this is that it is not possible for authorities to authorise the erection of gates on byways under section 147. One practical consequence of this is that owners may oppose applications to modify definitive maps and statements to show a restricted byway or a byway open to all traffic, even though they would be willing to agree to the modification if, for example, a gate were erected. Dealing with contested applications is burdensome for all those involved, including the Secretary of State who will generally have to deal with them.
132. The section therefore amends section 147 (by inserting a new subsection (1A)) to enable a competent authority in England to authorise the erection of gates for preventing the ingress or egress of animals on a byway. The authority must be satisfied that it is expedient that gates should be erected on the byway before authorising them. “Competent authority” is defined in the new subsection (1A)(a) and (b). This will generally be the highway authority.
133. This measure will make it easier for owners to obtain permission to erect gates on byways. It is thought that it will also have the effect of reducing the number of occasions on which applications for an order modifying a definitive map and statement to show a byway are opposed by landowners.