

SCHEDULES

SCHEDULE 7

DRIVING OF MECHANICALLY PROPELLED VEHICLES ELSEWHERE THAN ON ROADS

Road Traffic Act 1988 (c. 52)

- 4 (1) Section 21 of the Road Traffic Act 1988 (prohibition of driving or parking on cycle tracks) is amended as follows.
- (2) In subsection (1), for “motor” there is substituted “mechanically propelled”.
- (3) In subsection (3), after paragraph (a) there is inserted—
- “(aa) in subsection (1) “mechanically propelled vehicle” does not include a vehicle falling within paragraph (a), (b) or (c) of section 189(1) of this Act.”.
- 5 For section 34 of that Act there is substituted—

“34 Prohibition of driving mechanically propelled vehicles elsewhere than on roads

- (1) Subject to the provisions of this section, if without lawful authority a person drives a mechanically propelled vehicle—
- (a) on to or upon any common land, moorland or land of any other description, not being land forming part of a road, or
- (b) on any road being a footpath, bridleway or restricted byway,
- he is guilty of an offence.
- (2) For the purposes of subsection (1)(b) above, a way shown in a definitive map and statement as a footpath, bridleway or restricted byway is, without prejudice to section 56(1) of the Wildlife and Countryside Act 1981, to be taken to be a way of the kind shown, unless (subject to section 34A of this Act) the contrary is proved.
- (3) It is not an offence under this section to drive a mechanically propelled vehicle on any land within fifteen yards of a road, being a road on which a motor vehicle may lawfully be driven, for the purpose only of parking the vehicle on that land.
- (4) A person shall not be convicted of an offence under this section with respect to a vehicle if he proves to the satisfaction of the court that it was driven in contravention of this section for the purpose of saving life or extinguishing fire or meeting any other like emergency.
- (5) It is hereby declared that nothing in this section prejudices the operation of—
- (a) section 193 of the Law of Property Act 1925 (rights of the public over commons and waste lands), or

Status: This is the original version (as it was originally enacted).

(b) any byelaws applying to any land,
 or affects the law of trespass to land or any right or remedy to which a person may by law be entitled in respect of any such trespass or in particular confers a right to park a vehicle on any land.

(6) Subsection (2) above and section 34A of this Act do not extend to Scotland.

(7) In this section—

“definitive map and statement” has the same meaning as in Part III of the Wildlife and Countryside Act 1981;

“mechanically propelled vehicle” does not include a vehicle falling within paragraph (a), (b) or (c) of section 189(1) of this Act; and

“restricted byway” means a way over which the public have restricted byway rights within the meaning of Part II of the Countryside and Rights of Way Act 2000, with or without a right to drive animals of any description along the way, but no other rights of way.”.

6 After that section there is inserted—

“34A Exceptions to presumption in section 34(2)

(1) Where a person is charged with an offence under section 34 of this Act in respect of the driving of any vehicle, it is open to that person to prove under subsection (2) of that section that a way shown in a definitive map and statement as a footpath, bridleway or restricted byway is not a way of the kind shown only—

(a) if he proves to the satisfaction of the court—

(i) that he was a person interested in any land and that the driving of the vehicle by him was reasonably necessary to obtain access to the land,

(ii) that the driving of the vehicle by him was reasonably necessary to obtain access to any land, and was for the purpose of obtaining access to the land as a lawful visitor, or

(iii) that the driving of the vehicle by him was reasonably necessary for the purposes of any business, trade or profession; or

(b) in such circumstances as may be prescribed by regulations made by the Secretary of State (and paragraph (a) above is without prejudice to this paragraph).

(2) In subsection (1) above—

“interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an estate or interest in land or by virtue of a licence or agreement, and in particular includes rights of common and sporting rights, and the reference to a person interested in land shall be construed accordingly;

“lawful visitor”, in relation to land, includes any person who enters the land for any purpose in the exercise of a right conferred by law.”

- 7 In section 195 of that Act—
- (a) in subsection (3), after “that section” there is inserted “34A”, and
 - (b) in subsection (4), after “14” there is inserted “, 34A”.