

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Rights of way

Section 67: Ending of certain existing unrecorded public rights of way

181. This section extinguishes (subject to stated exceptions) unrecorded rights of way for mechanically propelled vehicles. This extinguishment prevents these rights being used to add new byways open to all traffic to the definitive map and statement for an area.
182. Some of the exceptions are set out in *subsection (2)*. Exception (a) ensures that existing rights of way for mechanically propelled vehicles are not extinguished if the main lawful use of the way for 5 years preceding commencement has been use for mechanically propelled vehicles. Exception (b) ensures that unclassified and other minor roads are not brought within the scope of the extinguishment. Exceptions (c) and (d) are identical to the exceptions in section 61. Exception (e) ensures that a where rights were created by a qualifying period of use by mechanically propelled vehicles during a period prior to 1 December 1930, those vehicular rights are not extinguished.
183. Some more exceptions are set out in *subsection (3)*. These exceptions relate to cases where an application to record a public right of way for mechanically propelled vehicles has already been lodged. Under paragraph (a), all applications made under Part 3 of the 1981 Act to record rights for mechanically propelled vehicles which were lodged before the relevant date will be preserved and dealt with under the old law. The relevant date is 20 January 2005 (in England) and 19 May 2005 (in Wales) (see *subsection (4)*). Where such applications have been lodged after the relevant date and have reached the stage of being determined by the surveying authority they will also be processed under the existing law (see paragraph (b)), as will applications in situations where landowners need the public right of way for mechanically propelled vehicles in order to access their property (see paragraph (c)).
184. In addition, *subsection (5)* ensures that where an unrecorded public right of way for mechanically propelled vehicles is relied upon at the time of commencement to enable access to land to be obtained by a person with an interest in the land or by a lawful visitor to that land, that public right becomes a private right of way for mechanically propelled vehicles for the benefit of that land. (This will only be relevant if subsection (3)(c) does not apply.)
185. This section does not apply to areas in London where there is no definitive map and statement.