



# National Parks and Access to the Countryside Act 1949

## 1949 CHAPTER 97

### PART IV

#### PUBLIC RIGHTS OF WAY

##### *Ascertainment of footpaths, bridleways and certain other highways*

#### **27 Surveys of public paths, etc., and preparation of draft maps and statements**

- (1) Subject to the provisions of this Part of this Act, the council of every county in England or Wales shall, as soon as may be after the date of the commencement of this Act, carry out a survey of all lands in their area over which a right of way to which this Part of this Act applies is alleged to subsist, and shall, not later than the expiration of three years after that date or of such extended period as the Minister may in any particular case allow, prepare a draft map of their area, showing thereon a footpath or a bridleway, as may appear to the council to be appropriate, wherever in their opinion such a right of way subsisted, or is reasonably alleged to have subsisted, at the relevant date.
- (2) A map prepared in accordance with the last foregoing subsection shall also show thereon any way which, in the opinion of the authority carrying out the survey (hereinafter referred to as "the surveying authority"), was at the relevant date, or was at that date reasonably alleged to be, a road used as a public path.
- (3) For the purposes of this section, the relevant date shall, in relation to the preparation of a draft map, be such date, not being earlier than six months before the date on which notice of the preparation of the draft map is published in accordance with the following provisions of this Part of this Act, as the surveying authority may determine.
- (4) An authority by whom a draft map is prepared as aforesaid shall annex thereto a statement specifying the relevant date and containing, as respects any public path or other way shown thereon in accordance with the foregoing provisions of this section, such particulars appearing to the authority to be reasonably alleged as to the position

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and width thereof, or as to any limitations or conditions affecting the public right of way thereover, as in the opinion of the authority it is expedient to record in the statement.

- (5) Any duty imposed by this section to prepare a map relating to any area may be discharged by the preparation, whether at the same time or at different times, of two or more maps, each comprising part of the area but together comprising the whole thereof; and where two or more such maps are prepared all proceedings under the following provisions of this Part of this Act may, except as hereinafter expressly provided, be taken separately in relation to each map.
- (6) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say.—
- " footpath " means a highway over which the public have a right of way on foot only, other than such a highway at the side of a public road ;
  - " bridleway " means a highway over which the public have the following, but no other, rights of way, that is to say. a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;
  - " horse " includes pony, ass and mule, and " horseback " shall be construed accordingly;
  - " public path " means a highway being either a footpath or a bridleway;
  - " right of way to which this Part of this Act applies " means a right of way such that the land over which the right subsists is a public path;
  - " road used as a public path " means a highway, other than a public path, used by the public mainly for the purposes for which footpaths or bridleways are so used.
- (7) A highway at the side of a river, canal or other inland navigation shall not be excluded from any definition contained in the last foregoing subsection by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.

## **28 Provision of information by other local authorities**

- (1) Before carrying out a survey under the last foregoing section the surveying authority shall consult with the councils of county districts and parishes in the area of the authority as to the arrangements to be made for the provision by such councils of information for the purposes of the survey.
- (2) Where the surveying authority and any such council as aforesaid are unable to agree as to the said arrangements, they shall refer the matter to the Minister and he shall determine what arrangements are to be made.
- (3) Any arrangements made under this section for the provision of information by a parish council shall require the council to cause a parish meeting to be held for the purpose of considering the information to be provided by the council; and any arrangements so made for the provision of information by the council of a rural district shall, as respects each parish in the district not having a parish council, require the representative body of the parish or a member of that body to cause a parish meeting to be held for the purpose of considering the information to be provided by the district council in relation to the parish.

- (4) It shall be the duty of any such council as aforesaid to collect and furnish to the surveying authority such information, in such manner and at such time, as may be provided for by arrangements agreed or determined under this section ; and the said duty shall be enforceable by mandamus on the application of the surveying authority.

## **29 Representations and objections as to draft maps and statements**

- (1) On completing the preparation of a draft map and statement the surveying authority shall notify the Minister and shall cause notice of the preparation thereof, and of places where copies thereof may be inspected at all reasonable hours, and of the time (not being less than four months) within which, and the manner in which, representations or objections with respect to the draft map and statement may be made to the authority, to be published in the London Gazette and in one or more local newspapers circulating in the area of the authority.

- (2) At any time after the publication of a notice under the last foregoing subsection and before the expiration of the period specified in the notice for the making of representations and objections, the owner of any land to which the draft map and statement relate, or any other person interested in such land, may require the surveying authority to inform him what documents (if any) creating or modifying any of the rights of way shown on the draft map, being rights of way required to be shown thereon, were taken into account in preparing the draft map, so far as the said land is concerned, and—

- (a) as respects any such documents in the possession of the surveying authority, to permit him to inspect them and take copies thereof,
- (b) as respects any such documents not in their possession, to give him any information the authority have as to where the documents can be inspected ;

and on any requirement being made under this subsection the surveying authority shall comply therewith within fourteen days of the making of the requirement:

Provided that nothing in this subsection shall be construed as limiting the documentary or other evidence which may be adduced in any proceedings under this Part of this Act in support of the existence of a right of way.

- (3) If any representation or objection is duly made to the surveying authority as to anything contained in or omitted from the draft map and statement, the authority, after considering the representation or objection and affording to the person by whom it was made an opportunity of being heard by a person appointed by the authority for the purpose, shall determine what (if any) modification of the particulars contained in the draft map and statement appears to the authority to be requisite in consequence thereof, and shall serve notice of their determination on the person by whom the representation or objection was made.
- (4) Where under the last foregoing subsection the surveying authority determine to modify the particulars contained in the draft map and statement by the deletion of a way shown as a public path, or as a road used as a public path, or by the addition of a way so that it will be so shown,—
- (a) they shall cause notice of their determination, in such form as may be prescribed by regulations made by the Minister, to be published in the London Gazette and in one or more local newspapers circulating in the area of the authority, specifying the time (not being less than twenty-eight days) within which, and the manner in which, representations or objections with respect to the determination may be made to the authority, and

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- (b) if any representation or objection is duly made to the authority under the last foregoing paragraph, the authority shall notify the effect of the representation to the person (hereinafter referred to as " the original objector ") who made the representation or objection under subsection (3) of this section and, after considering the representation or objection under the last foregoing paragraph and affording to the person by whom it was made and to the original objector an opportunity of being heard by a person appointed by the authority for the purpose, shall decide whether to maintain or revoke the determination and serve notice of their decision on the person by whom the representation or objection under the last foregoing paragraph was made and on the original objector.
- (5) Any person aggrieved—
- (a) by a determination of the surveying authority under subsection (3) of this section not to give effect to a representation or objection as to anything omitted from the draft map and statement (other than a limitation or condition to which a right of way is alleged to be subject), or
  - (b) by a decision of the surveying authority under the last foregoing subsection to maintain a determination to modify the particulars contained in the draft map and statement by the deletion of a way shown as a public path or as a road used as a public path, or
  - (c) by a decision of the surveying authority under the last foregoing subsection to revoke a determination to modify the said particulars by the addition of a way so that it will be so shown,
- may, at any time within twenty-eight days after the service upon him of notice of the determination or decision, serve notice of appeal against that determination or decision on the Minister and on the surveying authority.
- (6) Where notice of appeal is duly served under the last foregoing subsection the Minister, after giving to the appellant and to the surveying authority an opportunity of being heard by a person appointed by him for the purpose, shall either dismiss the appeal or direct the authority, in preparing the provisional map and statement in accordance with the provisions of the next following section.—
- (a) in the case of an appeal against a determination under subsection (3) of this section, to modify the particulars contained in the draft map and statement in such manner as may be specified in the direction;
  - (b) in the case of an appeal against a decision under subsection (4) of this section, to reverse the decision.
- (7) Where a notice of appeal duly served under subsection (5) of this section relates to a decision of the surveying authority under subsection (4) of this section, the authority shall serve a copy of the notice on the original objector, and the Minister shall give to the original objector an opportunity of being heard under the last foregoing subsection at the same time as the appellant.

### **30 Preparation of provisional maps and statements**

- (1) As soon as may be after the expiration of the period of twenty-eight days next following the date on which notice of the determination made or decision taken on all representations and objections made under the last foregoing section as respects a draft map and statement has been served on the persons by whom the representations or objections were made, or, if no such representations or objections have been duly

made, then as soon as may be after the time for making such representations or objections has expired, the surveying authority shall prepare a provisional map and statement, and shall cause notice of the preparation thereof, and of places where copies thereof may be inspected at all reasonable hours, to be published in the London Gazette and in one or more local newspapers circulating in the area of the authority.

- (2) If, apart from this subsection, the period mentioned in the last foregoing subsection would expire before the determination of an appeal of which notice has been duly served under the last foregoing section, the said period shall be extended until the appeal is determined.
- (3) The particulars to be contained in a provisional map and statement shall be those contained in the draft map and statement, subject to such modifications thereof (if any) as may be specified in any direction given by the Minister under paragraph (a) of subsection (6) of the last foregoing section or as may appear to the surveying authority to be requisite having regard to their determination of any representation or objection made under that section, being a determination as to which the Minister has not given any such direction as aforesaid.
- (4) Every provisional statement prepared under this section shall include a note of the relevant date specified in the corresponding draft statement.

### **31 Determination by quarter sessions of disputes as to provisional maps and statements**

- (1) At any time within twenty-eight days after the publication of a notice under subsection (1) of the last foregoing section, the owner, lessee or occupier of any land shown on the map to which the notice relates, being land on which the map shows a public path, or a road used as a public path, may apply to quarter sessions for a declaration—
  - (a) that at the relevant date mentioned in the provisional statement there was no public right of way over the land ;
  - (b) that the rights conferred on the public at that date by the public right of way over the land were such rights as may be specified in the application, and not such rights as are indicated in the provisional map and statement;
  - (c) that the position or width of that part of the land over which the public right of way subsisted at the said date was as specified in the application, and not as indicated in the provisional map and statement; or
  - (d) that the public right of way over the land at the said date was not unconditional but was subject to limitations or conditions specified in the application, or, if the said right is indicated in the provisional statement as being subject to limitations or conditions, that the said right was subject to other limitations or conditions specified in the application either in addition to or in substitution for those indicated in the provisional statement.
- (2) Provision may be made by or under regulations made by the Secretary of State—
  - (a) for prescribing the court of quarter sessions to which applications under this section are to be made or for requiring such applications to be made to a committee, being either an existing committee or a committee specially constituted for the purpose as may be prescribed by the regulations, of such court of quarter sessions as may be so prescribed ;

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- (b) for the form and manner in which such applications are to be made, and the persons who are to be entitled to be parties to the hearing of any such application;
  - (c) as to the publication or service of notice of proposals to make such applications;
  - (d) for the awarding of costs in any proceedings under this section.
- (3) If on the hearing of an application under subsection (1) of this section, being an application for a declaration under paragraph (a), (b) or (c) of that subsection, it is not proved to the satisfaction of the court or committee—
- (a) in the case of an application under the said paragraph (a), that there was at the relevant date a public right of way over the land,
  - (b) in the case of an application under the said paragraph (b), that the rights conferred on the public by the public right of way over the land at the said date were rights other than those specified in the application, or
  - (c) in the case of an application under the said paragraph (c), that the position or width of the part of the land therein mentioned was other than that specified in the application,

the court or committee shall make the declaration sought by the applicant.

- (4) Where the court or committee make a declaration in the case of an application under the said paragraph (a) and it is proved to their satisfaction—
- (a) that there was at the relevant date a right of way to which this Part of this Act applies over land other than that to which the application relates, and
  - (b) that the said right is the right of way which the surveying authority had in view when they showed on the map the disputed public path or road used as a public path,

the court or committee may, if satisfied that every owner, lessee and occupier of any of the land mentioned in paragraph (a) of this subsection has had an opportunity of appearing before them, make a further declaration that a public right of way as specified in the declaration subsisted over that land at that date.

- (5) Where, in the case of an application under paragraph (b) or paragraph (c) of subsection (1) of this section, the court or committee do not make the declaration sought by the applicant, but the true nature of the rights conferred on the public by the public right of way in question or, as the case may be, the true position or width of the part of the land over which the public right of way subsisted at the relevant date (being different both from that specified in the application and from that indicated in the provisional map and statement) is proved to the satisfaction of the court or committee, the court or committee may make a declaration accordingly:

Provided that the court or committee shall not make a declaration under this subsection unless they are satisfied that every owner, lessee and occupier of any land which would be affected by the declaration has had an opportunity of appearing before them.

- (6) A declaration under paragraph (d) of subsection (1) of this section shall not be made unless the matters to be stated in the declaration have been proved to the satisfaction of the court or committee hearing the application.
- (7) Section twenty of the Criminal Justice Act, 1925, (which provides for appeals to the High Court by way of case stated on a point of law) shall with the necessary modifications apply in relation to applications under this section.

- (8) Subject to the last foregoing subsection and to the next following section, a declaration made under this section shall be conclusive evidence of the matters stated in the declaration.

### **32 Preparation, publication and effect of definitive maps and statements**

- (1) As soon as may be after the determination of all applications made under the last foregoing section as respects any map and statement, or if no such applications have been duly made then as soon as may be after the time for making such applications has expired, the surveying authority shall prepare a definitive map and statement, and shall cause notice of the preparation thereof, and of places where copies thereof may be inspected at all reasonable hours, to be published in the London Gazette and in one or more local newspapers circulating in the area of the authority.
- (2) The particulars to be contained in a definitive map and statement shall be those contained in the provisional map and statement, subject to such modifications thereof (if any) as may be requisite for giving effect to any declaration made under the last foregoing section ; and every definitive statement shall include a note of the relevant date specified in the corresponding provisional statement.
- (3) The authority by whom a definitive map and statement are prepared shall furnish to the Minister such number of copies thereof as he may require.
- (4) A definitive map and statement prepared under subsection (1) of this section shall be conclusive as to the particulars contained therein in accordance with the foregoing provisions of this section to the following extent, that is to say—
- (a) where the map shows a footpath, the map shall be conclusive evidence that there, was at the relevant date specified in the statement a footpath as shown on the map;
  - (b) where the map shows a bridleway, or a road used as a public path, the map shall be conclusive evidence that there was at the said date a highway as shown on the map, and that the public had thereover at that date a right of way on foot and a right of way on horseback or leading a horse, so however that this paragraph shall be without prejudice to any question whether the public had at that date any right of way other than the rights aforesaid; and
  - (c) where by virtue of the foregoing paragraphs of this subsection the map is conclusive evidence, as at any date, as to a public path, or road used as a public path, shown thereon, any particulars contained in the statement as to the position or width thereof shall be conclusive evidence as to the position or width thereof at the relevant date, and any particulars so contained as to limitations or conditions affecting the public right of way shall be conclusive evidence that at the said date the said right was subject to those limitations or conditions, but without prejudice to any question whether the right was subject to any other limitations or conditions at that date.
- (5) A document purporting to be certified on behalf of the surveying authority to be a copy of a definitive map or statement or of any part thereof shall be receivable in evidence and shall be deemed, unless the contrary is shown, to be such a copy.
- (6) The provisions in that behalf of Part III of the First Schedule to this Act shall have effect as to the validity of definitive maps and statements prepared under subsection (1) of this section.

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### 33 Periodical revision of maps and statements

- (1) The authority by whom a definitive map and statement have been prepared under the last foregoing section shall from time to time review the particulars contained therein having regard to events which have occurred at any time between the relevant date specified in the definitive statement and such date as may be determined by the authority for the purposes of the review (in this and the next following section referred to as "the date of review"):

Provided that in the case of a map and statement which have previously been reviewed under this subsection, the foregoing provisions of this subsection shall have effect with the substitution, for the reference to the relevant date specified in the statement, of a reference to the last preceding date of review.

- (2) The events so occurring as aforesaid to which an authority shall have regard in carrying out a review under the last foregoing subsection shall include the following events, that is to say—
- (a) the coming into operation of any enactment or instrument, or any other event, whereby a highway required to be shown, and shown, on the map has been authorised to be stopped up, diverted, widened or extended ;
  - (b) the coming into operation of any enactment or instrument, or any other event, whereby a highway shown on the map as being a highway of a particular description required to be shown thereon has ceased to be a highway of that description;
  - (c) the coming into operation of any enactment or instrument, or any other event, whereby a new right of way has been created, being a right of way to which this Part of this Act applies ;
  - (d) the expiration, in relation to a way in the area of the authority, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path; and
  - (e) the discovery by the authority of new evidence such that, if the authority were then preparing a draft map under the foregoing provisions of this Part of this Act, they would be required by those provisions to show on the map, as a highway of a particular description, a way not so shown on the definitive map, or on the revised map last prepared in accordance with the following provisions of this section, as the case may be.

- (3) A review under subsection (1) of this section shall be carried out at such time as the authority carrying out the review may consider appropriate, so however that the date of review shall not in any case be a date later than the expiration of five years after the relevant date, or the last preceding date of review, whichever is the later:

Provided that nothing in this subsection shall affect the validity of any review carried out under the said subsection (1) or of any document prepared or thing done in consequence of such a review.

- (4) Subject to the following provisions of this section, on completing a review under subsection (1) of this section the authority shall prepare a revised map and statement, consisting of the definitive map and statement, or of the revised map and statement last prepared under this section, as the case may be, subject to such modifications (if any) of the particulars contained therein as may appear to the authority to be requisite having regard to the review, and shall include in the revised statement a note of the date of review.



- (5) If after carrying out a review under subsection (1) of this section it appears to the authority as respects the whole or any part of their area that a revised map and statement prepared in accordance with the last foregoing subsection would not differ from the definitive or last revised map and statement, the authority shall cause notice of that fact, specifying the date of review and how much of their area is affected by the notice, to be published in the London Gazette and in one or more local news papers circulating in the area of the authority, and shall not be required to prepare a revised map and statement in consequence of that review in respect of so much of their area as is specified in the notice:

Provided that if within such time (not being less than twenty-eight days) as may be specified in the notice any representation is made to the authority that as respects the whole or part of so much of their area as is specified in the notice a revised map and statement prepared as aforesaid would differ from the definitive or last revised map and statement—

- (a) the authority, after considering the representation and affording to the person by whom it was made an opportunity of being heard by a person appointed by the authority for the purpose, shall determine whether the representation is well founded and shall serve notice of their determination on the person by whom the representation was made;
- (b) any person aggrieved by a determination of the authority under the last foregoing paragraph may, at any time within fourteen days after the service upon him of the notice of determination, serve notice of appeal against that determination on the Minister and on the authority;
- (c) where notice of appeal is duly served under the last foregoing paragraph, the Minister, after giving to the appellant and to the authority an opportunity of being heard by a person appointed by him for the purpose, shall either dismiss the appeal or direct that effect shall be given to the representation ;
- (d) if the authority determine that a representation is well founded or the Minister directs that a representation shall have effect, the authority shall be required to prepare a revised map and statement in consequence of the review, so however that where the representation relates to part only of their area they shall not by virtue of that representation be required so to prepare a revised map and statement for any other part of their area.

#### **34 Supplementary provisions as to revision of maps and statements**

- (1) A revised map and statement prepared in accordance with the last foregoing section shall be prepared in three successive stages, that is to say in draft, provisional and definitive form respectively ; and the provisions of sections twenty-eight to thirty-two of this Act shall apply in relation to a review under the last foregoing section and to the preparation as aforesaid of a revised map and statement as they apply in relation to a survey and to maps and statements prepared in consequence of a survey, but with the following modifications, that is to say—
- (a) for references to the survey, to the surveying authority and to the relevant date there shall be substituted references to the review, to the authority carrying out the review and to the date of review respectively ;
  - (b) for references to the draft, provisional and definitive map and statement there shall be substituted references to the revised map and statement as prepared in draft, provisional and definitive form respectively ; and

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- (c) the reference in subsection (1) of section thirty-one of this Act to land on which the map shows a public path, or a road used as a public path, shall be construed as relating only to land on which the path or road was not shown, or was differently shown, on the last preceding revised map prepared in definitive form which included that land, or, if there has been no such map, on the definitive map.
- (2) An authority carrying out a review under the last foregoing section shall so determine the date of review as to be not earlier than six months before the date on which notice of the preparation of the revised map and statement in draft form is published in accordance with the provisions of subsection (1) of section twenty-nine of this Act as applied by the last foregoing subsection.
- (3) Where in accordance with subsection (5) of section twenty-seven of this Act two or more definitive maps and statements relating to different parts of the area of an authority have been prepared at different times, the authority shall at one and the same time review the particulars contained in each of those maps and statements; and accordingly the provisions of the last foregoing section shall apply as if the relevant date for the purposes of each of those maps and statements were the earliest of the relevant dates specified therein or such later date as, on the application of the authority, the Minister may in any particular case determine.

### **35 Application of ss. 27 to 34 to particular areas**

- (1) Subject to the provisions of this section, the foregoing provisions of this Part of this Act (in this and the next following section referred to as " the survey provisions ") shall not apply to the administrative county of London.
- (2) The London County Council or the council of a county borough may by resolution adopt the survey provisions as respects any part of the said county or of the county borough, as the case may be, specified in the resolution, and those provisions shall thereupon apply accordingly.
- (3) If it appears to the Minister, as respects any part of the administrative county of London or of a county borough, that it is expedient that the survey provisions should apply thereto, and the London County Council or the council of the county borough, as the case may be, have not passed a resolution adopting those provisions as respects that part, the Minister may, after consultation with the council in question, make an order directing that those provisions shall apply to that part of the said county or county borough, as the case may be.
- (4) The council of a county, other than the administrative county of London, may by resolution exclude from the operation of the survey provisions any part of the county which appears to the council to be so fully developed that it is inexpedient that those provisions should apply thereto:

Provided that a resolution under this subsection shall not have effect unless approved by the Minister.

- (5) Where by virtue of a resolution under subsection (2) of this section, or of an order under subsection (3) thereof, the survey provisions apply to any part of the administrative county of London or of a county borough, those provisions shall have effect in relation thereto—
  - (a) in the case of a part of the administrative county of London, as if that part were a separate county and the London County Council were the council thereof,

- and as if, for references in those provisions to a county district, there were substituted references to a metropolitan borough;
- (b) in the case of a part of a county borough, as if that part were a county and the county borough council were the council thereof;
  - (c) in either case, as if, for references in section twenty seven of this Act to the date of the commencement of this Act, there were substituted references to the date on which the resolution or order in question comes into operation;
  - (d) in either case, subject to the modification that subsection (5) of section thirty-three of this Act shall not apply as respects part only of the area to which the order or resolution relates.
- (6) The making or revocation of a resolution or order under this-section, or the happening of any other event whereby land becomes or ceases to be comprised in an area to which the survey provisions apply, shall not, as respects any map or statement prepared before the event happened, affect the application in relation to the map or statement of subsection (4) of section thirty-two of this Act or that subsection as applied by subsection (1) of the last foregoing section.

### **36 Exercise of functions as to surveys, etc., by joint planning boards**

- (1) Where under the Act of 1947 a joint planning board is for the time being constituted for a united district, then, if the council of every county wholly or partly comprised in that district consents, the powers and duties under the survey provisions of each of those councils as respects any area comprised in the united district may be exercised and performed by the board; and references in this Part of this Act to the surveying authority shall be construed accordingly.
- (2) Subsection (1) of section twenty-eight of this Act shall have effect in relation to a survey carried out by a joint planning board as if the reference therein to the councils of county districts and parishes included a reference to the council of every county wholly or partly comprised in the area of the board.
- (3) Where by virtue of a resolution passed or order made under the last foregoing section the survey provisions apply to part of a county borough, being a part wholly or partly comprised in a united district for which a joint planning board is constituted, references in the two last foregoing subsections to a county shall be construed as including references to that county borough.
- (4) If, at the date when by virtue of such a resolution or order as aforesaid the survey provisions become applicable to part of a county borough, any functions under those provisions are being exercised by a joint planning board for a united district which includes that part, and the county borough council does not consent to the exercise of those functions by the joint planning board as respects that part, the foregoing provisions of this section shall have effect as if that part were not comprised in the united district.

### **37 Power of Minister to expedite preparation of maps and statements**

- (1) Where it appears to the Minister that circumstances exist such as are mentioned in the next following subsection and that by reason of those circumstances the preparation of a provisional map and statement under section thirty of this Act, or the preparation of a definitive map and statement under section thirty-two thereof, has been or is likely to be unduly delayed, the Minister, after consultation with the surveying authority, may

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direct the authority to prepare the provisional or definitive map and statement, as the case may be, within such time (not being less than three months from the date of the direction) as may be specified in the direction.

- (2) The circumstances referred to in the last foregoing subsection are the following circumstances, that is to say—
- (a) in the case of a provisional map and statement, that the matters for the time being outstanding are so numerous, or that any such matters are of such a character, as to prevent the completion within a reasonable time of the action required to be taken under section twenty-nine of this Act, and
  - (b) in the case of a definitive map and statement, that by reason of the congestion of business at quarter sessions, or at any committee of quarter sessions to which applications under section thirty-one of this Act are referred, or by reason of the time taken or likely to be taken to dispose of any appeal under subsection (7) of the said section thirty-one, the determination of all applications under the said section thirty-one which, apart from this section, would have to be determined before the definitive map and statement can be prepared is not likely to be completed within a reasonable time.
- (3) Where the Minister gives a direction under subsection (1) of this section as respects the preparation of a provisional map and statement, subsection (3) of section thirty of this Act shall have effect in relation to the preparation thereof with the following modifications, that is to say—
- (a) the direction may require the surveying authority to disregard representations or objections made under subsection (3) of section twenty-nine of this Act as respects any matter, or matters of any class, specified in the direction, being a matter or matters outstanding at the date of the direction ; and
  - (b) subject to the provisions of the last foregoing paragraph, the surveying authority shall give effect to any representations or objections made with respect to matters outstanding at the date of the direction, being representations or objections made under the said subsection (3) as to anything omitted from the draft map and statement (other than a limitation or condition to which a right of way is alleged to be subject), and shall disregard all other representations or objections made with respect to matters outstanding at that date.
- (4) Where the Minister gives a direction under subsection (1) of this section as respects the preparation of a definitive map and statement, subsection (2) of section thirty-two of this Act shall have effect in relation to the preparation thereof subject to the following modifications, that is to say—
- (a) any way in respect of which an application under paragraph (a) or paragraph (c) of subsection (1) of section thirty-one of this Act has been made but not finally determined at the date of the direction shall be omitted from the definitive map and statement;
  - (b) any way in respect of which an application under paragraph (6) of the said subsection (1) has been made but not finally determined at the said date shall be shown on the definitive map as if the rights conferred on the public by the public right of way thereover were the rights specified in the application, and not the rights indicated in the provisional map and statement; and
  - (c) in the case of any way in respect of which an application under paragraph (d) of the said subsection (1) has been made but not finally determined at the said date, the definitive statement shall include a note of the limitations or

conditions specified in the application and of the fact that the application has been made and has not been finally determined ;

and subsection (2) of section thirty-three of this Act shall have effect, in relation to any review of the particulars contained in the definitive map and statement, as if the events therein mentioned included the final determination of any such application as is mentioned in paragraphs (a) to (c) of this subsection.

- (5) The surveying authority shall furnish the Minister with such information, and produce to him for inspection such documents, as he may require for the purposes of this section.
- (6) References in this section to matters outstanding at any time shall be construed as references to matters as to which representations or objections have been made under section twenty-nine of this Act and have not been finally determined before that time.

### **38 Supplementary provisions as to maps and statements**

- (1) Regulations made by the Minister may prescribe the scale on which maps are to be prepared under any of the foregoing provisions of this Part of this Act, and the method of showing or recording thereon, or in any statement required by those provisions to be annexed thereto, anything required by those provisions to be so shown or recorded.
- (2) The places at which copies of a draft, provisional or definitive map and statement, or of a revised map and statement prepared in draft, provisional or definitive form, are to be available for inspection in accordance with the provisions of this Part of this Act in that behalf shall include one or more places in each county district comprised in the area to which the map and statement relate and, so far as appears practicable to the surveying authority or the authority carrying out the review, as the case may be, a place in each parish so comprised:

Provided that the authority shall be deemed to comply with the requirement to have a copy available for inspection in a county district or parish if they have available for inspection there a copy of so much of the map and statement as relates to the county district or parish.

- (3) Notwithstanding anything in subsection (1) of section thirty-two of this Act or in the last foregoing subsection, an authority shall not be required to keep available for inspection more than one copy of any definitive map and statement, or revised map and statement prepared in definitive form, if as respects the land to which that map and statement relate a subsequent revised map and statement so prepared have come into operation; and the said one copy may be kept at such place in the area of the authority as they may determine.

#### *Creation of new public rights of way*

### **39 Creation of rights of way by agreement**

- (1) The council of a county borough or county district shall have power to enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a footpath or bridleway over land in the county borough or county district, as the case may be:

Provided that the powers conferred by this subsection shall not be exercisable—

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- (a) by the council of a rural district except with the consent of the county council and, if the county council is not the local planning authority, the consent of that authority;
  - (b) by the council of any other county district except with the consent of the local planning authority; and
  - (c) by the council of a county borough, not being the local planning authority, except with the consent of that authority.
- (2) An agreement made under the last foregoing subsection (hereinafter referred to as a "public path agreement") shall be on such terms as to payment or otherwise as may be specified in the agreement, and may, if it is so agreed, provide for the dedication of the footpath or bridleway subject to limitations or conditions affecting the public right of way thereover.
- (3) Where a public path agreement has been made it shall be the duty of the council to take all necessary steps for securing that the footpath or bridleway is dedicated in accordance therewith.
- (4) References in this section to the dedication of a footpath or bridleway shall be construed as including references to the widening or extension of a footpath or bridleway.

#### **40 Compulsory powers for creation of public rights of way**

- (1) Where it appears to the council of a county borough or county district that there is need for a public right of way on foot, or on foot and on horseback, over land in their area and they are satisfied that, having regard to—
- (a) the extent to which the right of way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and
  - (b) the effect which the creation of the right of way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation hereinafter contained,
- it is expedient that the right of way should be created, the council may by order (hereinafter referred to as a "public path order") made by them and submitted to and confirmed by the Minister create a public right of way over the land.
- (2) A right of way created by a public path order may be either a right of way on foot only, or a right of way on foot and on horseback, as may be specified in the order, and may be either unconditional or subject to such limitations or conditions as may be so specified.
- (3) Subject to the provisions of the next following section, the powers conferred by this section shall not be exercisable—
- (a) by the council of a rural district except with the consent of the county council and, if the county council is not the local planning authority, the consent of that authority;
  - (b) by the council of any other county district, except with the consent of the local planning authority ; and
  - (c) by the council of a county borough, not being the local planning authority, except with the consent of that authority.

- (4) A public path order shall be in such form as may be prescribed by regulations made by the Minister, and shall contain a map, on such scale as may be so prescribed, defining the land over which a public right of way is thereby created.
- (5) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of public path orders.
- (6) References in this section to the creation of a public right of way shall be construed as including references to the widening or extension of the area over which there is an existing public right of way ; and references therein to a right of way on horseback shall be construed as including references to a right of leading a horse along the highway.

#### **41 Exercise by other authorities of powers under ss. 39 and 40**

- (1) The Minister, on the application of the council of a county, may direct, either generally or as respects the creation of a particular right of way, that the powers conferred by the two last foregoing sections or either of them on the council of a county district specified in the direction, being a district in the county in question, shall be exercisable by the county council and shall not be exercisable by the council of the county district:

Provided that, in relation to the creation of rights of way in a National Park, this subsection shall have effect as if—

- (a) references to the council of a county included reference to a local planning authority whose area consists of or includes any part of the Park, and
  - (b) references to a county district in the county included references to a county borough or county district any part of which is comprised in the area of such a local planning authority.
- (2) A county council exercising a power by virtue of a direction under the last foregoing subsection shall consult the local planning authority, where that authority is a joint board, but shall not be required to obtain the consent of the board to the exercise of the power.
  - (3) Where it appears to the Minister in any particular case that there is need for a public right of way as mentioned in subsection (1) of the last foregoing section, and the Minister is satisfied as mentioned in that subsection, the Minister, after consultation with the appropriate authority, may direct the authority to make and submit to him a public path order creating the right of way or may himself make the order; and where the Minister gives a direction under this subsection, the provisions of subsection (3) of the last foregoing section shall not apply.
  - (4) In the last foregoing subsection the expression " the appropriate authority," in relation to the making of a public path order, means the authority upon whom power to make the order (whether the power is exercisable with the consent of any other authority or not) is conferred by the last foregoing section or by that section as modified by a direction given under subsection (1) of this section.

#### *Diversion and Closure of Public Paths*

#### **42 Diversion of public paths**

- (1) Where an owner, lessee or occupier of land crossed by a public path satisfies the council of the county borough or county district in which the land is situated that for

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securing the efficient use of the land or of other land held therewith or providing a shorter or more commodious path it is expedient that the line of the path across his land, or part of that line, should be diverted (whether on to other land of his or on to land of another owner, lessee or occupier), the council may by order (hereinafter referred to as a "diversion order") made by them and submitted to and confirmed by the Minister—

- (a) create, as from such date as may be specified in the order, any such new public right of way as appears to the council requisite for effecting the diversion, and
  - (b) extinguish, as from such date as may be so specified in accordance with the provisions of the next following subsection, the public right of way over so much of the path as appears to the council requisite as aforesaid.
- (2) Where it appears to the council that any work requires to be done to provide necessary facilities for the convenient exercise of any such new public right of way as is mentioned in paragraph (a) of the last foregoing subsection, the date specified under paragraph (b) of that subsection shall be later than the date specified under paragraph (a) thereof by such time as appears to the council requisite for enabling the work to be carried out.
- (3) A public right of way created by a diversion order shall be either a right of way on foot only, or a right of way on foot and on horseback (including a right of leading a horse along the highway), as may be specified in the order in accordance with the nature of the right of way extinguished by the order, and may either be unconditional or may (whether or not the last-mentioned right was subject to limitations or conditions of any description) be subject to such limitations or conditions as may be so specified.
- (4) Before determining to make a diversion order on the representation of any owner, lessee or occupier, the council may require him to enter into an agreement with the council to defray, or to make such contribution as may be specified in the agreement towards—
  - (a) any compensation which may become payable under the following provisions of this Part of this Act in consequence of the coming into operation of the order, or
  - (b) where the council are the highway authority as respects the path in question, any expenses which they may incur in bringing the new site of the path into a fit condition for use by the public, or
  - (c) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority in consequence of the order under the provisions of subsection (4) of section forty-eight of this Act.
- (5) The Minister shall not confirm a diversion order unless he is satisfied that the diversion to be effected thereby is expedient as mentioned in subsection (1) of this section, and further that the path will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—
  - (a) the diversion would have on public enjoyment of the path as a whole.
  - (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and
  - (c) any new public right of way created by the order would have as respects the land over which the right is so created and of any land held therewith,



so however that for the purposes of paragraphs (b) and (c) of this subsection the Minister shall take into account the provisions as to compensation hereinafter contained.

- (6) A diversion order shall be in such form as may be prescribed by regulations made by the Minister, and shall contain a map, on such scale as may be so prescribed, showing the existing site of so much of the line of the path as is to be diverted by the order and the new site to which it is to be diverted, and indicating whether a new right of way is created by the order over the whole of the new site or whether some part thereof is already comprised in a public path and, in the latter case, defining the part thereof so comprised.
- (7) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of diversion orders.
- (8) References in this section and in the said First Schedule to the diversion of the line of a path shall be construed as including, in the case of a path which terminates at a point on any public path or other highway, references to modifying the line of the path so as to terminate at another point on the same highway or on a highway connected therewith, being a point substantially as convenient to the public.

#### **43 Closure of public paths**

- (1) Where it appears to the council of a county borough or county district as respects a public path in their area that it is expedient that the path should be stopped up, otherwise than by way of a diversion order, on the grounds that the path is not needed for public use, the council may by order (hereinafter referred to as an "extinguishment order") made by them and submitted to and confirmed by the Minister extinguish the public right of way over the path.
- (2) The Minister shall not confirm an extinguishment order unless he is satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to him that the path would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path, account being taken of the provisions as to compensation hereinafter contained. 40
- (3) An extinguishment order shall be in such form as may be prescribed by regulations made by the Minister, and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.
- (4) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of extinguishment orders.
- (5) Where in accordance with regulations made under paragraph 4 of the said First Schedule proceedings preliminary to the confirmation of an extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path order or a diversion order, then in considering under subsection (1) of this section whether the path to which the extinguishment order relates is needed for public use, or under subsection (2) of this section to what extent (if any) that path would apart from the order be likely to be used by the public, the council or the Minister, as the case may be, may have regard to the extent to which the public path order or diversion order would provide an alternative path.

- (6) References in this section to a public path shall be construed as including references to a part of such a path.
- (7) For the purposes of subsections (1) and (2) of this section, any temporary circumstances preventing or diminishing the use of a path by the public shall be disregarded.

#### **44 Exercise of powers of making diversion and extinguishment orders**

- (1) Subject to the following provisions of this section, the powers of making diversion orders and extinguishment orders conferred by the two last foregoing sections shall not be exercisable—
  - (a) by the council of a rural district except with the consent of the county council and, if the county council is not the local planning authority, the consent of that authority;
  - (b) by the council of any other county district, except with the consent of the local planning authority;
  - (c) by the council of a county borough, not being the local planning authority, except with the consent of that authority; and
  - (d) by any local authority as respects a path, or part of a path, in a National Park, except after consultation with the Commission.

- (2) Where a public path lies partly within and partly outside a county borough or county district, the powers conferred by the two last foregoing sections on the council of the county borough or county district, as the case may be, shall extend to the whole of the path as if the path lay wholly within their area :

Provided that, in relation to so much of the path as lies outside the area of the council, the said powers shall not be exercisable—

- (a) as respects any part of the path in a rural district, except with the consent of the council of that district and of the county council, and, if that county council is not the local planning authority, the consent of that authority;
  - (b) as respects any part of the path in any other county district, except with the consent of the council of that district and the consent of the local planning authority; and
  - (c) as respects any part of the path in a county borough, except with the consent of the council of the county borough and, if that council is not the local planning authority, the consent of that authority.
- (3) The Minister, on the application of the council of a county, may direct, either generally or as respects the diversion or stopping up of a particular public path or part thereof, that the powers conferred by the two last foregoing sections or either of them (including those powers as extended by the last foregoing subsection) on the council of a county district specified in the direction, being a district in the county in question, shall be exercisable by the county council and shall not be exercisable by the council of the county district.
  - (4) A county council exercising a power by virtue of a direction under the last foregoing subsection shall consult the local planning authority, where that authority is a joint board, but shall not be required to obtain the consent of the board to the exercise of the power:

Provided that a county council shall not exercise any such power as aforesaid as respects so much of a public path as lies in another county except with the consent of the council of that county and, if the last mentioned council is not the local planning authority, the consent of that authority.

- (5) Where an owner, lessee or occupier of land crossed by a public path satisfies the Minister that a diversion thereof is expedient as mentioned in subsection (1) of the last but one foregoing section, or where it appears to the Minister as respects a public path that it is expedient as mentioned in subsection (1) of the last foregoing section that the path or part thereof should be stopped up, then if—
- (a) the appropriate authority have not made and submitted to him a diversion order or an extinguishment order, as the case may be, and
  - (b) the Minister is satisfied that, if such an order were made and submitted to him, he would have power to confirm the order in accordance with the provisions in that behalf of the two last foregoing sections,

the Minister, after consultation with the said authority, may direct the authority to make and submit to him a diversion order or an extinguishment order, as the case may be, or may himself make the order; and where the Minister gives a direction under this subsection, the provisions of subsection (1) of this section, of that subsection and of the proviso to subsection (2) of this section, or the proviso to the last foregoing subsection, as the case may be, shall not apply.

- (6) A council proposing to make a diversion order such that the authority who will be the highway authority in respect of any part of the path after the diversion will be a different body from the existing highway authority in respect thereof shall, before making the order, notify the first-mentioned authority.
- (7) In subsection (5) of this section the expression " the appropriate authority," in relation to the making of a diversion order or an extinguishment order, means the authority upon whom power to make the order (whether the power is exercisable with the consent of any other authority or not) is conferred by or under the relevant provisions of the two last foregoing sections and of subsections (2) and (3) of this section.

#### **45 Supplementary provisions as to diversion and extinguishment orders**

- (1) The three last foregoing sections shall apply in relation to public rights of way created before as well as after the commencement of this Act.
- (2) The provisions of the three last foregoing sections shall be without prejudice to the provisions of any other enactment under which highways may be stopped up or diverted or public rights of way may be extinguished.
- (3) A diversion order or extinguishment order affecting in any way the area of more than one authority may contain provisions requiring one of the authorities to defray, or contribute towards, expenditure incurred in consequence of the order by another of the authorities; and a diversion order diverting any part of the line of a path from a site in the area of one highway authority to a site in the area of another may provide that the coming into operation of the order shall not discharge any liability to repair of the first mentioned authority or impose any such liability on the last mentioned authority.
- (4) A diversion order or extinguishment order shall not be made so as to extinguish a right of way over land on, over or under which there is any apparatus belonging to statutory undertakers unless the undertakers consent to the making of the order, and any such

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consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably refused, and any question arising under this subsection whether any requirement or refusal is reasonable shall be determined by the appropriate Minister.

#### *Compensation Provisions*

### **46 Compensation for creation, diversion and closure of public paths**

- (1) Subject to the following provisions of this section, if, on a claim made in accordance with this section, it is shown that the value of an interest of any person in land is depreciated, or that any person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a public path order, a diversion order or an extinguishment order, the authority by whom the order was made shall pay to that person compensation equal to the amount of the depreciation or damage.
- (2) A claim for compensation under this section shall be made within such time and in such manner as may be prescribed by regulations made by the Minister, and shall be made to the authority by whom the order was made.
- (3) For the purposes of the application of this section to an order made by the Minister under subsection (3) of section forty-one of this Act or subsection (5) of the last but one foregoing section, references in this section to the authority by whom the order was made shall be construed as references to the authority who, immediately before the making of the order, were, for the purposes of the said subsection (3) or (5), the appropriate authority in relation to the making of an order for the creation, diversion or stopping up of the public path or part of a public path to which the order relates.
- (4) Nothing in this section shall confer on any person, in respect of a right of way created by a public path order or diversion order, a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, not being in either case land over which the right of way was created or land held therewith, unless the creation of the right of way would have been actionable at his suit if it had been effected otherwise than in the exercise of statutory powers.

#### *Liability for Repair of Public Paths*

### **47 Liability for repair of public paths**

- (1) Subject to the following provisions of this Part of this Act, the rule of law whereby a highway is repairable by the inhabitants at large shall apply to all public paths, whether coming into existence before or after the commencement of this Act, notwithstanding anything contained in any enactment passed or made before the commencement of this Act and notwithstanding any liability to repair of any other person; and accordingly the enactments relating to highways so repairable shall have effect in relation to all such public paths.
- (2) Without prejudice to the generality of the last foregoing subsection—
  - (a) no order made under section twenty-one of the Highway Act, 1864, or section twenty-four of the Highways and Locomotives (Amendment) Act,

1878 (which sections provide for the making of orders for discontinuing the maintenance of unnecessary highways) shall have effect after the commencement of this Act as respects any public path; and

- (b) after the commencement of this Act no proceedings shall be instituted under either of the said sections for an order relating to a public path.
- (3) Where apart from this section any person would be under an obligation to repair a public path, whether under any enactment, or by reason of tenure, enclosure or prescription—
- (a) the operation of subsection (1) of this section shall not release him from the obligation, but
  - (b) if in the performance of their duty under the said subsection (1) the highway authority repair the public path, they may recover from the said person the necessary expenses of so doing, and
  - (c) where the highway authority exercise a right of recovery under the last foregoing paragraph, then, if the said person would have been entitled to recover from some other person the whole or part of the expenses of repairing the path if he had repaired it himself, he shall be entitled to recover from that other person the whole or the like part, as the case may be, of the expenses recovered from him by the highway authority:

Provided that the right of recovery conferred by paragraph (b) of this subsection shall not be exercisable unless, before repairing the path, the highway authority have given notice to the said person that the path is in need of repair, specifying a reasonable time within which he may repair the path, and the said person has failed to repair the path within that time.

#### **48 Making up of public paths**

- (1) On the dedication of a public path in pursuance of a public path agreement, or on the coming into operation of a public path order, being—
- (a) an agreement or order made by a local authority who are not the highway authority as respects the path in question, or
  - (b) an order made by the Minister under subsection (3) of section forty-one of this Act where, in relation to the making of a public path order creating the right of way in question, the appropriate authority for the purposes of the said subsection (3) are such a local authority,

the highway authority shall survey the path and shall certify what work (if any) appears to them to be necessary to bring the path into a fit condition for use by the public as a footpath or bridleway, as the case may be, and shall serve a copy of the certificate on the local authority mentioned in paragraph (a) or (b) of this subsection, as the case may be.

- (2) An authority on whom a copy of a certificate is served under the last foregoing subsection may apply to the Minister on the ground that the work specified in the certificate, or any part thereof, is unnecessary or unduly expensive or is undesirable in the interests of amenity; and where such an application is made the Minister shall either cause a local inquiry to be held or shall give to the applicants and to the highway authority an opportunity of being heard by a person appointed by him for the purpose and, after considering the report of the person appointed to hold the inquiry or the person so appointed as aforesaid, shall make such order confirming, quashing or varying the certificate as he may think fit.

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- (3) Where the certificate of a highway authority in respect of a public path is quashed under the last foregoing subsection, the path shall not be required to be maintained in a better condition than the condition in which it was at the date of the certificate; and where under the last foregoing subsection such a certificate is varied, the path shall not be required to be maintained in a better condition than the condition in which it is immediately after the completion of the work specified in the certificate as so varied.
- (4) Subject to the provisions of subsection (2) of this section, it shall be the duty of the highway authority to carry out any work specified in a certificate under subsection (1) thereof; and where the authority have carried out the work they may recover from the authority on whom a copy of the certificate was served any expenses reasonably incurred by them in carrying out that work, including any expenses so incurred in the discharge of any liability for compensation in respect of the carrying out thereof.
- (5) Where a public path order—
- (a) is made in compliance with a direction of the Minister under subsection (3) of section forty-one of this Act and is so made by the local authority who, on the coming into operation of the order, become the highway authority as respects the path in question, or
  - (b) is made by the Minister under the said subsection (3) in a case where, in relation to the making of a public path order creating the right of way in question, the appropriate authority for the purposes of the said subsection (3) are that local authority,
- the following provisions shall have effect, that is to say—
- (i) the local authority specified in paragraph (a) or (b) of this subsection, as the case may be, shall survey the path and shall certify what work (if any) appears to them to be necessary to bring the path into a fit condition for use by the public as a footpath or bridleway, as the case may be, and shall furnish the Minister with a copy of the certificate;
  - (ii) if the Minister is not satisfied with a certificate made under the last foregoing paragraph, he shall either cause a local inquiry to be held or shall give to the local authority an opportunity of being heard by a person appointed by him for the purpose and, after considering the report of the person appointed to hold the inquiry or the person so appointed as aforesaid, shall make such order either confirming or varying the certificate as he may think fit; and
  - (iii) subject to the provisions of the last foregoing paragraph, it shall be the duty of the highway authority to carry out the work specified in a certificate made by them under paragraph (i) of this subsection.
- (6) The foregoing provisions of this section shall apply to any public path created by a diversion order with the substitution of references to such an order for references to a public path order and of references to subsection (5) of section forty-four of this Act for references to subsection (3) of section forty-one thereof.

#### **49 Acceptance of new paths created by dedication**

Section twenty-three of the Highway Act, 1835 (which provides that such highways as are therein mentioned shall not become repairable by the inhabitants at large unless certain conditions are complied with on the dedication thereof) shall apply to any public path dedicated after the commencement of this Act otherwise than in pursuance of a public path agreement.

## **50 Private street works**

Where apart from the provisions of section forty-seven of this Act a public path in existence at the passing of this Act would, for the purposes of any of the following enactments, that is to say—

- (a) section one hundred and fifty of the Public Health Act, 1875, or
- (b) the Private Street Works Act, 1892, or
- (c) the corresponding provisions of any other Act (including a local Act),

be a street, or part of a street, not being a highway repairable by the inhabitants at large, nothing in the said section shall prevent a local authority carrying out, or requiring the carrying out of, work under any of the said enactments or recovering expenses thereof.

### *Long-Distance Routes*

## **51 General provisions as to long-distance routes**

- (1) Where it appears to the Commission, as respects any part of England or Wales, that the public should be enabled to make extensive journeys on foot or on horseback along a particular route, being a route which for the whole or the greater part of its length does not pass along roads mainly used by vehicles, the Commission may prepare and submit to the Minister a report under this section.
- (2) A report under this section shall contain a map showing the route, defining those parts thereof over which there exists a public right of way, and indicating in each case the nature of that right; and the report shall set out such proposals as the Commission may think fit—
  - (a) for the maintenance or improvement of any public path or road used as a public path along which the route passes;
  - (b) for the provision and maintenance of such new public paths as may be required for enabling the public to journey along the route;
  - (c) for the provision and operation of ferries where they are needed for completing the route; and
  - (d) for the provision of accommodation, meals and refreshments along the route.
- (3) A report under this section may also include such recommendations as the Commission may think fit for the restriction of traffic on existing highways along which the route passes.
- (4) Before preparing a report under this section the Commission shall consult every joint planning board, county council, county borough council and county district council through whose area the route passes; and it shall be the duty of every such board or council to furnish to the Commission such information as the Commission may reasonably require for the purposes of the report.
- (5) A report under this section shall contain an estimate, in such form as the Minister may require, of the capital outlay likely to be incurred in carrying out any such proposals contained therein as are mentioned in subsection (2) of this section, of the annual cost of maintaining any existing public paths or roads used as public paths along which the route passes and any new public paths provided for by the proposals, and of the annual expenditure likely to be incurred by local authorities in connection with the provision and operation of ferries, and the provision of accommodation, meals and refreshments, so far as those matters are provided for by the proposals.

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

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## **52 Approval of proposals relating to a long-distance route**

- (1) On the submission to the Minister of a report under the last foregoing section, the Minister shall consider any proposals contained in the report under subsection (2) of that section and may either approve the proposals, with or without modifications, or reject the proposals:

Provided that where the Minister does not propose to approve the proposals as set out in the report he shall, before coming to a determination as to what action to take under this subsection, consult with the Commission and such other authorities and persons as he may think fit.

- (2) As soon as may be after the Minister determines under the last foregoing subsection either to approve any proposals, with or without modifications, or to reject them, he shall notify his determination to the Commission and to every joint planning board, county council, county borough council and county district council whose area is traversed by the route to which the report relates.
- (3) Proposals approved by the Minister under subsection (1) of this section, either as originally set out in the report or as modified by the Minister, are hereinafter referred to as " approved proposals relating to a long-distance route."

## **53 Ferries for purposes of long-distance routes**

- (1) Where approved proposals relating to a long-distance route include proposals for the provision and operation of a ferry, the authority who are the highway authority for either or both of the highways to be connected by the ferry—
- (a) shall have power to provide and operate the ferry and to carry out such work and do all such things as appear to them expedient for the purpose of operating the ferry;
  - (b) may with the approval of the Minister agree with any person or body of persons for the provision and operation of the ferry by him or them and for the making by the highway authority of such contributions as may be specified in the agreement:

Provided that nothing in this subsection shall—

- (i) be construed as conferring on such an authority any exclusive right to operate a ferry;
- (ii) authorise the doing of anything which apart from this subsection would be actionable by any person by virtue of his having an exclusive right to operate a ferry, unless he consents to the doing thereof;
- (iii) authorise the doing of anything on land, or as respects water over land, in which any other person has an interest, if apart from this subsection the doing thereof would be actionable at his suit by virtue of that interest and he does not consent to the doing thereof;

and before carrying out any work in the exercise of powers conferred by this subsection, being work on the bank or bed of any waterway, the highway authority shall consult with such authorities having functions relating to the waterway as the Minister may either generally or in any particular case direct.

- (2) A highway authority may acquire land compulsorily for the purpose of any of their functions under paragraph (a) of the last foregoing subsection.



- (3) The Minister, on the application of any such authority as is hereafter specified, may direct, either generally or as respects the provision and operation of a particular ferry, that all or any of the powers conferred on a highway authority by subsection (1) of this section shall be exercisable by the applicant authority and not by the highway authority.
- (4) An application under the last foregoing subsection may be made, in relation to any highway authority, by any county or county district council (not being the highway authority) whose area includes or is included in the area of the highway authority.

#### **54 Accommodation, meals and refreshments along longdistance routes**

- (1) Where approved proposals relating to a long-distance route include proposals for the provision, along any part of the route, of accommodation, meals and refreshments, any local planning authority through whose area, or in the neighbourhood of whose area, that part of the route passes shall have power to make such arrangements under this section as are requisite for giving effect to the last-mentioned proposals.
- (2) The arrangements which may be made by an authority under this section are arrangements for securing, at places in their area convenient for persons using the part of the route in question, the provision, whether by the authority or other persons, of accommodation, meals and refreshments (including intoxicating liquor):  

Provided that an authority shall not under this section provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be.
- (3) For the purposes of arrangements under this section a local planning authority may erect such buildings and carry out such work as may appear to them to be necessary or expedient.
- (4) The foregoing provisions of this section shall not authorise an authority, on land in which any other person has an interest, without his consent to do anything which apart from this section would be actionable at his suit by virtue of that interest.
- (5) A local planning authority may acquire land compulsorily for the purpose of any of their functions under this section.

#### **55 Variation of approved proposals**

- (1) Where proposals relating to a long-distance route have been approved by the Minister under section fifty-two of this Act, the Commission may from time to time prepare and submit to the Minister a report proposing any such variation of the approved proposals as the Commission may think fit.
- (2) Where, as respects any proposals approved as aforesaid, it appears to the Minister, after consultation with the Commission, expedient that the proposals should be varied in any respect and the Commission have not submitted to the Minister a report proposing that variation, the Minister may direct that the proposals shall be so varied.
- (3) Subsection (4) of section fifty-one of this Act, and subsections (1) and (2) of section fifty-two thereof, shall with the necessary modifications apply to a report or direction

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

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under this section ; and subsection (5) of the said section fifty-one shall with the necessary modifications apply to any such report.

- (4) Where the Minister approves, with or without modifications, any proposals contained in a report under subsection (1) of this section, or gives a direction under subsection (2) of this section, the proposals for the variation of which the report was made or direction given shall thereafter have effect subject to the provisions of the report or direction; and references in this Act to approved proposals relating to a long-distance route shall be construed accordingly.

*Minor Amendments of Law relating to Rights of Way*

**56 Rights of way subject to conditions for securing efficient use of agricultural land**

- (1) Where a public path crosses agricultural land or land which is being brought into use for agriculture, then if—
- (a) it is proposed in accordance with the rules of good husbandry to plough the land, and
  - (b) it is convenient, in so ploughing the land, to plough the path together with the rest of the land,

the public right of way shall be subject to the condition that the occupier shall have the right, subject to the following provisions of this section, to plough the path as well as the rest of the land.

- (2) Before ploughing a public path in the exercise of the right conferred by the last foregoing subsection the occupier shall give to the highway authority not less than seven days' notice of his intention to plough the path ; and any person who fails to comply with the provisions of this subsection shall be liable on summary conviction to a fine not exceeding two pounds.
- (3) Where a public path is ploughed in the exercise of the said right, the occupier of the land shall as soon as may be after the ploughing is completed make good the surface of the path so as to make it reasonably convenient for the exercise of the public right of way; and any person who fails to comply with the provisions of this subsection shall be liable on summary conviction to a fine not exceeding ten pounds, and to a further fine not exceeding one pound for every day after conviction on which the failure continues.
- (4) Where the owner, lessee or occupier of agricultural land, or land which is being brought into use for agriculture, represents to the highway authority that, for securing that the use, or any particular use, of the land for agriculture shall be efficiently carried on, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on a public path crossing the land, the highway authority may, subject to such conditions as they may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public, authorise the erection of the stiles, gates or other works.
- (5) If, on a representation duly made under the last foregoing subsection, the highway authority refuse to grant an authorisation thereunder, or grant such an authorisation subject to conditions, the person who made the representation may appeal to the Minister against the refusal or against the imposition of the conditions, as the case may be; and if the Minister, after giving to the appellant and to the highway authority an opportunity of being heard by a person appointed by him for the purpose and considering the report of that person, determines to allow the appeal, he shall—

- (a) if the appeal was against a refusal, authorise the erection of the stiles, gates or other works in question, subject to such conditions as he may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public ;
  - (b) if the appeal was against the imposition of conditions, direct that the authorisation granted by the highway authority shall, as may be specified in the direction, have effect either unconditionally or subject to such modified conditions as may be so specified.
- (6) Where in the case of a public path an authorisation is granted by the highway authority under subsection (4) of this section or by the Minister under the last foregoing subsection, the public right of way shall be deemed to be subject to a condition that the stiles, gates or works may be erected and maintained in accordance with the authorisation and so long as the conditions attached thereto are complied with.
- (7) It shall be the duty of a highway authority to enforce the provisions of subsections (2) and (3) of this section as respects any public path for which they are the highway authority; and no proceedings in respect of an offence under those provisions shall be brought except by the authority required by this subsection to enforce those provisions as respects the public path in question.
- (8) For the purposes of section fifty-six of the Road Traffic Act, 1930 (which empowers a highway authority to secure the removal from a highway of structures erected thereon otherwise than under or in pursuance of any enactment), any stile, gate or works erected in pursuance of an authorisation under subsection (4) or (5) of this section shall be deemed to be erected under or in pursuance of this section only if the provisions of the authorisation and any conditions attached thereto are complied with.
- (9) The foregoing provisions of this section shall apply in relation to rights of way created before as well as after the commencement of this Act.
- (10) Nothing in the provisions of this section shall prejudice any limitation or condition having effect apart from those provisions.

## **57 Penalty for displaying on footpaths notices deterring public use**

- (1) If any person places or maintains, on or near any way shown on a definitive map, or on a revised map prepared in definitive form, as a public path or road used as a public path, a notice containing any false or misleading statement likely to deter the public from using the way, he shall be liable on summary conviction to a fine not exceeding five pounds.
- (2) The court before whom a person is convicted of an offence under the last foregoing subsection may, in addition to or in substitution for the imposition of a fine, order him to remove the notice in respect of which he is convicted within such period, not being less than four days, as may be specified in the order; and if he fails' to comply with the order he shall be liable on summary conviction to a fine not exceeding two pounds for each day on which the failure continues.
- (3) It shall be the duty of a highway authority to enforce the provisions of this section as respects any public path, or road used as a public path, for which they are the highway authority; and no proceedings in respect of an offence under those provisions shall be brought except by the authority required by this subsection to enforce those provisions as respects the path or road in question.

**58 Amendment of 22 & 23 Geo. 5. c. 45, s. 1**

- (1) In section one of the Rights of Way Act, 1932 (which by subsection (1) of that section raises a presumption of dedication of a highway after twenty years' enjoyment by the public unless there is sufficient evidence of absence of intention to dedicate or unless during such period of twenty years there was no person in possession capable of dedicating, and by subsection (2) of that section raises a presumption of dedication after forty years' enjoyment unless there is sufficient evidence of absence of intention to dedicate) the words from " or unless during such period of twenty years " to the end in the said subsection (1) and the said subsection (2), shall cease to have effect.
- (2) Nothing in this section shall affect any proceedings pending at the commencement of this Act, and where in respect of any way a court of competent jurisdiction decides in any proceedings so pending, or has before the commencement of this Act decided, that the way is not a highway, this section shall not apply except as respects enjoyment of the way after the date of the decision.