
STATUTORY INSTRUMENTS

1973 No. 686

RIGHTS OF WAY

The Walkways Regulations 1973

<i>Made</i>	- - - -	<i>4th April 1973</i>
<i>Laid before Parliament</i>		<i>16th April 1973</i>
<i>Coming into Operation</i>		<i>7th May 1973</i>

The Secretary of State for the Environment (as respects England, except Monmouthshire) and the Secretary of State for Wales (as respects Wales and Monmouthshire) make these Regulations in exercise of powers conferred by section 18 of the Highways Act 1971 and of all other enabling powers, after consultation with representative organisations in accordance with subsection (8) of the said section 18:—

Commencement, citation and interpretation

1.—(1) These Regulations shall come into operation on 7th May 1973, and may be cited as the Walkways Regulations 1973.

(2) In these Regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

“building” includes a structure and a proposed building or structure;

“building owner” means in relation to an existing walkway, the person or persons (other than the highway authority) who, at the relevant time, would have been able to enter into the agreement for creating the walkway if the walkway had not previously been created, and in relation to a proposed walkway, the person or persons (other than as aforesaid) who have entered, or propose to enter, into the agreement for creating the walkway;

“direct access to the walkway”, in relation to any premises, means that access from the premises to the walkway does not involve the use of any highway which is not a walkway;

“local statutory provision” means a statutory provisions contained in a local Act or contained in an instrument of local application made or issued under any Act;

“proposed walkway” means a walkway proposed to be created, whether or not the agreement under section 18 of the Highways Act 1971 in relation thereto has been entered into;

“statutory provision” means a provision, whether of a general or special nature, contained in, or in an instrument made or issued under, an Act, and

“statutory provision affecting highways” means a statutory provision relating to highways or to things done on or in connection with highways;

“supported walkway” means such part of a walkway as is supported by a structure;

“walkway” includes a part of a walkway;

“walkway agreement” means an agreement under section 18 of the Highways Act 1971 and, when used in relation to a walkway, means the agreement under which the walkway was first created or which for the time being makes provision in relation to the walkway for such of the matters referred to in subsection (2) of the said section 18 as may be relevant.

(3) Where a provision of these Regulations—

- (a) prohibits the taking of specified action on or in relation to a walkway without the consent of the building owner, or
- (b) empowers the building owner himself to take specified action on or in relation to a walkway,

then in a case where the walkway is one which crosses or abuts on two or more premises and the action in question is action proposed to be taken on or in relation to a part of the walkway which crosses or abuts on some, but not all, of those premises, that provision shall, subject to the provisions of the walkway agreement, have effect so as to enable the consent to be given or the action to be taken, as the case may be, by the person or persons who would, under paragraph (2) of this Regulation, have been the building owner if that part of the walkway had constituted the whole of the walkway, and for this purpose the reference in that provision to the building owner, in connection with the giving of that consent or the taking of that action, shall be construed as a reference to that person or those persons.

(4) Where a walkway agreement provides that some person or persons specified in, or determined in accordance with, that agreement may in connection with the walkway to which it relates take some action, or give a consent, under a provision of these Regulations on behalf of the building owner, then for the purposes of the application of the provision in question to the taking of that action or the giving of that consent the reference in that provision to the building owner shall be construed as including a reference to the person or persons so specified or determined.

(5) Where a walkway is stopped up or the right of the public to use the walkway is otherwise determined, whether under these Regulations or under a provision of the walkway agreement or otherwise howsoever, then the provisions of these Regulations (except Regulation 7) shall cease to apply in relation thereto.

(6) Any reference in these Regulations to any enactment shall be construed as a reference to that enactment as amended by or under any subsequent enactment.

(7) The Interpretation Act 1889 shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Certain statutory provisions not to apply to walkways

2.—(1) The enactments specified in Schedule 1 to these Regulations and any local statutory provision affecting highways, being a provision similar in effect to an enactment so specified, shall not apply to a walkway or proposed walkway or to anything done on or in connection with a walkway or proposed walkway.

(2) Where any statutory provision affecting highways would operate so as to render ineffective, or to interfere with the effect of, any provision in a walkway agreement for limiting the public right of way over a walkway the subject of that agreement or for imposing conditions with respect to that right, or for reserving rights to the building owner, then, subject to paragraph (3) of this Regulation, that statutory provision shall not apply in relation to that walkway to the extent that it would so operate.

(3) Nothing in paragraph (2) of this Regulation shall affect the operation in relation to a walkway of:—

- (a) any statutory provision for regulating the conduct or activities of members of the public when on a highway or for prohibiting any particular conduct or activity of members of the public when on a highway,
- (b) any statutory provision relating to vehicles when used on a highway, in the application of such provision to any vehicle lawfully on the walkway,
- (c) any statutory provision relating to the functions of the justices or the police with respect to highways or to things done or occurring on highways,
- (d) (without prejudice to the generality of (a), (b) or (c) above) any of the enactments specified in Schedule 2 to these Regulations, to the extent there specified.

Modification of statutory provisions

3.—(1) The enactments specified in Schedule 3 to these Regulations and any local statutory provision affecting highways which is similar in effect to an enactment so specified, shall in their application to a walkway or to anything done on or in connection with a walkway be modified so that the power thereby conferred on the highway authority or the local authority to execute works, or to place or do anything, on or in relation to the walkway, or to authorise some other person to execute works, or to place or do anything, on or in relation to the walkway, shall not be exercisable by such authority without the consent of the building owner, except insofar as the walkway agreement provides for such exercise without that consent.

(2) Section 40 of the Highways Act 1959 (which relates to the power of highway authorities to adopt by agreement) shall not apply in relation to a walkway or proposed walkway except insofar as the walkway agreement so provides.

(3) If in any case a walkway becomes a highway maintainable at the public expense, section 226 of the Highways Act 1959 (which relates to the vesting of highways in the highway authority), and any local statutory provision affecting highways which is similar in effect to the said section 226, shall in their application to the walkway be modified so that the vesting of the walkway, together with the material and scrapings thereof, in the highway authority, shall have effect subject to the terms of the walkway agreement.

Rights of statutory undertakers etc

4.—(1) The rights of statutory undertakers, sewerage authorities and the Post Office to place and maintain apparatus in, under, over, along or across a highway shall, in relation to a supported walkway, be restricted as follows, that is to say—

- (a) the rights aforesaid to place apparatus in, under, over, along or across the walkway may only be exercised subject to the consent of the highway authority and the building owner, and
- (b) the rights aforesaid to maintain such apparatus may only be exercised subject to any conditions or restrictions accepted by the person placing apparatus as part of the arrangement under which the consent to place the apparatus was given,

and the statutory provisions applicable to the placing and maintenance of apparatus in exercise of such rights shall have effect subject to the provisions of this paragraph.

(2) Nothing in the foregoing provisions of this Regulation shall affect the rights of statutory undertakers, sewerage authorities or the Post Office to place and maintain apparatus in, under, over, along or across land which does not form part of a highway, or their power to acquire such rights, and the rights and power referred to in this paragraph shall apply in relation to a supported walkway as if it were not a highway.

Periodic and temporary closure of walkways

5.—(1) Where provision is made in a walkway agreement for the periodic closure of a walkway to which the agreement relates, then the walkway may be closed at the times specified in the agreement and such closure may be effected by shutting gates or other barriers on, or giving access to, the walkway, or by other appropriate means.

(2) The building owner may close a walkway temporarily where such closure is necessary by reason of work being executed, or to be executed, by him on or in connection with the walkway, or on or in connection with any building supporting or abutting on the walkway, and such closure shall be effected by erecting barriers, or taking other measures, for preventing public use of the walkway.

(3) Except in an emergency, the building owner shall not close a walkway temporarily under paragraph (2) of this Regulation until the expiration of at least 21 days from the date by which—

- (a) he has given notice of his intention to the highway authority for the walkway, to the owners and occupiers of any other premises having direct access to the walkway and to any of the following who have apparatus in, under, over, along or across the walkway, that is to say, statutory undertakers, sewerage authorities and the Post Office, and
- (b) he has begun to display a notice of such intention in a prominent position at the ends of so much of the walkway as is to be closed.

(4) Any notice displayed as is mentioned in paragraph (3) of this Regulation shall give particulars of any alternative route which may be available to the public during the continuance of the closure.

(5) Except insofar as any contrary provision is made in any arrangement under which consent was given for the placing of apparatus in, under, over, along or across a supported walkway, the periodic or temporary closure of a walkway under this Regulation shall not affect the powers of statutory undertakers, sewerage authorities or the Post Office to maintain, inspect, repair, renew or remove during the period of the closure, any apparatus of theirs which is situated in, under, over, along or across the walkway.

Stopping up of walkway by building owner

6.—(1) A walkway may be stopped up by the building owner under the provisions of this Regulation when it is necessary for him to do so in order to enable any of the following operations to be carried out—

- (a) any alteration or demolition of a building supporting, or abutting on, the walkway,
- (b) any development (as defined in the Town and Country Planning Act 1971) affecting the walkway.

(2) Before a walkway is stopped up under this Regulation, the building owner shall give notice of his intention:—

- (a) to the highway authority for the walkway,
- (b) to any of the following who have apparatus in, under, over, along or across the walkway, that is to say, statutory undertakers, sewerage authorities and the Post Office, and
- (c) to the owners and occupiers of any premises having direct access to the walkway,

and shall display a copy of that notice in a prominent position at the ends of so much of the walkway as is to be stopped up.

(3) The notice given to persons having apparatus in the walkway and to the owners and occupiers of the said premises and displayed on the walkway as aforesaid shall contain a statement that any person desiring to object to the stopping up may within a period stated in the notice (being a period of not less than 21 days from the date of the service and first display of the notice) do so in writing addressed to the highway authority and giving the grounds of the objection.

(4) If the highway authority themselves object to the proposed stopping up, or if they consider that, by reason of the weight of objection received by them within the period specified in paragraph (3) of this Regulation from persons appearing to them to be affected, the proposed stopping up should not take place, then they shall notify the building owner to this effect.

(5) If no notification under paragraph (4) of this Regulation is received by the building owner within 42 days of the completion by him of the procedure specified in paragraph (2) of this Regulation, he may then stop up the walkway as proposed, but in all other cases he shall not proceed with the stopping up until the Secretary of State has consented thereto.

(6) Stopping up of a walkway under this Regulation shall be effected by the erection of barriers or the taking of other measures for preventing public use of the walkway.

Apparatus of statutory undertakers etc. in stopped up walkway

7.—(1) Where a walkway is stopped up under Regulation 6 above, or the public right to use a walkway is terminated under a provision of the walkway agreement, and there is in, under, over, along or across the walkway apparatus of a statutory undertaker, sewerage authority or the Post Office, then, subject to paragraphs (2) to (5) of this Regulation, that undertaker or authority or the Post Office, as the case may be, shall have the same rights in respect of that apparatus as if the walkway had been stopped up pursuant to section 209 of the Town and Country Planning Act 1971 (which provides for the stopping up of highways in order to enable development to be carried out) and as if, in the case of apparatus of a statutory undertaker or sewerage authority, the order under that section authorising the stopping up had provided for the preservation of those rights, and the provisions of paragraphs (2) and (3) of this Regulation shall have effect with a view to regulating the continuance or removal of that apparatus in circumstances and under conditions similar to those which would be applicable if the walkway had been stopped up pursuant to the said section 209.

(2) Where any such apparatus as is referred to in paragraph (1) of this Regulation is apparatus of a statutory undertaker or a sewerage authority—

- (a) sections 230 and 231 of the Town and Country Planning Act 1971 (power to extinguish rights of statutory undertakers over land acquired under certain enactments or appropriated by a local authority for planning purposes).
- (b) section 232 of that Act (power of statutory undertakers to remove or resite apparatus affected by development), and
- (c) sections 237(2) and (3), 238 and 240 of that Act (compensation), so far as applicable for the purposes of the said sections 230, 231 and 232,

shall apply in relation to such apparatus and to the site of the walkway as they apply in relation to apparatus of statutory undertakers and in relation to land acquired by a Minister, a local authority or statutory undertakers under Part VI of the said Act of 1971, or compulsorily under any other enactment, or appropriated by a local authority for planning purposes, subject however to the modifications set out in Schedule 4 to these Regulations (being modifications similar to those having effect by virtue of section 32(3) of the Mineral Workings Act 1951 in relation to highways stopped up pursuant to section 209 of the said Act of 1971).

(3) Where any such apparatus as is referred to in paragraph (1) of this Regulation is apparatus of the Post Office, section 220(1) of the said Act of 1971 (provisions as to telegraphic lines) shall apply in relation to the apparatus and to the site of the walkway as if the walkway had been stopped up pursuant to section 209 of the said Act.

(4) Paragraphs (1), (2) and (3) of this Regulation shall, in relation to apparatus in, under, over, along or across a supported walkway, have effect subject to the terms of any arrangement under which the consent to place the apparatus was given:

(5) Paragraphs (1), (2) and (3) of this Regulation shall not apply in relation to apparatus placed and maintained in a supported walkway by statutory undertakers, sewerage authorities or the Post

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Office in exercise of rights to place and maintain apparatus in, under, over, along or across land which does not form part of a highway, or in exercise of rights created under a power to acquire such rights, but the stopping up of, or the termination of the public right to use, the walkway shall not prejudice the continuation of, or the taking of action pursuant to, those rights (if still subsisting), or the termination of those rights, in accordance with the relevant statutory provisions or the relevant instruments conferring or creating those rights.

Saving for other provisions

8.—(1) Nothing in these Regulations shall affect the stopping up or diversion of a walkway or the prohibition or restriction of the public use of a walkway under the provisions of any enactment specified in Schedule 5 to these Regulations.

(2) Nothing in these Regulations shall affect the operation in relation to a walkway of any statutory provision for improving, raising, lowering or otherwise altering a highway, or for constructing a new highway, or for providing new means of access to premises, or for acquiring land or rights over land for any such purpose, when such improvement, raising, lowering, alteration, construction or provision consists of or is incidental to the construction or improvement of some other highway which is not, and is not intended to be, a walkway.

(3) Where in pursuance of any such statutory provision as is mentioned in paragraph (2) of this Regulation a new footpath is constructed to take the place of a walkway which is stopped up under an enactment referred to in paragraph (1) of this Regulation, then the highway authority for the former walkway and the building owner may agree to accept the new footpath as a substitute for the former walkway and in that event the new footpath shall itself become a walkway and the agreement relating to the new footpath shall be the walkway agreement for it.

3rd April 1973

Geoffrey Rippon
Secretary of State for the Environment

4th April 1973

Peter Thomas
Secretary of State for Wales

SCHEDULE 1

ENACTMENTS NOT TO APPLY TO WALKWAYS

Chapter	Short Title	Enactment
1925 c. 71.	The Public Health Act 1925	Section 26. Section 76.
1949 c. 97.	The National Parks and Access to the Countryside Act 1949	Part IV.
1959 c. 25.	The Highways Act 1959	Sections 27 to 34. Section 37. Section 39. Section 43. Sections 72 to 75. Part VI. Section 119. Parts VIII and IX. Section 214, so far as it authorises the compulsory acquisition of land. Sections 217 and 218. Schedule 7. Schedule 9. Schedule 12. Schedules 14 and 15.
1961 c. 24.	The Private Street Works Act 1961	The whole Act.
1961 c. 63.	The Highways (Miscellaneous Provisions) Act 1961	Sections 11 and 12.
1971 c. 41.	The Highways Act 1971	Section 44(2)(a), so far as it authorises the compulsory acquisition of land for use in connection with the improvement of a highway by the highway authority therefor. Section 76.

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SCHEDULE 2

PARTICULAR ENACTMENTS

THE APPLICATION OF WHICH IS NOT AFFECTED BY CERTAIN PROVISIONS OF THE WALKWAY AGREEMENT

Chapter	Short Title	Enactment
1835 c. 50.	The Highway Act 1835	Section 72.
1847 c. 89.	The Town Police Clauses Act 1847	Sections 28 and 29.
1907 c. 53.	The Public Health Acts Amendment Act 1907	Section 31.
1936 c. 49.	The Public Health Act 1936	Section 58.
1959 c. 25.	The Highways Act 1959	Section 117.
		Section 121.
		Section 124, so far as it relates to structures not authorised by or under the walkway agreement.
		Section 127 (except paragraph (a)).
		Section 128, so far as it relates to the deposit of anything not authorised by or under the walkway agreement.
		Section 131, so far as it relates to any obstruction or projection not authorised by or under the walkway agreement.
		Section 132.
		Section 134.
		Sections 140 to 143.
		Section 144, but so however that, unless the walkway agreement otherwise provides, the expenses referred to in subsection (3) shall be borne by the authority executing the works.
		Section 146(1) and (2), so far as relating to deposit by or on behalf of the building owner, and section 146(3) to (5).

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Chapter	Short Title	Enactment
		Sections 147 to 150.
1961 c. 63.	The Highways (Miscellaneous Provisions) Act 1961	Section 8. Section 10.
1961 c. 64.	The Public Health Act 1961	Sections 24 and 25. Section 47.
1971 c. 41.	The Highways Act 1971	Section 34. Sections 36 and 37.
1972 c. 20.	The Road Traffic Act 1972	Section 31.

SCHEDULE 3

ENACTMENTS TO BE MODIFIED IN THEIR APPLICATION TO WALKWAYS

Chapter	Short Title	Enactment
1875 c. 55.	The Public Health Act 1875	Section 161.
1890 c. 59.	The Public Health Acts Amendment Act 1890	Section 40. Section 42.
1925 c. 71.	The Public Health Act 1925	Section 14. Sections 18 and 19.
1936 c. 49.	The Public Health Act 1936	Section 87.
1953 c. 26.	The Local Government (Miscellaneous Provisions) Act 1953	Sections 4 to 7.
1957 c. 42.	The Parish Councils Act 1957	Part I.
1959 c. 25.	The Highways Act 1959	Section 46. Section 53. Section 64. Section 67. Section 71. Sections 77 to 82. Sections 85 and 86. Section 98.

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Chapter	Short Title	Enactment
		Sections 100 to 106.
		Section 151.
		Section 156.
		Section 252.
		Section 257.
1961 c. 63.	The Highways (Miscellaneous Provisions) Act 1961	Sections 5 and 6.
1961 c. 64.	The Public Health Act 1961	Section 44 Section 45.
		Section 49.
		Section 51.
1966 c. 42.	The Local Government Act 1966	Section 28.
1967 c. 76.	The Road Traffic Regulation Act 1967	Section 63.
1968 c. 41.	The Countryside Act 1968	Sections 27 and 28.
1970 c. 29.	The Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970.	Section 3.
1971 c. 41.	The Highways Act 1971.	Sections 19 to 23.
		Section 25.
		Section 28.
		Sections 31 and 32.
		Sections 38 and 39.
		Sections 41 to 43.

SCHEDULE 4

MODIFICATIONS OF CERTAIN PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1971 AS RESPECTS APPARATUS OF STATUTORY UNDERTAKERS

1. For the reference in section 230(1) of the Town and Country Planning Act 1971 to land which has been acquired by a Minister, a local authority or statutory undertakers under Part VI of that Act or compulsorily under any other enactment, or has been appropriated by a local authority for planning purposes, and for the references in that section and in section 232 of that Act to land which has been so acquired or appropriated, substitute references to the site of the walkway, and for the

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reference in the said section 230(1) to any development with a view to which the land was acquired or appropriated substitute a reference to any development affecting the site of the walkway.

2. For references in sections 230, 231, 232, 237(2) and (3) and 238 of the said Act of 1971 to the acquiring or appropriating authority substitute references to the person entitled to the possession of the site of the walkway.

3. The references in the said sections 230, 231, 232, 237(2) and (3) and 238 to statutory undertakers, in relation to apparatus or to rights as respects apparatus, shall include references to sewerage authorities.

4. The references in subsection (4) of the said section 230 and in subsection (2)(b) of the said section 231 to a local authority or statutory undertakers shall include references to the person entitled to the possession of the site of the walkway.

SCHEDULE 5

ENACTMENTS RELATING TO THE STOPPING UP OF HIGHWAYS OR THE PROHIBITION OR RESTRICTION OF THE PUBLIC USE OF ROADS

Chapter	Short Title	Enactment
1946 c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946	Section 3.
1959 c. 25.	The Highways Act 1959	Section 9. Section 13.
1967 c. 76.	The Road Traffic Regulation Act 1967	Section 1. Section 6. Section 9. Section 12.
1971 c. 41.	The Highways Act 1971	Section 1.
1971 c. 78.	The Town and Country Planning Act 1971	Sections 209, 210, 211 and 214.

EXPLANATORY NOTE

These Regulations make provision with respect to walkways (that is, footpaths over, through or under parts of a building) created by agreements under section 18 of the Highways Act 1971.

Certain statutory provisions affecting highways are not to apply to walkways or are to apply with modifications (Regulations 2 and 3 and Schedules 1, 2 and 3).

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Restrictions are placed on the rights of statutory undertakers, sewerage authorities and the Post Office to lay and maintain apparatus in supported walkways (Regulation 4).

Provision is made for the periodic and temporary closure of walkways (Regulation 5), the stopping up of a walkway by the building owner (Regulation 6), the securing of rights as respects the apparatus of statutory undertakers, sewerage authorities or the Post Office in stopped up walkways (Regulation 7 and Schedule 4).

Regulation 8 and Schedule 5 containing savings for other statutory provisions.