
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 52 of the Countryside and Rights of Way Act 2000 (“the 2000 Act”). Section 52 enables the Secretary of State to make regulations providing for any existing legislation applying to highways, or to highways of a particular kind (such as footpaths or bridleways) to apply, or to be excluded from applying, to restricted byways or ways shown in a definitive map and statement (within the meaning of section 53(1) of the Wildlife and Countryside Act 1981) as restricted byways. It also includes power to make amendments which are consequential upon either the coming into force of sections 47 to 50 of the 2000 Act or the application of existing legislation to restricted byways.

A restricted byway is a new class of highway established by sections 47 to 50 of the 2000 Act. Section 47(2) of the 2000 Act provides that every way which, immediately before the commencement of that section, is shown in any definitive map and statement as a road used as a public path, shall be treated instead as shown as a restricted byway. A restricted byway is defined in section 48(4) of the 2000 Act as a highway over which the public have restricted byway rights with or without the right to drive animals. Restricted byway rights include a right of way on foot, on horseback or leading a horse and a right of way for vehicles other than mechanically propelled vehicles.

Regulation 2 of these Regulations provides that the provisions of Acts and subordinate legislation relating to highways, or highways of a particular description, which are set out in column 1 of the Schedule, shall apply to restricted byways. In consequence of the application of those provisions to restricted byways, or of the coming into force of sections 47 to 50 of the 2000 Act, amendments are made to provisions of Acts and subordinate legislation as specified in column 2 of the Schedule.

Regulation 3 provides that section 47 of the Highways Act 1980, under which a highway authority may apply to a magistrates' court for an order that a highway shall cease to be maintainable at the public expense, is not to apply in relation to restricted byways, and amends that section accordingly.

Sections 47 to 50 of the 2000 Act are to be commenced separately in England and Wales by orders to be made by the Secretary of State and the National Assembly for Wales respectively. These Regulations come into force in each country on the same date as sections 47 to 50 of the 2000 Act come into force, except that the application of section 59 of the Wildlife and Countryside Act 1981 and section 33 of the Road Traffic Act 1988 in relation to restricted byways, and consequential amendments to those sections, come into force in each country two months after that date.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.