

## EXPLANATORY MEMORANDUM TO

### THE COUNTRYSIDE AND RIGHTS OF WAY ACT 2000 (SUBSTITUTION OF CUT-OFF DATE RELATING TO RIGHTS OF WAY) (ENGLAND) REGULATIONS 2023

2023 No. 1126

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for the Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

#### 2. Purpose of the instrument

- 2.1 The purpose of this instrument is to substitute the cut-off date in section 56(1) of the Countryside and Rights of Way Act 2000 currently 1st January 2026 with a new cut-off date of 1st January 2031 for the extinguishment of certain unregistered historic rights of way (pre-1949).

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 The Joint Committee on Statutory Instruments will wish to note that a separate order has been made to commence the cut-off date. The commencement of sections 53 to 56 of the Countryside and Rights of Way Act 2000 enables the Countryside and Rights of Way Act 2000 (Substitution of Cut-off Date Relating to Rights of Way) (England) Regulations 2023 to be made.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument (that is, the jurisdictions in which the instrument forms part of the law) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument has a practical effect) is England.

#### 5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State (Trudy Harrison) has made the following statement regarding Human Rights:

“In my view the provisions of the Countryside and Rights of Way Act 2000 (Substitution of Cut-off Date Relating to Rights of Way) (England) Regulations 2023 No. 1126 are compatible with the Convention rights.”

#### 6. Legislative Context

- 6.1 Section 56 of the Countryside and Rights of Way Act 2000 provides a cut-off date for the purposes of sections 53 and 55 of that Act, of 1st January 2026. The purpose of the cut-off date is to extinguish, with certain exceptions, rights of way that were

created pre-1949 and which are not recorded on the definitive map and statement (the legal record) by the cut-off date. Section 56 of the Act also provides for regulations to be made to extend that date to no later than 1st January 2031.

6.2 The purpose of this instrument is to extend the cut-off date to 1st January 2031.

## **7. Policy background**

### *What is being done and why?*

7.1 The Countryside and Rights of Way Act 2000 prescribes a number of statutory provisions to reform and improve the rights of way network in England and Wales. Local authorities are responsible for maintaining the legal record of rights of way, which is known as the definitive map and statement, and assessing applications to make changes to the legal record, including recording new rights of way (footpaths, bridleways, byways and byways open to all traffic).

7.2 Currently that Act provides for a cut-off date of 1st January 2026 for the recording of historic unregistered rights of way (specifically those created before 1949). Rights of way not recorded by this date will be extinguished unless excepted from the cut-off date.

7.3 The cut-off date is being extended to 1st January 2031 to provide an additional five years for applications to be submitted to local authorities for the recording of unregistered historic rights of way.

### *Explanations*

#### What did any law do before the changes to be made by this instrument?

7.4 Section 56 of the Countryside and Rights of Way Act 2000 provides a cut-off date of 1st January 2026 for the recording of unregistered historic rights of way.

#### Why is it being changed?

7.5 As set out in paragraph 7.3 to provide an additional five years for applications to be submitted to local authorities for the recording of unregistered historic rights of way.

#### What will it now do?

7.6 See paragraph 7.5. These regulations will extend the date for the recording of unregistered historic rights of way to 1st January 2031.

## **8. European Union Withdrawal and Future Relationship**

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

## **9. Consolidation**

9.1 Consolidation does not apply to this instrument.

## **10. Consultation outcome**

10.1 No formal consultation is required or been undertaken.

## **11. Guidance**

11.1 No guidance is required to accompany this instrument.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector as a result of this instrument.
- 12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 No monitoring or review is required.
- 14.2 The instrument does not include a statutory review clause.

## **15. Contact**

- 15.1 Paul Davison at the Department for the Environment, Food and Rural Affairs  
Telephone: 020 8720 1020 or email: [paul.davison@defra.gov.uk](mailto:paul.davison@defra.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Siôn McGeever, Deputy Director for Access, Engagement, Landscapes and Soils, at the Department for the Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Trudy Harrison at the Department for the Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.