

### A brief summary of the effects in England of the [draft Deregulation Bill](#) on rights of way

The material parts are Clauses 12–18 (pages 18-23) and Schedule 6 (pages 76-92).

**Clause 12** will, after the cut-off date, give extra protection to already-recorded rights of way by preventing the making of a deletion order in respect of any way if deleting it would affect the use of a definitive path and the only basis for deleting it was evidence that it did not exist prior to 1949. It will therefore lower the number of deletion applications.

**Clause 13** contains provisions which will empower the Secretary of State to make regulations which will delay or otherwise mitigate the effect of the cut-off provisions.

**Clause 14** safeguards the position of landowners, etc, who rely on what may be a public right of way to reach their properties; so that if such a way is extinguished under CRWA 2000, they will retain a private right of way over it for the purposes of reaching their properties.

**Clause 15** concerns the right of landowners to apply for extinguishment and diversion orders under HA 1980. The right was introduced by CRWA 2000 but the provisions were never commenced. Clause 15 will extend the type of land on which the path has to be to 'any land of a prescribed description' (i.e, prescribed by regulations). There are other procedural changes, but the right to object will be unaffected.

**Clause 16** empowers the authorisation of gates on both kinds of byway. Though 'stiles' is in the title it does not empower the authorisation of stiles on these ways.

**Clause 17** empowers recovery of the order-making authority's full costs of public path orders.

**Clause 18** gives effect to Schedule 6, which makes changes to the procedures for 'ascertaining rights of way' in England. These include

- a simplified procedure for dealing with 'obvious' errors in the definitive map and statement;
- special diversions for ways which have fallen into disuse whose existence has been proven by documentary evidence, so that these can be realigned by agreement, subject to certain conditions;
- a new system for determining applications for definitive map modification orders, in which appeals to the Secretary of State against decisions by a surveying authority not to make an order can involve a full public inquiry into the entire matter (instead of the *prima facie* issue being determined purely on the papers followed by direction to make an order followed by public inquiry where objections are placed);
- a right to apply to the magistrates' court where the surveying authority is slow determining an application;
- a means of transferring applications for definitive map modification orders from one person to another.

Schedule 6 also enables order-making authorities to dismiss irrelevant objections, and so confirm an opposed order if the objections do not relate to the law, and to sever composite orders so as to confirm the unopposed parts and submit to the Secretary of State for determination only the parts which attracted unwithdrawn objections.

We will be engaging fully with the process to ensure the proposals remain good news for walkers.

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