



## The Countryside and Rights of Way Act 2000 – An introduction

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The purpose of this document is to provide a brief introduction to the Countryside and Rights of Way Act as it is likely to be encountered in the work of the JLAF and further clarification should be sought where necessary. It is written with relevance to the JLAF area and thus may not be transferable to other areas. Errors and omissions excepted. Please contact the JLAF at [secretary@jlaf.org.uk](mailto:secretary@jlaf.org.uk) with any suggestions for addition or amendment.

### **Introduction.**

This new Act has a number of aims:

- a. to make new provision for public access to the countryside,
- b. to amend the law relating to public rights of way,
- c. to make provision with respect to the driving of mechanically propelled vehicles elsewhere than on the roads,
- d. to amend the law relating to nature conservation and protection of wildlife.

From our point of view, one of the most significant sections provides the authority for our Joint Local Access Forum:

1. The local highway authority is the appointing authority for members of our forum.
2. It consists of members appointed in accordance with regulations.
3. The Forum's function is to advise , or be consulted on:
  - a. the draft maps which show open country and registered common land,
  - b. any byelaws to be made which affect access land,
  - c. the appointment of access wardens,
  - d. any directions which would restrict or exclude long-term access.
4. In providing advice, the Forum is required to have regard to:
  - a. the needs of land management,
  - b. the desirability of conserving the natural beauty of the area,
  - c. guidance given by the Secretary of State.

### **Part I of the Act.**

This covers the new right of Access for pedestrians (often incorrectly referred to as "the right to roam").

Access land is any land which:

- a. is shown as open country on a map issued by the appropriate countryside body,
- b. is shown on such a map as registered common land,
- c. is registered common land in any area for which no such map has been issued,
- d. is more than 600 metres above sea level in any area for which no map has been issued.

## **Public rights.**

The Act gives the public the following rights in relation to access land.

Any person is entitled to enter and remain on any access land for the purposes of open-air recreation, provided:

- a. they do so without breaking or damaging any wall, fence, hedge, stile or gate,
- b. they observe the general restrictions in Schedule II of the Act, (these include prohibition on driving a vehicle, lighting fires, using a metal detector, and limiting animals accompanying walkers to dogs).

## **Maps.**

1. The Countryside Agency is responsible for preparing maps which show:
  - a. all registered common land.
  - b. all land classified as open country.
2. Any person having an interest in any land can appeal against the provisional map to the Secretary of State, but only on the grounds that -
  - a. the land shown on the map is not registered common land, or
  - b. the land does not consist wholly, or predominately, of mountain, moor, heath or down.

## **Occupiers liability.**

The Act includes some significant changes to the Occupiers Liability Acts of 1957 and 1984, in that when the rights introduced by the CROW Act are exercised on access land, there is no duty to any person in respect of a risk resulting from the existence of any natural feature of the landscape or a river, stream, ditch or pond. Nor is there any duty in respect of a person suffering injury when passing over, under, through any wall, fence or gate, except by proper use of the gate or stile.

However, it will be an offence if any person places a notice containing false or misleading information likely to deter the public on, or near, or on a way leading to, any access land.

## **Byelaws.**

Any access authority may make byelaws regarding access land in their area:

- a. for the preservation of order,
- b. for the prevention of damage to the land, or anything on it, or in it,
- c. for ensuring that persons exercising their right, behave themselves so as to avoid undue interference with the enjoyment of land by others.

Before making any byelaws, the access authority shall consult the Countryside Agency (in England) and, the joint local access forum.

## **Exclusion of right of access.**

An entitled person may exclude access to any land on one or more days, for a maximum of 28 in a year. But access cannot normally be restricted to land on:

- a. Christmas Day or Good Friday,
- b. any Bank Holiday,
- c. on more than 4 days in each calendar year which are either Saturday or Sunday,
- d. on any Saturday beginning 1 June and ending 11 August,
- e. on any Sunday beginning 1 June and ending 30 September.

## **Dogs.**

The owners of land have the right for a specified period to restrict access to those with dogs, to that land managed for breeding grouse, or to an enclosure or field used in connection with lambing.

## **Other restrictions.**

Other reasons where access may be limited for long periods include:

- a. Land management,
- b. avoidance of risk of fire,
- c. nature or heritage conservation.

But, before excluding or restricting access to any land indefinitely or for periods which exceed 6 months, the relevant authority shall consult the joint local access forum.

## **Part II of the Act.**

### **Public rights of way and road traffic.**

This section makes a number of important changes to the various Acts outlined in the paper: "Some background to the law on Public Rights of Way."

### **RUPPS / restricted byways.**

Section 54 of the Wildlife and Countryside Act 1981 (that introduced the previous RUPP reclassification procedure) will cease to have effect. All RUPPs shown on definitive maps shall become restricted byways, and the public will have only the following rights:

- a. a right of way on foot,
- b. a right of way on horseback or leading a horse,
- c. a right of way for vehicles other than mechanically propelled vehicles.

Restricted byways shall be highways maintainable at public expense, but the highway authority is not obliged to provide a metal carriageway suitable for cycles or other vehicles.

### **Extinguishment of unrecorded public rights of way.**

Definitive maps are conclusive evidence as to what is recorded on them, but not as to what is not recorded on them. Thus additional public rights of way or public rights of way of a higher status may exist, based on records or on use.

The CROW Act has dealt with these by setting a cut off date for the recording of historic public rights of way on the Definitive Map, and for the downgrading of bridleways. This is intended to make the Definitive Map a more complete record of public rights of way. The details are complex, but in effect routes were BOATS, bridleways or footpaths on the 1<sup>st</sup> January 1949, but which are not shown on the Definitive Map will be extinguished on the cut off date of 1 Jan 2026 unless previously legally recognised. (This date can be extended to 1 Jan 2031 under certain conditions).

### **Rights of Way Improvement Plans.**

Every local authority is required to prepare and publish a rights of way improvement plan within 5 years of the November 2002. Such plans should include:

- a. an assessment of the extent to which local rights of way meet present and likely future public needs,
- b. an assessment of the opportunities local rights of way provide for exercise and other forms of open air recreation and enjoyment,
- c. an assessment of the accessibility of local rights of way for the blind, or partially sighted, or others with mobility problems,
- d. a statement of action which the authority proposes for the management of its public rights of way.

In preparing such a plan, the local authority has to consult with a number of agencies, including the joint local access forum.

## **Other matters in the CROW Act.**

The basic procedures with regard to public rights of way are not altered, only amended. For example, councils will retain the powers to make orders for the creation, diversion and extinguishment of public rights of way under the Highways Act 1980.

There are some changes to previous procedures:

- a. concurrent Orders can involve creation, diversion and extinguishment orders: i.e. an authority may decide that a grouping of public rights of way may require reorganisation,
- b. Special Orders may be published stopping up highways in order to prevent or reduce crime, or to enhance school security,
- c. English Nature may apply for a Diversion Order to protect a Site of Special Scientific Interest, (SSSI).

Most of the previous procedures which often lead to public inquiries have been retained, but for specific cases it will be essential to check for any modifications to earlier legislation introduced as a result of the CROW Act 2000.

As experience is gained in implementing the new Act, it will inevitably modify or amend some of the points I have covered in this summary - I hope to keep you informed.

Alun Morgan, JLAF Chair, August 2003.