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TO

Amend the law to make new provision about establishing the existence of byways open to all traffic.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Designation of restricted byways

- (1) Section 56 of the Countryside and Rights of Way Act 2000 (c. 37) (cut-off date for extinguishment etc) is amended as follows.
- (2) After subsection (1), there is inserted (1A)–
- (1A) The cut-off date for the purposes of of section 53, in so far as it relates to byways, is, subject to regulations under subsection (2), 1st January 2006. 5

2 Restriction of rights of way on byways for vehicles

- (1) A public right of way on a byway created after the commencement of this section does not include a right of way for mechanically propelled vehicles except to the extent that it is— 10
- (a) a right created or granted (whether by an enactment or instrument or otherwise) on terms that expressly provide for it to include a right of way for mechanically propelled vehicles; or
- (b) a right of way created by the setting out or creation, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles. 15
- (2) So much of any unrecorded right of way falling within subsection (3) as immediately before the commencement of this section comprises a right of way for mechanically propelled vehicles shall be extinguished except to the extent that— 20
- (a) it is a right of way falling within subsection (1)(a) or (b); or
- (b) the exercise of the right, from time to time, is reasonably necessary for access purposes, or for the purposes of a business, trade or profession.

- (3) An unrecorded right of way on a byway falls within this subsection if, immediately before the commencement of this section, it was a right of way used by the public mainly for purposes for which footpaths or bridleways are used.
- (4) For the purposes of subsection (2)(b) the exercise of a right is for access purposes to the extent only that—
- (a) it is exercised by a person with an interest in land for obtaining access to the land; or
 - (b) it is exercised by a person for obtaining access to land as a lawful visitor.
- (5) In section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 (c. 69) (modification of definitive map and statement on discovery of evidence of a right of way), after “public path” insert “, a restricted byway”.
- (6) In this section—
- “byway” has the same meaning as in section 27 of the Countryside Act 1968 (c. 41)
 - “definitive map and statement” means a definitive map and statement within the meaning of Part 3 of the Wildlife and Countryside Act 1981;
 - “interest”, in relation to land, includes any estate in land and any right over land (whether the right is exercisable by virtue of the ownership of an estate or interest in the land or by virtue of a licence or agreement) and, in particular, includes rights of common and sporting rights;
 - “lawful visitor”, in relation to land, includes any person who enters the land for any purpose in the exercise of a right conferred by or under an enactment or otherwise by law;
 - “mechanically propelled vehicle” does not include a vehicle falling within section 189(1)(c) of the Road Traffic Act 1988 (c. 52) (electrically assisted pedal cycle); and
 - “unrecorded right of way” means a right of way not shown in a definitive map and statement.
- (7) In subsection (6) the reference to a right of way not shown in a definitive map and statement includes a reference to all rights of way, in addition to restricted byway rights (within the meaning of Part 2 of the Countryside and Rights of Way Act 2000 (c. 37)), over a way that is shown, or treated as shown, in a definitive map and statement only as a footpath, bridleway or restricted byway.

3 Supplemental provisions

- (1) This Act may be cited as the Restricted Byways Act 2004.
- (2) Section 2 shall come into force on such day as—
- (a) the Secretary of State (as respects ways in England), or
 - (b) the National Assembly for Wales (as respects ways in Wales),
- may by order made by statutory instrument appoint.
- (3) Different days may be appointed under subsection (2) for different purposes.
- (4) An order under that subsection appointing a day for the commencement of section 2(2) for any purpose may also contain such transitional provision or savings as—

- (a) the Secretary of State, or
- (b) the National Assembly for Wales,

thinks fit in relation to cases where there has been an application for a right to be shown in a definitive map and statement (within the meaning of Part 3 of the Wildlife and Countryside Act 1981 (c. 69)) before the appointed day.

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- (5) This Act extends to England and Wales only.

Restricted Byways Bill

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*Ordered to be brought in by Mr Robert Walter,
Sir George Young, Jeremy Corbyn, Sandra Gidley,
Mr James Gray, Mr Robert Key, Mr David Drew,
Mr Anthony Steen and Mr John Randall.*

*Ordered, by The House of Commons,
to be Printed, 24th March 2004.*

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