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County Councils in England
District Councils in England
National Park Authorities in England
Broads Authority

Copies to Local Government Association
 National Association of Local Councils
 Association of National Park Authorities
 County Surveyors' Society
 Institute of Public Rights of Way Officers
 Rights of Way Review Committee

Dear Chief Executive

COUNTRYSIDE AND RIGHTS OF WAY ACT 2000
PART II : PUBLIC RIGHTS OF WAY AND ROAD TRAFFIC
PROVISIONS WHICH ARE IN FORCE IN ENGLAND AND REVISIONS TO
CIRCULAR 2/93

I am writing so that you are aware of the extent to which we have completed the implementation of Part II of the Countryside and Rights of Way Act 2000 dealing with public rights of way. Many of the provisions already implemented affect local authorities in their dealings with public rights of way.

You will know about the major implementations – of rights of way improvement plans, crime prevention, enforcement of duty to prevent obstructions But you may not have picked up all of the relatively minor, but important, changes to the law which have been brought into force. All the changes are shown in the table at Annex A attached to this letter.

For completeness, we have included in the attached table those provisions which have not yet been brought into force. We aim to complete implementation of Part II of the Countryside and Rights of Way Act 2000 next year. We will continue to keep you in touch with progress.

Authorities should note especially the amendments to the Wildlife and Countryside Act 1981 which

- enable authorities to consolidate their definitive maps and statements (section 57A, inserted by para 8 of Schedule 5 to the 2000 Act);
- enable the Secretary of State to include a time within which an order is to be made when she directs a local authority to make an order under schedule 14 to the 1981 Act (para 4(2) of Schedule 14, as amended by para 10 of the 2000 Act); and

- require representations and objections to 1981 Act orders to include particulars of the grounds relied on and enables the Secretary of State to confirm a 1981 Act order without hearing representations or objections where none relates to an issue which would be relevant in determining an order (Schedule 15 as amended by para 11(3), (4), (5) and (7) of Schedule 5 to the 2000 Act).

Authorities should also note that the Highways Act 1980 has been amended so that:

- maps, statements and declarations are to be deposited every ten (from six) years (section 31(6) as amended by para 3 of Schedule 6 to the 2000 Act); and
- authorities are required to certify that work to bring a diverted way into public use has been carried out (sections 119 and 119A as amended by paras 9(1)–(3) and 11 of Schedule 6 to the 2000 Act).

Costs

The provisions in the Countryside and Rights of Way Act which apply section 250(2) to (5) of the Local Government Act 1972 (giving of evidence at and defraying costs of inquiries) in relation to hearings held under the Wildlife and Countryside Act 1981 (para 10A of Schedule 15, inserted by para 11(8) of Schedule 5 to the 2000 Act); and in relation to hearings held under Schedule 6 to the Highways Act 1980 (para 2B inserted by para 23(8) of the 2000 Act) have also been applied. The Secretary of State will apply these provisions to orders submitted to her from 2 August 2004.

Authorities should note a further change in respect of the pre-existing provision for awarding costs in relation to hearings held into orders made by local authorities under Part X of the Town and Country Planning Act 1990, as reflected in Circular 8/93, Annex 7, para 2(25). In the past, this provision has not been applied to hearings held into rights of way orders as a matter of policy. In order to maintain consistency between the costs provisions for hearings under Schedule 15 to the 1981 Act and Schedule 6 to the 1980 Act, this provision will be applied to hearings held into rights of way orders made by local authorities under Part X of the Town and Country Planning Act 1990 Act and submitted to the Secretary of State from 2 August 2004.

Because of these changes, paragraphs 11 – 15 of Circular 2/93 (*Public rights of way*) are replaced by the paragraphs set out in Annex B to this letter for orders submitted to the Secretary of State for decision from 2 August 2004. Circular 8/93 (*Awards of costs incurred in planning and other (including compulsory purchase order) proceedings*) should be read in the light of these revised paragraphs.

Other revisions to subordinate legislation

In due course, we shall revise subordinate legislation and circular guidance to reflect all of the Countryside and Rights of Way Act provisions. In the meantime, authorities should incorporate amendments into their working practices. Defra is happy to offer advice and guidance to authorities as they bring these provisions on stream.

Yours faithfully

DAVE WATERMAN