WELSH STATUTORY INSTRUMENTS

2006 No. 1279 (W.124) (C.42)

RIGHTS OF WAY, WALES

The Countryside and Rights of Way Act 2000 (Commencement No. 8 and Transitional Provisions) (Wales) Order 2006

Made - - - - 10 May 2006

The National Assembly for Wales ("the National Assembly"), in exercise of the powers conferred upon it by sections 103(3), (4) and (5) of the Countryside and Rights of Way Act 2000 ("the 2000 Act")(**1**), hereby makes the following Order:

Title, application and interpretation

1.—(1) The title of this Order is the Countryside and Rights of Way Act 2000 (Commencement No. 8 and Transitional Provisions) (Wales) Order 2006.

(2) This Order applies in relation to Wales.

(3) In this Order–

"the 1980 Act" ("Deddf 1980") means the Highways Act 1980(**2**);

"the 1981 Act" ("Deddf 1981") means the Wildlife and Countryside Act 1981(**3**).

Appointed day

2. 11 May 2006 is the day appointed for the coming into force of the following provisions of the 2000 Act–

(a) section 47 (redesignation of roads used as public paths);

(b) section 48 (restricted byway rights);

(c) section 49 (provisions supplementary to sections 47 and 48);

(d) section 50 (private rights over restricted byways);

(e) section 51 (amendments relating to definitive maps and statements and restricted byways) insofar as it gives effect to the provisions in Schedule 5 referred to in sub-paragraphs (f) and (g) below;

(f) in Part I–

(**1**) 2000 c. 37.
(**2**) 1980 c. 66.
(**3**) 1981 c. 69.

(i) paragraph 1 (duty to keep definitive map and statement under continuous review);

(ii) paragraph 5 (no further surveys or reviews under the National Parks and Access to the Countryside Act 1949);

(iii) paragraph 6 (effect of definitive map and statement);

(iv) paragraph 9 (interpretation of Part III);

(g) Part II;

(h) Section 102 insofar as it relates to the provisions in Schedule 16 (repeals relating to public rights of way and road traffic) referred to in sub-paragraphs (i) to (k) below;

(i) Part II insofar as it repeals section 54 of the 1981 Act;

(j) Part II insofar as it repeals section 56(5) of the 1981 Act;

(k) Part II insofar as it repeals part of section 57(1) of the 1981 Act;

(l) section 57 (creation, stopping up and diversion of highways) insofar as it gives effect to the provision referred to in sub-paragraph (n) below;

(m) section 69(2) (amendment of section 147(5) of the 1980 Act relating to the interpretation of references to agricultural land and to land being brought into use for agriculture for the purposes of section 147 of the 1980 Act);

(n) sub-paragraph (8) of paragraph 23 of Schedule 6 to the extent that that sub-paragraph is not already in force.

Transitional provisions

3.—(1) Nothing in section 47 or 48 of the 2000 Act affects the operation of section 53 or 54 of, or Schedule 14 or 15 to, the 1981 Act in relation to a relevant order, or an application for a relevant order, made before 11 May 2006.

(2) In paragraph (1) "relevant order" has the meaning given in section 48(10) of the 2000 Act.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**4**)

D. Elis-Thomas
The Presiding Officer of the National Assembly

10 May 2006

(**4**) 1998 c. 38.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of Part II of the Countryside and Rights of Way Act 2000 ("the 2000 Act") on 11 May 2006 in relation to Wales.

Sections 47 to 50 of the 2000 Act confer upon the public restricted byway rights in respect of "roads used as public paths" ("RUPPs") which are instead to be known as restricted byways. Restricted byway rights comprise a right of way on foot, a right of way on horseback or leading a horse, and a right of way for vehicles other than mechanically propelled vehicles. The conferral of restricted byway rights does not preclude the existence of a right of way for mechanically propelled vehicles or any other right (article 2).

Under sections 53 and 54 of the Wildlife and Countryside Act 1981 (c. 69) ("the 1981 Act") surveying authorities are required to make definitive map modification orders. Orders made under section 53 of the 1981 Act relate to an authority's duty under that section to keep the definitive map and statement under continuous review, and are made in consequence of the occurrence of certain events set out in that section. One such event concerns the discovery by an authority of evidence which, when considered with all other relevant evidence available, shows that the description employed in a definitive map and statement to describe a particular highway ought to be changed. Orders made under section 54 of the 1981 Act relate to an authority's duty under that section to reclassify RUPPs as bridleways, footpaths or byways open to all traffic.

Orders of the former class which relate to RUPPs and orders of the latter class together comprise "relevant orders"for the purposes of section 48(9) of the 2000 Act and in accordance with the requirements of that section nothing in section 47 or 48 of the 2000 Act affects the operation of section 53 or 54 of, or Schedule 14 or 15 to, the 1981 Act in relation to such orders where such orders were made, or applied for, before 11 May 2006 (article 5).

Section 54 of the 1981 Act ceases to have effect and consequently surveying authorities are relieved of the duty to reclassify RUPPs imposed by that section (article 2).

Section 51 of, and Schedule 5 to, the 2000 Act make consequential and related amendments to primary legislation (article 2).

The commencement of section 57 for the purposes of giving effect to paragraph 23(8) of Schedule 6 to the 2000 Act confers the power upon inspectors to make an award of costs in relation to hearings held under paragraph 2 of Schedule 6 to the Highways Act 1980 (c. 66) (provisions as to making, confirmation, validity and date of operation of certain orders relating to footpaths and bridleways), and applies section 322A of the Town and Country Planning Act 1990 (c. 8) (orders as to costs where no hearing or inquiry takes place) in relation to hearings or local inquiries held under that paragraph. This provision insofar as it relates to orders for the stopping up or diversion of certain highways which cross land occupied for the purposes of a school, was brought into force by article 3 of the Countryside and Rights of Way Act 2000 (Commencement No. 7) (Wales) Order 2005 (S.I. 2005/1314 (W. 96) (C.58)) (article 2).

The commencement of section 69(2) of the 2000 Act extends the definition of "agricultural land" contained in section 147 of the 1980 Act for the purposes of the competent authority's power under that section to authorise the erection of stiles, gates, or other works in respect of such land and to land being brought into use for agriculture (article 2).

Section 102 of, and Schedule 16 to, the 2000 Act effect the consequential repeal of certain provisions of the 1981 Act.