Draft Regulations laid before Parliament under section 52(7) of the Countryside and Rights of Way Act 2000 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

HIGHWAYS, ENGLAND AND WALES

The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006

Made - - - - 2006

Coming into force in accordance with regulation 1

These Regulations are made in exercise of the powers conferred by section 52(1)(a) and (b) of the Countryside and Rights of Way Act 2000(**1**).

It appears to the Secretary of State that the amendments set out in column 2 of the Schedule to these Regulations are appropriate in consequence of the coming into force of sections 47 to 50, or provision made by virtue of section 52(1)(a), of that Act.

In accordance with section 52(3)(a) of that Act she has consulted the National Assembly for Wales.

In accordance with section 52(8) of that Act a document giving details of that consultation and stating that no representations have been received from the National Assembly for Wales has been laid before each House of Parliament.

In accordance with section 52(7) of that Act a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Accordingly the Secretary of State makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006.

(2) Subject to paragraph (3), these Regulations shall come into force in England on the day on which sections 47 to 50 of the Countryside and Rights of Way Act 2000 come into force in England.

(3) Regulation 2 and the Schedule so far as they relate to—

(a) section 59 of the Wildlife and Countryside Act 1981(**2**), or

(b) section 33 of the Road Traffic Act 1988(**3**),

(**1**) 2000 c.37.
(**2**) 1981 c.69.
(**3**) 1988 c.52.

shall come into force in England two months after the day on which sections 47 to 50 of the Countryside and Rights of Way Act 2000 come into force in England.

(4) Subject to paragraph (5), these Regulations shall come into force in Wales on the day on which sections 47 to 50 of the Countryside and Rights of Way Act 2000 come into force in Wales.

(5) Regulation 2 and the Schedule so far as they relate to—

(a) section 59 of the Wildlife and Countryside Act 1981, or

(b) section 33 of the Road Traffic Act 1988,

shall come into force in Wales two months after the day on which sections 47 to 50 of the Countryside and Rights of Way Act 2000 come into force in Wales.

Application and amendment of provisions

2.—(1) The provisions set out in column 1 of Part I or II of the Schedule which relate to—

(a) highways, or highways of a particular description,

(b) things done on or in connection with highways, or highways of a particular description, or

(c) the creation, stopping up or diversion of highways, or highways of a particular description,

shall also apply in relation to restricted byways.

(2) In consequence of the coming into force of sections 47 to 50 of the Countryside and Rights of Way Act 2000 or of paragraph (1) above, the provisions mentioned in column 2 of Part I or II of the Schedule shall have effect with the amendments there specified.

Disapplication and amendment of section 47 of the Highways Act 1980

3.—(1) Section 47 of the Highways Act 1980(**4**) shall not apply in relation to restricted byways and in consequence that section is amended in accordance with paragraph (2).

(2) In subsection (2) of that section, for "footpath or bridleway" there is substituted "footpath, bridleway or restricted byway"(**5**).

[Parliamentary Under Secretary] [Minister] of State
Department for Environment, Food and Rural Affairs

Date

(**4**) 1980 c.66.

(**5**) "Restricted byway" is defined in section 329(1) of the Highways Act 1980, as amended by the Countryside and Rights of Way Act 2000, Schedule 5, paragraph 16(a).

SCHEDULE Regulation 2

APPLICATION AND AMENDMENT OF PROVISIONS

PART I

ACTS

Column 1 *Provisions applying in relation to restricted byways*	*Column 2* *Amendments*
Defence Act 1842(**6**), sections 16 and 17.	Section 16 (principal officers may authorize persons to survey and mark out lands, etc, and treat with owners for the absolute purchase therefore, etc) is renumbered as subsection (1) of that section and— (a) in that subsection, after "bridle-roads" there is inserted "or any restricted byways", and (b) after that subsection, there is inserted— "(2) In this section and section 17, "restricted byway" has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000." In section 17 (when footpaths, etc, are stopped up, other paths to be made in lieu thereof)— (a) for "or bridle-road" there is substituted ", bridle-road or restricted byway", and (b) for "or road" there is substituted ", road or restricted byway".
Harbours Act 1964(**7**), sections 14, 16 and 17, paragraph 7A of Schedule 2 and paragraph 12 of Schedule 3.	In section 14 (ministers' powers, on application of harbour authorities, or others, to make orders for securing harbour efficiency, &c), in subsection (5A)(**8**), for "or bridleway" there is substituted ", bridleway or restricted byway". In section 16 (ministers' powers, on application of intending undertakers, or others, to make orders conferring powers for improvement, construction, &c, of harbours), in subsection (7A)(**9**), for "or bridleway" there is substituted ", bridleway or restricted byway".

(**6**) 1842 c.94.
(**7**) 1964 c.40.
(**8**) Section 14(5A) of the Harbours Act 1964 was inserted by the Transport and Works Act 1992 (c.42), Schedule 3, paragraph 1(1) and (7).
(**9**) Section 16(7A) of the Harbours Act 1964 was inserted by the Transport and Works Act 1992, Schedule 3, paragraph 2(1) and (5).

Column 1 *Provisions applying in relation to restricted byways*	*Column 2* *Amendments*
	In section 17 (procedure for making harbour revision and empowerment orders), in subsections (2A) and (2B)(**10**), for "or bridleway", in both places where it occurs, there is substituted ", bridleway or restricted byway". In section 57 (interpretation), in subsection (1), after the definition of "provisional order", there is inserted— ""restricted byway" has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000;". In Schedule 2 (object for whose achievement harbour revision orders may be made), in paragraph 7A(**11**), for "or bridleways" there is substituted ", bridleways or restricted byways". In Schedule 3 (procedure for making harbour revision and empowerment orders)(**12**), in paragraph 12, for "or bridleway", in each place where it occurs, there is substituted ", bridleway or restricted byway".
Countryside Act 1968(**13**), section 27.	In section 27 (signposting)(**14**)— (a) in subsections (1), (2), (4), (5) and (6), for "bridleway or", in each place where it occurs, there is substituted "bridleway, restricted byway or", and (b) in subsection (8), after "so used", there is inserted ", and "restricted byway" has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000".
Chronically Sick and Disabled Persons Act 1970(**15**), section 20.	In section 20 (use of invalid carriages on highways), in subsection (2)(**16**), in the definition of "footway", after "Highways Act

(**10**) Subsections (2A) and (2B) of section 17 of the Harbours Act 1964 were inserted by the Transport and Works Act 1992, Schedule 3, paragraph 3.
(**11**) Paragraph 7A of Schedule 2 to the Harbours Act 1964 was inserted by the Transport and Works Act 1992, Schedule 3, paragraph 9.
(**12**) Schedule 3 of the Harbours Act 1964 was substituted by the Harbour Works (Environmental Impact Assessment) Regulations 1999 (S.I. 1999/3445), Schedule 3.
(**13**) 1968 c.41.
(**14**) Section 27 of the Countryside Act 1968 was amended by the Highways Act 1980 (c.66), Schedule 24, paragraph 17, the Wildlife and Countryside Act 1981(c.69), section 65, and the Road Traffic Regulation Act 1984 (c.27), Schedule 14.
(**15**) 1970 c.44.
(**16**) Section 20(2) of the Chronically Sick and Disabled Persons Act 1970 was amended by the Highways Act 1980 (c.66), Schedule 24, paragraph 19.

	1980" insert "or a restricted byway within the meaning of Part 2 of the Countryside and Rights of Way Act 2000".
Local Government Act 1972(**17**), section 187.	In section 187 (powers of district council or Welsh principal council as regards footpaths and bridleways)— (a) in subsection (3), for "and bridleways" there is substituted ", bridleways and restricted byways", and (b) after that subsection, there is inserted— "(3A) "Restricted byway" has the same meaning as in Part 2 of the Countryside and Rights of Way Act 2000.".
Highways Act 1980(**18**), sections 25 to 28, 36, 42, 43, 72 and 115A, sections 115B and 115C (so far as they relate to footpaths, bridleways and footways in relation to which no pedestrian planning order or traffic order is in force), sections 118, 118A, 119, 119A, 120, 121, 135, 146, 275 and 300, Schedule 6 and paragraph 3(3) of Schedule 12A.	In section 25 (creation of footpath or bridleway by agreement)(**19**)— (a) in subsections (1), (4), (5) and (6), for "or bridleway", in each place where it occurs, there is substituted ", bridleway or restricted byway", and (b) in the sidenote, for "or bridleway" there is substituted ", bridleway or restricted byway". In section 26 (compulsory powers for creation of footpaths and bridleways)(**20**)— (a) in subsections (1), (2), (3A) and (5), for "or bridleway", in each place where it occurs, there is substituted "bridleway or restricted byway", and (b) in the sidenote, for "and bridleways" there is substituted ", bridleways and restricted byways". In section 27 (making up of new footpaths and bridleways)— (a) in subsections (1) and (5)(a), for "or bridleway", in each place where it occurs, there is substituted ", bridleway or restricted byway", and (b) in the sidenote, for "and bridleways" there is substituted ", bridleways and restricted byways". In section 28 (compensation for loss caused by a public path creation order), in subsection (4), for "or bridleway" there is substituted ", bridleway or restricted byway".

(**17**) 1972 c.70.
(**18**) 1980 c.66.
(**19**) Section 25 of the Highways Act 1980 was amended by the Wildlife and Countryside Act 1981, section 64.
(**20**) Section 26 of the Highways Act 1980 was amended by the Countryside and Rights of Way Act 2000, Schedule 6, paragraph 1.