STATUTORY INSTRUMENTS

1983 No. 1895 (N.I. 18)

The Access to the Countryside (Northern Ireland) Order 1983

- - - - - - 21st December 1983

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Access to the Countryside (Northern Ireland) Order 1983.

(2) This Order shall come into operation on the expiration of the period of three months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

[F2][F3](2) In this Order—

"aerodrome"**[**[F4] means an airport, as defined in Article 2(2) of the Airports (Northern Ireland) Order 1994**]**;

[F5]"agriculture" shall be construed in accordance with section 43(1) of the Agriculture Act (Northern Ireland) 1949;

"the Department" means the Department of the Environment;

"development" has the meaning assigned to it by the **[**[F2]Planning Act (Northern Ireland) 2011**]** ;

[F6]"district valuer" has the meaning assigned to it by Article 2(2) of the Rates (Northern Ireland) Order 1977;

[[F7]"electricity undertaker" means a holder of a licence under Article 10(1) of the Electricity (Northern Ireland) Order 1992;**]**

"excepted land" has the meaning assigned to it by Article 26(5);

"government department" includes a department of the Government of the United Kingdom;

"interest", in relation to land, includes any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting and fishing rights;

"motor vehicle" includes motor bicycle;

"open country" has the meaning assigned to it by Article 25(2);

[F8"owner" in relation to land, means any person for the time being receiving or entitled to receive the rack rent of any land, whether on his own account or as agent or trustee for another or who, if the land were let at a rack rent, would so receive or be entitled to receive that rent**]**

"pedal cycle" means a bicycle or tricycle which is designed and constructed for propulsion solely by the physical exertions of a person or persons seated thereon;

"planning permission" has the meaning assigned to it by **[**F3section 250(1) of the Planning Act (Northern Ireland) 2011**]** ;

"prescribed" means prescribed by regulations made by the Department;

"public path" means a way over which the public have by virtue of Article 11, 12, 15 or 16 (but subject to any conditions, limitations, orders or bye-laws) a right of way on foot, on horseback and (by virtue of Article 20) on a pedal cycle, but not using a motor vehicle;

"public path creation agreement" means an agreement made under Article 11;

"public path creation order" means an order made under Article 12;

"public path diversion order" means an order made under Article 15 or 16;

"public path extinguishment order" means an order made under Article 14 or 16;

"public right of way" does not include a road or any other way which is maintainable by a government department;

F9"refreshments" includes intoxicating liquor within the meaning of section 84(1) of the Licensing Act (Northern Ireland) 1971;

F10"statutory undertakers" means any persons authorised by any statutory provision to carry on any railway, canal, inland navigation, dock, harbour,. . . . . or other public undertaking and includes**[**F11 a universal service provider (within the meaning of **[**F12Part 3 of the Postal Services Act 2011**]**) in connection with the provision of a universal postal service (within the meaning of **[**F13that Part**]**)**][**F7, an electricity undertaker**]** and British Telecommunications**[**F4 and the airport operator (within the meaning of the Airports (Northern Ireland) Order 1994) of any airport to which Article 25 of that Order applies**]**;

F14"telegraphic line" has the same meaning as in the Telegraph Act 1878;

"waterway" means any lough, river, reservoir, canal or tidal or coastal waters, being (in any case) water suitable, or which can reasonably be rendered suitable, for sailing, boating, bathing, fishing or other water sport or recreation.

(3) Where a public right of way passes over a bridge or through a tunnel, that bridge or tunnel is to be taken for the purposes of this Order to be part of the way.

Annotations:

F1 1954 c. 33 (N.I.).

F2 Words in art. 2(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 47(a)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F3 Words in art. 2(2) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by Planning Act (Northern Ireland) 2011 (c. 25), s. 254(1)(2), **Sch. 6 para. 47(b)** (with s. 211); S.R. 2015/49, arts. 2, 3, Sch. 1 (with Sch. 2 (as amended (16.3.2016) by S.R. 2016/159, art. 2))

F4 1994 NI 1

F5 1949 c. 2 (N.I.).

F6 S.I. 1977/2157 (N.I. 28).

F7 1992 NI 1

F8 Art. 2(2): definition of "owner" substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 6**
F9 1971 c. 13 (N.I.).
F10 1996 NI 2
F11 SI 2001/1149
F12 Words in art. 2(2) in definition of "statutory undertakers" substituted (1.10.2011) by Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 (S.I. 2011/2085), art. 5(1), **Sch. 1 para. 16(a)**
F13 Words in art. 2(2) in definition of "statutory undertakers" substituted (1.10.2011) by Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011 (S.I. 2011/2085), art. 5(1), **Sch. 1 para. 16(b)**
F14 1878 c. 76.

PART II

PUBLIC RIGHTS OF WAY AND PUBLIC PATHS, ETC.

Public rights of way

Protection and maintenance

3.—(1) A district council shall assert, protect and keep open and free from obstruction or encroachment any public right of way; and for this purpose a district council may institute proceedings in its own name.

(2) A district council may, after consultation with the owner of the land concerned, maintain any public right of way; but this paragraph shall not relieve any person from any liability to maintain a public right of way.

(3) A district council shall compile and preserve maps and other records of public rights of way in its district.

Signposting

4.—(1) A district council may, after consultation with the owner or occupier of the land concerned, erect and maintain signposts or other similar works on any public right of way.

(2) A district council shall, in the exercise of its powers under paragraph (1), erect such signposts or other similar works as may in the opinion of the district council be required to assist persons unfamiliar with the locality to follow the course of the public right of way.

Duty to maintain stiles, etc.

5.—(1) Any stile, gate or other similar structure across a public right of way shall be maintained by the owner of the land in a safe condition, and to the standard of repair required to prevent unreasonable interference with the rights of persons using the public right of way.

(2) The district council may, if it appears that the duty imposed by paragraph (1) is not being complied with, take all necessary steps for repairing and making good the stile, gate or other similar structure after giving the owner and occupier not less than fourteen days' notice.

(3) The district council may recover from the owner of the land all or part of any expenses reasonably incurred by it in and in connection with the exercise of the powers conferred by paragraph (2).

(4) The district council shall contribute not less than a quarter of any expenses which it is satisfied have been reasonably incurred in compliance with paragraph (1), and may make further contributions of such amount in each case as, having regard to all the circumstances, it considers reasonable.

(5) Paragraph (1) does not apply to any structure—

(a) if any conditions for the maintenance of the structure are in force under Article 6 (power to authorise erection of stiles, etc.), or

(b) if and so long as, under an agreement in writing with any other person, there is a liability to maintain the structure on the part of the district council.

Power to authorise erection of stiles, etc., in interests of agriculture or forestry

6.—(1) This Article applies where the owner, lessee or occupier of land which is used or being brought into use for agriculture or forestry represents to the district council that, for securing that the use, or any particular use, of the land for agriculture or forestry shall be efficiently carried on, it is expedient that stiles, gates or other similar structures for preventing the ingress or egress of animals should be erected on a public right of way which crosses the land.

(2) Where a representation is made under paragraph (1), the district council may—

(a) authorise the erection of the stiles, gates or other similar structures, and

(b) impose such conditions relating to maintenance and for enabling the right of way to be exercised without undue inconvenience to the public.

(3) Where an authorisation is granted under paragraph (2)(a) the right of way shall be deemed to be subject to a condition that the stiles, gates or other similar structures may be erected and maintained in accordance with the authorisation and so long as the conditions attached to the authorisation are complied with.

Right to plough

7.—(1) Where a public right of way crosses land which is used or being brought into use for agriculture or forestry, then, if—

(a) it is proposed in accordance with the rules of good farming or forestry to plough the land, and

(b) it is convenient, in so ploughing the land, to plough the way together with the rest of the land,

the right of way shall be subject to the condition that the occupier shall have the right to plough the way as well as the rest of the land.

(2) Paragraph (1) does not confer any right to plough so much of a way as follows what are for the time being the headlands or sides of a field or enclosure.

(3) Where the public right of way is a public path, an agreement or order relating to that path may exclude the right to plough the path or any part of it and may impose restrictions or conditions on the exercise of that right.

(4) Within seven days after ploughing a public right of way the occupier shall give the district council notice of that fact.

(5) Where a public right of way is ploughed the occupier shall as soon as may be after the ploughing is completed reinstate the surface of the way, and in any case, subject to Article 8 (temporary diversion of the public right of way on account of ploughing), not later than fourteen days from the date on which the way is ploughed or, if prevented from doing so by exceptional weather conditions, as soon as practicable thereafter.

(6) Any person who—

(a) ploughs a public right of way which he has no right to plough, or

(b) fails to comply with paragraph (4) or (5),

shall be liable on summary conviction to a fine not exceeding £200.

(7) If—

(a) an occupier fails to comply with paragraph (5), or

(b) a public right of way is ploughed and the occupier has no right to plough it,

the district council may, after giving the occupier not less than fourteen days' notice, take all necessary steps for reinstating the surface of the way and may recover from the occupier any expenses reasonably incurred under this paragraph.

(8) References in this Article and Article 8 to ploughing include references to the breaking up of the surface by any mechanical means for the purposes of agriculture or forestry.

Temporary diversion on account of ploughing

8.—(1) If, on the application of the occupier, the district council is satisfied that it is expedient in the interests of good farming or forestry that the period of fourteen days mentioned in Article 7(5) should be extended, the district council may—

(a) order the temporary diversion of the way until such date as may be specified in the order, being a date not more than three months after the time when the occupier began to plough the way, and

(b) by the order extend the period of fourteen days so as to expire on that date.

(2) in deciding whether to make an order under paragraph (1) the district council shall take into account the interests of the users of the path.

(3) Before refusing to make an order under paragraph (1) the district council shall consult the Department of Agriculture.

(4) On the making of an order under paragraph (1) the district council shall forthwith cause a copy of the order to be placed in a prominent position at the ends of the diversion and maintained there throughout the period of the diversion.

(5) An order under paragraph (1)—

(a) shall not affect the line of the way on land not occupied by the applicant;

(b) shall not divert any part of the way on to land not occupied by the applicant, unless written consent to the making of the order has been given by the occupier of that land, and by any other person whose consent is needed to obtain access to the land;

(c) may require as a condition of the taking effect of the order the provision of any necessary facilities for the convenient use of the diversion,

and the district council may enter into an agreement with the applicant for the provision of any such facilities by the district council at the expense of the applicant.

Pasturing of bulls

9.—(1) Any person who is the occupier of a field or enclosure through which there is a public right of way shall be guilty of an offence if, except as provided by paragraph (2), he permits a bull to be at large in that field or enclosure.

(2) Paragraph (1) does not apply to a bull which—

(a) does not exceed the age of ten months; or