



Department
for Environment
Food & Rural Affairs

Rights of Way Reforms Package

LAF conference 2016

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Rights of Way Reforms Package

- Primary legislation: Deregulation Act 2015
- Secondary legislation and guidance to commence in 2016
- All parts of the package due to commence simultaneously
- A finely balanced package of recommendations agreed by a Stakeholder Working Group.

Stakeholder Working Group



ramblers
at the heart of walking



Byways & Bridleways Trust



Changes to the DMMO process – New Schedule 13A (replaces Schedule 14)

- The surveying authority may inform the applicant that they already have copies of some of the documents relied on in the application and therefore do not need copies.
- The applicant may transfer the definitive map modification order application to another nominated person, who then becomes the applicant in law.
- The authority must carry out a preliminary assessment within 3 months of receipt and decide whether there is a reasonable basis for the application and inform the applicant of their decision.
- The authority must determine the application as soon as reasonably practicable after serving notice on the landowner (if the application passes the preliminary assessment).

New Schedule 13A – Continued

- The surveying authority must establish whether the landowner would consent to the making of a definitive map modification order, or would do so if the public right of way was to be altered so as to change its course, width or limitations (modification consent order).
- If the authority has not determined the application within 12 months, the applicant (or landowner) may apply for a Magistrates Court order. The Court will be able to require the authority to carry out specified actions within a specified period.
- If the surveying authority decides not to make a definitive map modification order the applicant has a statutory right of appeal. The applicant notifies the authority who must submit the matter to the Secretary of State for a decision.

New Schedule 13A – Continued

- Giving notice of orders will no longer entail advertisement in a local newspaper. The new requirement is for authorities to publish orders on their website.
- Having considered the appeal the Secretary of State may:
 - uphold the authority's decision; or
 - direct the authority to make an order;
 - or make an order.
- The order is then otherwise processed in the same way as an opposed order. The order must be confirmed by the Secretary of State.

New Schedule 14A (replaces Schedule 15)

- The power of the Secretary of State to decide a case on written representations alone is made explicit.
- A modification consent order may be confirmed by the authority without reference to the Secretary of State, even if it is objected to.
- The Courts may quash the decision of the Secretary of State, instead of quashing the order.



Other changes to the DMMO process

- The Secretary of State may make regulations for a simplified schedule 13A & 14A process to apply to modifications arising from administrative errors.
- After the cut-off date, surveying authorities may not make an order to downgrade a public right of way where the only basis is the pre-49 status of the way.
- For up to 12 Months after the cut-off date, authorities may designate public rights of way to protect them from extinguishment for a prescribed period.
- Where a public right of way is extinguished at the cut-off date, the public right of way becomes a private right of way for the benefit of the landowner.