

# RIGHTS OF WAY : A GUIDE TO LAW AND PRACTICE

## FOURTH EDITION

### LIST OF CORRECTIONS AT 11 NOVEMBER 2009

#### Page

- xii Title of the Appendix to Chapter 5 should read 'Sections 53 to 56 of CRWA 2000'.
- xxvii- The alphabetical list of Statutes and Conventions is not alphabetical within the first  
xxix letter groups. A corrected list is at the end of this list.
- 20 Final sentence of 2.4.3, delete first 'not' ,so that it reads "It is a defence..."
- 37 2.8.2 The quotation from *Attorney-General v Beynon* should read : 'It is clear that the mere fact that a road runs between fences, which of course includes hedges, does not per se give rise to any presumption. It is necessary to decide the preliminary question whether those fences were put up by reference to the highway, that is, to separate the adjoining closes from the highway or for some other reason. When that has been decided then a rebuttable presumption of law arises, supplying any lack of evidence of dedication in fact, or inferred from user, that the public right of passage, and therefore the highway, extends to the whole space between the fences and is not confined to such part as may have been made up. It seems clear to me, however, as the principle has developed, that one is to decide the preliminary question in the sense that the fences do mark the limit of the highway unless there is something in the condition of the road or the circumstances to the contrary.'
- 46 In footnote 27 the date of the *Merstham Manor* case should be 1937, not 1932. The contents of footnotes 28 and 30 should be reversed, i.e. footnote 28 should refer to *Jones v Bates* and footnote 30 to *Lewis v Thomas*.
- 47 In footnote 36 the date of the *Merstham Manor* case should be 1937, not 1932.
- 48 The House of Lords judgment in the *Beresford* case as given in 2003, not 2001.
- 48 Second complete paragraph, first sentence, replace 'without permission' with 'with permission'.
- 56 3.3.9, Deposit of maps and declarations with the authority, first paragraph, final line, replace 'six' with 'ten'. [Footnote 65 applies here also.]
- 57 Footnotes 74 and 76, '(BBE)' should apply to footnote 74 but not to footnote 76.
- 62 (c), second paragraph, first line, replace 'Lord Fosote' with 'Lord Scott'
- 83 4.4.2 (a), third line, delete second 'be'
- 90 4.7.1, Welsh counties, replace 'Caernaronshire' with 'Caernarvonshire'
- 100 5.2.2 (c), add at end 'or restricted byway'.
- 101 5.2.3, third line after 'public path' add 'or restricted byway'.
- 103 5.2.6 Deletion of a right of way from the map, first paragraph, final line, replace 'date of the preparation of the original definitive map', with 'relevant date of the most recent definitive or revised definitive map or of the modification order that added the path to the map'.

- 118 Final sentence of 5.6.3, replace 'latter' with 'former'.
- 130 Footnote 85, replace 'ex parte' with 'and'.
- 163 Table entry for HA 1980 s 18, replace 'improvement or special' with 'improvement of special'.
- 165 Table entry for New Towns Act 1981, replace '32' with 's 23'
- 218 second full paragraph, second line, replace '(a)((f)' with '(a)-(f)'.
- 218 The page reference in footnote 150 should be 568.
- 233 8.4.1, second paragraph, first line, delete '(above)'.
- 264 9.8.5, second line, replace 'motor' with 'mechanically-propelled'.
- 265 9.8.5, footnote 95, third line, after 'would', replace existing text with 'both need permission under the regulations from the Secretary of State and under section 33 from the highway authority, and also require the consent of the landowner under section 33.'
- 276-7 10.2.5, in the list of ways maintainable at public expense replace the paragraphs from the first (f) onwards with [paragraphs (a) to (e) remain unchanged]:
- (f) a footpath, bridleway or restricted byway created by a public path diversion order or a rail crossing diversion order;
  - (g) a footpath, bridleway or restricted byway created or diverted by an order made under section 247 or 257 of the Town and Country Planning Act 1990;
  - (h) a footpath, bridleway, restricted byway or a way over which the public have a right of way for vehicular and all other kinds of traffic (carriageway), created in consequence of a special diversion order;
  - (i) a footpath, bridleway or restricted byway created in consequence of an order made under section 14 or 16 of the Harbours Act 1964;
  - (j) a footpath, bridleway or restricted byway created in consequence of an order made under section 1 or 3 of the Transport and Works Act 1992.
- 282 First full paragraph, penultimate line, replace 'Chapter 2' with 'Chapter 13.5.1'.
- 289 10.8.1, Claimed maintenance powers under HA 1980 s 42, second sentence, replace present text with 'In urban areas, a claim may be made in respect of any publicly-maintainable highway (other than a trunk or classified road), but in rural areas only publicly-maintainable footpaths, bridleways and restricted byways may be claimed under this power.'
- 304 12.2.1, England, replace second sentence with 'For the public agencies most involved with rights-of-way work Defra sponsors Natural England, the Department for Transport sponsors the Highways Agency, and the Department for Communities and Local Government sponsors the Ordnance Survey and Planning Inspectorate.' In the third sentence, replace 'The Department' with 'Defra'.
- 350 13.5.5, final paragraph on page, seventh line, the *Greenhalgh* case, replace '1994' with '1969'.
- 379 14.2.15, fourth paragraph, fifth line, replace 'to' with 'do'.
- 379 14.2.15, fourth paragraph, sixth line, replace '1992' with '1990'.

- 458 In subsection (5), fourth line, replace 'to' with 'of'.
- 485 In subsection (5), replace first two lines with 'A rail crossing order shall not alter a point of termination of a path or way diverted under the order—'.
- 609 In the third line of subsection (2) of section 259, after 'may' add 'be'.
- 685 At the start of section 67(1)(b) delete 'or'.
- 685 In section 67(2)(a) add 'lawful' between 'main' and 'use'.
- 694 Should have a heading 'ROAD TRAFFIC PROCEDURE REGULATIONS 1992'.
- 699-710 Heading should read 'RAIL CROSSING EXTINGUISHMENT AND DIVERSION ORDERS REGULATIONS 1993'.

## STATUTES IN 4TH EDITION

### Alphabetical list

- Acquisition of Land Act 1981  
Agriculture Act 1947  
Airports Act 1986  
Ancient Monuments and Archaeological Areas Act 1979  
Animal Health Act 1981  
Animals Act 1971  
Anti-Social Behaviour Act 2003
- Barbed Wire Act 1893  
British Transport Commission Act 1949  
British Waterways Act 1995
- Channel Tunnel Rail Link Act 1996  
Chronically Sick and Disabled Persons Act 1970  
Civil Aviation Act 1982  
Clean Neighbourhoods and Environment Act 2005  
Coal Industry Act 1994  
Coast Protection Act 1949  
Commons Act 1899  
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Commons Registration Act 1965  
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Copyright, Designs and Patents Act 1988  
Countryside Act 1968  
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Criminal Damage Act 1971  
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- Dangerous Dogs (Amendment) Act 1997  
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Disability Discrimination Act 1995  
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- Gas Act 1986  
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 Military Lands Act 1892  
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National Parks and Access to the  
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New Towns Act 1981  
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Occupiers' Liability Act 1957  
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 Police Reform Act 2002  
 Prescription Act 1832  
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 Public Health Act 1848  
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 Regulation of Railways Act 1868  
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Tithe Act 1836

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Water Industry Act 1991

Water Resources Act 1991

Wildlife and Countryside Act 1981