

RIGHTS OF WAY : A GUIDE TO LAW AND PRACTICE

FOURTH EDITION

LIST OF CORRECTIONS AT 19 JANUARY 2011

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.
- 12 The attribution to Williams J in the first paragraph should be to Byles J.
- 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 Fosco' with 'Lord Scott'
- 83 4.4.2 (a), third line, delete second 'be'
- 90 4.7.1, Welsh counties, replace 'Caernaronsire' 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'.
- 476 In section 115J(3)(a), line 2, replace 'person' with 'consent'.
- 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'.
- 792 Circular 4/1992. We have been made aware that a correction was issued by the Department in 1992. In the first sentence of paragraph 25, 'short term restriction or urgent action' should read 'short term restriction and urgent action'.

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
Commons Act 2006
Commons Registration Act 1965
Communications Act 2003
Companies Act 1985
Consumer Protection Act 1987
Copyright, Designs and Patents Act 1988
Countryside Act 1968
Countryside and Rights of Way Act 2000
Crime and Disorder Act 1998
Criminal Damage Act 1971
Criminal Justice Act 1982
Criminal Justice Act 1988
Criminal Justice Act 1991
Criminal Justice and Public Order Act 1994
Criminal Law Act 1977
Cycle Tracks Act 1984
- Dangerous Dogs (Amendment) Act 1997
Dangerous Dogs Act 1989
Dangerous Dogs Act 1991
- Data Protection Act 1998
Defence Act 1842
Defence Act 1860
Disability Discrimination Act 1995
Disability Discrimination Act 2005
Dogs (Fouling of Land) Act 1996
Dogs (Protection of Livestock) Act 1953
Dogs Act 1871
- Electricity Act 1989
Environment Act 1995
Environmental Protection Act 1990
European Convention for the Protection of Human Rights and Fundamental Freedoms
- Finance (1909-1910) Act 1910
Fire and Rescue Services Act 2004
Firearms Act 1968
Food and Environment Protection Act 1985
Forestry Act 1967
Freedom of Information Act 2000
- Gas Act 1986
General Inclosure Act 1801
Greater London Authority Act 1999
Guard Dogs Act 1975
- Harbours Act 1964
Health and Safety at Work Act 1974
Highways (Miscellaneous Provisions) Act 1961
Highways (Obstruction by Body Corporate) Act 2004
Highways Act 1835
Highways Act 1862
Highways Act 1959
Highways Act 1971
Highways Act 1980
Housing Act 1985
Housing Act 1988
Housing Act 2004

Housing and Planning Act 1986
 Human Rights Act 1998

Industrial Relations Act 1971

Justice of the Peace Act 1361

Land Powers (Defence) Act 1958
 Land Registration Act 1988
 Law of Property Act 1925
 Leasehold Reform, Housing and Urban
 Development Act 1993
 Litter Act 1983
 Local Government (Access to Information)
 Act 1985
 Local Government (Miscellaneous
 Provisions) Act 1976
 Local Government (Miscellaneous
 Provisions) Act 1982
 Local Government (Wales) Act 1994
 Local Government Act 1888
 Local Government Act 1929
 Local Government Act 1972
 Local Government Act 1974
 Local Government Act 1985
 Local Government Act 1992
 Local Government Act 1999
 Local Government Act 2000
 Local Government Finance Act 1992
 Local Government, Planning and Land Act
 1980
 London Government Act 1963
 London Local Authorities and Transport for
 London Act 2003

Magistrates' Courts Act 1980
 Military Lands Act 1892
 Mines and Quarries Act 1954

National Parks and Access to the
 Countryside Act 1949
 National Trust Act 1907
 National Trust Act 1971
 Natural Environment and Rural
 Communities Act 2006
 New Roads and Street Works Act 1991

New Towns Act 1981
 Norfolk and Suffolk Broads Act 1988

Occupiers' Liability Act 1957
 Occupiers' Liability (Scotland) Act 1960
 Occupiers' Liability Act 1984
 Open Spaces Act 1906
 Opencast Coal Act 1958

Parish Councils Act 1957
 Planning and Compulsory Purchase Act
 2004
 Police Reform Act 2002
 Prescription Act 1832
 Protection from Harassment Act 1997
 Public Health Act 1848
 Public Health Act 1875
 Public Order Act 1986

Railway Clauses Consolidation Act 1845
 Railways Act 1993
 Regional Development Agencies Act 1998
 Regulation of Railways Act 1868
 Requisitioned Land and War Works Act
 1945
 Requisitioned Land and War Works Act
 1948
 Rights of Way Act (Isle of Man) 1961
 Rights of Way Act 1932
 Rights of Way Act 1990
 Road Traffic (Temporary Restrictions) Act
 1991
 Road Traffic Act 1930
 Road Traffic Act 1988
 Road Traffic Act 1991
 Road Traffic Regulation (Special Events) Act
 1994
 Road Traffic Regulation Act 1984

Serious Organised Crime and Police Act
 2005
 Statute for the Mending of Highways 1554
 Statute of Westminster 1275
 Statutory Declarations Act 1835
 Statutory Orders (Special Procedure) Act
 1945

Telecommunications Act 1984

Terrorism Act 2000

Tithe Act 1836

Town and Country Planning Act 1971

Town and Country Planning Act 1990

Town Police Clauses Act 1847

Transport Act 1968

Transport and Works Act 1992

Tribunals and Inquiries Act 1992

Unfair Contract Terms Act 1977

Vehicle Excise and Registration Act 1994

Water Industry Act 1991

Water Resources Act 1991

Wildlife and Countryside Act 1981