

Making stiles and gates easier for those with mobility problems

Section 69 of the Countryside and Rights of Way Act 2000 amends section 147 of the Highways Act 1980, and introduces a new section 147ZA, to provide that stock-proof furniture (principally stiles and gates) across public footpaths and bridleways will be better suited to the needs of people with mobility problems.

There are also powers for the Secretary of State to issue statutory guidance to local authorities on using the powers under these sections. Because there is already ample relevant guidance and many authorities already consider the needs of those with mobility problems, Defra sees no need to introduce statutory guidance at present, but may do so in the future if the need arises.

The Government wants to make it easier for people with mobility problems to have access to the countryside by encouraging measures to improve the accessibility of public rights of way and authorities are urged to make maximum use of these new powers and the relevant guidance. Set out below is an explanation of the new powers, some advice on their use and links to other relevant guidance.

The new powers: sections 147 and 147ZA of the Highways Act 1980

Existing section 147 enables a landowner or occupier to apply to their local authority for authorisation for the erection of gate, stile etc. across a footpath or bridleway. Authorities may attach conditions to the authorisation to ensure that the public is able to use the right of way without undue inconvenience. The amendment to section 147 requires authorities to have regard, when considering an authorisation, to the needs of people with mobility problems.

New section 147ZA enables authorities to enter into agreements with landowners, lessees or occupiers for existing structures such as stiles and gates across footpaths and bridleways to be replaced with structures that are safer or easier for people with mobility problems to use. Such agreements will have the effect of replacing the owner's or occupier's previous right to erect and maintain the structure concerned, and may in particular contain conditions that are binding on any succeeding owner lessee or occupier.

The powers in sections 147 and 147ZA can be exercised by "competent authorities", which include, in England, non-metropolitan district councils exercising maintenance powers under sections 42 and 50 of the Highways Act 1980. The powers may also be exercised by national park authorities and by non-metropolitan district councils acting as the agent of the highway authority.

Guidance on the needs of people with mobility problems

For a summary of existing guidance click [here](#).

The Secretary of State has already given guidance to authorities on the needs of people with mobility problems in connection with rights of way improvement plans (ROWIPs). Authorities are reminded of that advice, and of British Standard 5709:2006: in addition the Secretary of State wishes to draw authorities' attention to two recent publications.

- By all reasonable means: inclusive access to the outdoors for disabled people (Countryside Agency, 2005, CA 215).
- Countryside for All Good Practice Guide extended CD edition, published by the Fieldfare Trust in 2005.

These two publications, together with the improvement plan guidance and the British Standard, should provide authorities with enough information on how to assess the needs of people with mobility problems, and to determine which routes should have priority for improved access for such people. They also make it clear that tackling physical barriers on rights of way is only a part of providing better access to the countryside for people with disabilities or mobility problems, and that consideration needs also to be given to such things as publicity, parking and other relevant facilities. Many authorities have already, in the course of their work on rights of way improvement plans undertaken consultation on the needs of people with disabilities and mobility problems and developed proposals for improved access to the countryside.

Advice on using sections 147 and 147ZA

Both sections 147 and 147ZA contain powers to impose conditions on the design and maintenance of structures. Authorities are advised that these powers can be used to require, for example, that a structure complies with BS 5709.

Authorities should keep records of authorisations under section 147 and agreements under section 147ZA and are encouraged to keep details of authorisations available for public inspection with the definitive map and statement. Section 53(4) makes it clear that a definitive map modification order may add details of limitations or conditions affecting the right of way to the statement.

Before they authorise a barrier under section 147, authorities should be satisfied that the barrier being authorised is the least restrictive barrier to users of the right of way that is consistent with the need to contain or exclude animals.

On agreements under section 147ZA authorities are advised to note the following.

- It provides a power only to enter into an agreement, and authorities may not enter into an agreement except with the consent of every owner, lessee or occupier of the land on which the relevant structure is situated who is not a party to the agreement. There are powers, similar to those in section 147, to impose conditions, including conditions for future maintenance. The agreement will have the effects described in section 147ZA only if any conditions are complied with.
- Where the authority is the owner of the land on which the structure is situated it cannot enter into an agreement with itself, but it is able to give consent as owner to an agreement entered into with a lessee or occupier.
- The power to enter into an agreement is limited to structures which are “relevant structures”. These are structures which are lawful limitations on the exercise of the right of way, and it is for authorities to satisfy themselves that a structure the subject of a proposed agreement is a “relevant structure”. Any structure across a footpath or bridleway which is not a “relevant structure” should be dealt with by the authority under sections 130 and 143 of the Highways Act as an obstruction: in some circumstances authorisation by the authority of a replacement structure under section 147 may provide a solution.
- An agreement can cover more than one structure.
- Authorities should ensure that the replacement structure is the least restrictive barrier to users of the right of way that is consistent with any need to contain or exclude animals. Authorities should note that the power to enter into agreements does not extend to removal of structures without replacement: there has to be a replacement structure of some description.
- The power to enter into agreements envisages that works will follow, so the power cannot be used to enter into agreements to give retrospective effect to a physical change that has already been made.