

The Countryside Act, 1968
Schedule 3 - PART III
ROADS USED AS PUBLIC PATHS

The special review

7. In this Part of this Schedule the "special review " carried out by any authority means the first review begun by that authority after the coming into force of this Act.
8. - (1) Subject to the provisions of this paragraph, the draft revision in the special review shall be published not later than three years after the date of the coming into force of this Act.
- (2) If on the said date the authority have not completed a survey or revision begun earlier-
- (a) the draft revision in the special review shall be published not later than three years after the date of the coming into force of this Act, or one year after notice is published of the completion of the survey or earlier review, whichever is the later,
- (b) the special review (hereafter in this Schedule called a " limited special review ") shall be confined to a review of roads used as public paths in accordance with this Part of this Schedule:

Provided that if on a review begun before the date of the coming into force of this Act no revised map and statement has been published in draft before that date, the review shall be abandoned, and shall be begun again under Part II of this Schedule as the special review.

- (3) If it appears to the Minister that any stage of a special review has been or is likely to be unduly delayed, he may give to the authority such directions as appear to the Minister appropriate for expediting the review, and it shall be the duty of the authority to comply with the directions.

Reclassification of roads used as public paths

9. - (1) In the special review the draft revision, and the definitive map and statement, shall show every road used as a public path by one of the three following descriptions-
- (a) a " byway open to all traffic ",
- (b) a "bridleway ",
- (c) a " footpath ",

and shall not employ the expression "road used as a public path" to describe any way.

(2) As from the date of publication of the definitive map and statement in the special review-

(a) each way shown in the map in pursuance of this paragraph by any of the three descriptions shall be a highway maintainable at the public expense,

(b) subject to paragraph (c) below, any entry in the map describing a way as a " byway open to all traffic " shall be conclusive evidence of the existence on the date of publication of a public right of way for vehicular and all other kinds of traffic,

(c) section 32(4)(c) of the Act of 1949 (position and width, and limitations or conditions affecting the public right of way, as shown in the statement) shall apply to any byway so shown as it applies to a footpath or bridleway.

(3) In this paragraph "road used as a public path" means-

(a) a way which is shown as a " road used as a public path " in the last definitive map and statement, or

(b) a way which is shown as a " bridleway " or as a " footpath " in the last definitive map and statement, and which in the opinion of the authority ought to have been there shown as a road used as a public path, or

(c) where the special review is not a limited special review, a way which in the opinion of the authority would, but for the provisions of this Part of this Schedule, have fallen to be shown, in the definitive map and statement resulting from the special review, as a road used as a public path.

(4) In subsection (2)(a) and in subsection (5) of section 51 of the Act of 1949 (long distance routes) references to roads used as public paths shall include references to any way shown on a definitive map and statement as a " byway open to all traffic ".

(5) Nothing in this paragraph shall limit the operation of road traffic orders under the Road Traffic Regulation 1967 or oblige a highway authority to provide, on a way shown on a definitive map as a "byway open to all traffic" , a metalled carriage-way, or a carriage-way which is by any other means provided with a surface suitable for the passage of vehicles.

Test for reclassification

10. The considerations to be taken into account in deciding in which class a road used as a public path is to be put shall be-

- (a) (a) whether any vehicular right of way has been shown to exist,
- (b) whether the way is suitable for vehicular traffic having regard to the position and width of the existing right of way, the condition and state of repair of the way, and the nature of the soil,
- (c) where the way has been used by vehicular traffic, whether the extinguishment of vehicular rights of way would cause any undue hardship.

Procedure on special review

- 11.-(1) Part II of this Schedule shall apply to a special review subject as follows.
 - (2) The published notices shall state that the review reclassifies roads used as public paths.
 - (3) The representations or objections referred to in paragraph 4 in Part II shall include representations or objections with respect to the reclassification of any road used as a public path.
 - (4) The time, as stated in the published notice of the draft revision, within which any representation or objection (of any description) may be made to the draft revision shall not be less than four months. Survey begun after commencement of Act
- 12.-(1) Subject to the provisions of this paragraph, paragraphs 9 and 10 above shall apply to an initial survey begun after the coming into force of this Act as if it were the first review so begun.
 - (2) In paragraph 9(1), as applied to the survey, for references to the draft revision and the definitive map and statement there shall be substituted references to the map and statement in draft, provisional and definitive form, and in paragraphs 9 and 10, as applied to the survey, " road used as a public path " shall mean a way which in the opinion of the authority would, but for the provisions of this Part of this Schedule, have fallen to be shown, in the definitive map and statement resulting from the survey, as a road used as a public path.

Interpretation and construction

- 13.-(1) In this Part of this Schedule references to a definitive map and statement include references to a revised map and statement prepared in definitive form.
- (2) This Part, and Part IV, of this Schedule shall be construed as one with Part IV of the Act of 1949.