

# Draft Deregulation Bill

The Natural Environment White Paper 2011 commits the Government to consulting “*on simplifying and streamlining the processes for recording and making changes to public rights of way, based on proposals made by Natural England’s Working Group on unrecorded rights of way*”.

# Need for Reform

It has become evident that the 2026 cut-off date proposal did not take account of the following obstacles.

- Process is slow.
- Process is litigious
- Discovering Lost Ways did not deliver
- Not enough time before 2026

## Proposals that require primary legislation (draft clauses in the Deregulation Bill) and in some cases secondary legislation too.

<p>Introduce a preliminary sift for applications to record rights of way, so that local authorities will be relieved of the burden of dealing with poor or spurious applications. (3)</p>	<p>Benefit to local authorities and landowners – by reducing the administrative burden and the cost of rebutting poor or spurious applications.</p>
<p>Provide that local authorities (rather than applicants) approach landowners, but only where claims pass the preliminary sift. (5)</p>	<p>Benefit to landowners and local authorities – by reducing the number of applications that result in costly dispute procedures.</p>
<p>Enable the local authority to negotiate an alternative route with the landowner before recording the way. (6 &amp; 7)</p>	<p>Benefit to landowners and local authorities – by alleviating the impact of ‘discovered’ ways &amp; reducing the number of applications that result in costly dispute procedures.</p>
<p>Provide for landowners to apply for gates on byways. (32)</p>	<p>Benefit to landowners and local authorities – by reducing the number of applications that are disputed and end up at public inquiry</p>

Provide for recourse to a local magistrate's court rather than the Secretary of State where a local authority has failed to carry out a preliminary sift or deal with an application that has passed the sift. (17 & 18)	Benefit to users and landowners – by providing an appeal mechanism that is likely to get results.
Ensure that any given case can go before the Secretary of State only once, rather than several times, which can often be the case at present. (12)	Benefit to all stakeholders – by reducing the burden of the administrative process.
Reduce the requirement for advertising rights of way orders in newspapers (10)	Benefit to landowners and local authorities – by reducing the cost of the administrative process, which is passed on to the landowner where an order is for the landowner's benefit
Provide that the courts quash only the Secretary of State's decision, where that is found to be at fault, so that the order-making process does not have to start all over again from scratch. (16)	Benefit to all stakeholders – by reducing the burden of the administrative process.

<p>Enable volunteers to transfer applications, so that work does not have to start over again where an applicant can no longer pursue it. (20)</p>	<p>Benefit to users and local authorities – eliminating the risk that work already undertaken will have to be repeated..</p>
<p>Correct flaws in existing legislation that provides for a statutory ‘right to apply’ for the extinguishment or diversion of an existing right of way.</p>	<p>Benefit to landowners - by making it easier for landowners to get authorities to respond positively to requests for alterations to an existing right of way.</p>
<p><b>Proposals that require secondary legislation only</b></p>	
<p>Implementation of the 2026 cut-off provisions. (1)</p>	<p>Benefit to landowners and local authorities – by increasing certainty about what rights of way exist and ending the claims process for historical rights of way.</p>
<p>Preserve routes identified on the list of streets/local street gazetteer as publicly maintainable, or as private streets carrying public rights (25)</p>	<p>In the public interest – by preserving valuable existing public access, particularly where it is maintained at public expense.</p>

## 5 Minister's proposals

- Extension of the powers of local authorities to authorise structures (ie gates) under section 147 of the Highways Act 1980
- A presumption to divert public rights of way out of private gardens and farmyards
- Introduce double jeopardy principle
- More stringent quality requirements for evidence of long usage
- Time limit on claims of long usage

## **Pre-legislative scrutiny**

Carried out by a Joint Committee from July to December 2013 to clarify the purpose of the bill to Parliament and to assess the impact of the bill on outside groups.

The Joint Committee report was published on 19 December and the Government response to the Joint Committee published on 30 January.

# Passage of a Bill

Bill starting in the House of Commons

House of Commons First reading

Second reading

Committee stage

Report stage

Third reading

House of Lords First reading

Second reading

Committee stage

Report stage

Third reading

Consideration of amendments – (ping pong)

Royal Assent



## **Timetable**

The Bill was formally introduced to Parliament on 23 January, 1<sup>st</sup> reading. 2<sup>nd</sup> reading was on 3<sup>rd</sup> February.

Committee stage – February/March

House of Lords – 4<sup>th</sup> session post May