

**EXPLANATORY MEMORANDUM TO**  
**THE DEDICATED HIGHWAYS (REGISTERS UNDER SECTION 31A OF THE**  
**HIGHWAYS ACT 1980) (ENGLAND) REGULATIONS 2007.**

**2007 No. 2334**

**1.** This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 Section 31A of the Highways Act 1980 (c. 66) (“ HA 1980”) requires Local Authorities to set up a register containing information with respect to declarations lodged and maps and statements deposited relating to ways dedicated as highways. Such declarations and deposits enable landowners to formally acknowledge the rights of way across their land, and in doing so, create a presumption that they have no intention to dedicate any further routes across their land.

**3. Matters of special interest to the Joint Committee on Statutory Instruments on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 Section 31A of HA 1980 was inserted by section 57 of , and paragraph 4 of schedule 6 to, the Countryside and Rights of Way Act 2000 (c. 37).

**5. Extent**

5.1 This instrument applies to England.

**6. European Convention on Human Rights**

6.1 As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

7.1 The register described in paragraph 2.1 above is intended to help to: (i) increase knowledge amongst landowners and the general public about declarations which could result in changes to the rights of way network. The register should also help local authorities to manage their rights of way functions.

7.2. This register will help to increase knowledge among landowners, users and the general public to help to avoid duplication where more than one person may be thinking of applying to an authority for a change to the definitive map. It will also

increase certainty by making sure that people know about ways which landowners do not intend to dedicate public rights of way. It will also help to improve knowledge and understanding of the tasks facing local authorities. For local authorities, registers should also help them to manage their rights of way functions

7.2 In November 2004 the Department of Environment, Food and Rural Affairs consulted on the contents of the section 31A HA 1980 register. The consultation period closed in January 2005.

7.3 A total of 117 consultees responded to the consultation paper. The largest number of respondents came from Countryside User Groups (21.4%), followed by County Councils (20.5%) and District, Borough and Local Councils (12.8%). Other respondents included Local access Forums 12.0%, Parish Councils 4.3%, Government Departments/Agencies/Utilities 4.3% and National Park Authorities 2.6%.

7.4 85.6% of respondents agreed with the general guiding principals of the section 31A HA 1980 register. Of the remaining 14.4%, 5.3% disagreed with the general guiding principals, 4.4% were uncertain of their response, and 4.4% expressed no preference. 66.4% respondents agreed that the proposed content of the register meets the principles of minimising the regulatory burden on authorities while providing helpful information to the public. Of the remaining 33.6%, 10.6% disagreed with the general guiding principals, 14.2% were uncertain of their response, and 8.8% expressed no preference. 50% respondents agreed with the general content of the register. Of the 27.7% respondents that did not agree, 9.8% expressed no view at all and 12.5% were undecided as to their response.

7.5 Defra studied all responses carefully and took account of all relevant suggestions and ideas in drafting the Regulations. For example, a number of respondents raised concerns in relation to the inclusion of an applicant's name and address on the register, because of the perceived risk of intimidation. To meet these concerns, these Regulations allow such information to be excluded from the register in certain circumstances. Copies of the analysis of responses that was prepared for Defra have been deposited in the House library.

7.6 The Government plan to issue guidance to all Local Authorities to help establish the content and the upkeep of this particular register.

7.7 It should be noted that this register does not replace any of the requirements prescribed in the Highways Act 1980 for consulting, notifying, advertising or publicising orders as they proceed through the various stages from application to confirmation (or otherwise).

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector will be to establish and maintain the register of deposits and declarations made by landowners.

## **9. Contact**

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