

From the  
Department of Transport  
2 Marsham Street  
London SW1P 3EB

and

Welsh Office  
Ty Glas Road  
Llanishen  
Cardiff  
CF4 5PC

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The Chief Executive  
Greater London Council  
County Councils            )  
District Councils         )     in England and Wales  
London Borough Councils  
Common Council to the City of London

14 February 1986

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**JOINT CIRCULAR FROM THE DEPARTMENT OF TRANSPORT (CIRCULAR ROADS 1/86)  
AND THE WELSH OFFICE (CIRCULAR 3/86)**

**CYCLE TRACKS ACT 1984  
THE CYCLE TRACKS REGULATIONS 1984**

**CORRIGENDUM**

Two typographical errors have been found in the above mentioned Joint Circular.

Would you please make the following amendments:

- in paragraph 9, line 4, for 'sewage' substitute 'sewerage';
- in the opening paragraph of Annex B, line 2, for 'Cycle Tracks Act 1985' substitute 'Cycle Tracks Act 1984'.

Joint Circular from the

Circular Roads 1/86  
(Dept of Transport)

Department of Transport  
2 Marsham Street  
London SW1P 3EB

and

Welsh Office  
Ty Glas Road  
Llanishen  
Cardiff  
CF4 5PC

Circular 3/86  
(Welsh Office)

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The Chief Executive  
Greater London Council  
County Councils            )  
District Councils            )       in England and Wales  
London Borough Councils  
Common Council to the City of London

31 January 1986

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Dear Sir

**CYCLE TRACKS ACT 1984**  
**THE CYCLE TRACKS REGULATIONS 1984**

**INTRODUCTION**

1. This circular refers to the Cycle Tracks Act 1984 (the 1984 Act) and the Cycle Tracks Regulations 1984 (SI 1984 No 1431) (the 1984 Regulations) both of which came into operation on September 12, 1984. It also contains advice on consultation and other matters when a local highway authority proposes to convert all, or part, of a footpath to a cycle track.
2. The 1984 Act removes the right to use mopeds on cycle tracks; makes it an offence to drive or park a motor vehicle on a cycle track; provides a new procedure under which a local highway authority can convert all, or part, of a footpath to a cycle track; and gives highway authorities powers to undertake works to separate a cycle track from an adjacent footway or footpath or to safeguard users of a cycle track.
3. The 1984 Regulations (a copy of which is attached) cover the procedure to be followed when a local highway authority proposes to convert all, or part, of a footpath to a cycle track.

**MOPEDS**

4. Section 1(1) of the 1984 Act amends the definition of a cycle track in section 329(1) of the Highways Act 1980 by removing the right to use pedal cycles, which are also motor vehicles within the meaning of the Road Traffic Act 1972, from a cycle track provided on or after September 12 1984.
5. Section 1(2) of the 1984 Act removes the right to use pedal cycles which are also motor vehicles from cycle tracks which were provided before September 12, 1984.
6. The Departments strongly advise against the provision of highways allowing joint use by mopeds and cyclists. The speed difference between mopeds and pedal cycles can make their joint use of such facilities unsafe.
7. Highways which are intended, or provided, for use both by pedal cycles and mopeds cannot be provided as cycle tracks.

## DRIVING AND PARKING OF MOTOR VEHICLES ON CYCLE TRACKS

8. Section 2(1) of the 1984 Act makes the driving or parking without lawful authority of any motor vehicle on any cycle track an offence subject on conviction to a fine not exceeding the third level of the standard scale (section 37 of the Criminal Justice Act) – as from May 1 1984 £400.

9. Section 2(2) provides a defence if the motor vehicle is being used in certain emergencies, or is engaged in certain work by, or on behalf of, a highway authority or on the apparatus of a statutory undertaker. Section 2(3) defines a statutory undertaker as including any sewage authorities and the operator of a telecommunications code system.

10. As driving or parking a motor vehicle on a cycle track has by this Act been made a specific offence it will no longer be necessary for highway authorities to make individual Traffic Regulation Orders under sections 1 or 6 of the Road Traffic Regulation Act 1984 to control the use of cycle tracks by motor vehicles.

### Electrically Assisted Pedal Cycles

11. Electrically assisted pedal cycles which conform to The Electrically Assisted Pedal Cycles Regulations 1983 (SI 1983 No 1168) are classified as pedal cycles and are not treated as motor vehicles (section 140 of the Road Traffic Regulation Act 1984 and section 193 of the Road Traffic Act 1972). They can be used on cycle tracks without any offence specified in section 2(1) of the 1984 Act. If problems arise through the use of electrically assisted pedal cycles on cycle tracks they can be excluded through a Traffic Regulation Order made under sections 1 or 6 of the Road Traffic Regulation Act 1984.

## CONVERSION OF A FOOTPATH TO A CYCLE TRACK

### General

12. Section 3 of the 1984 Act provides a new procedure under which a local highway authority can convert all, or part, of a footpath to a cycle track. The effect of an order made and confirmed under this section is to convert the footpath, or part thereof, to a cycle track with a right of way on foot. On conversion the cycle track becomes a highway maintainable at public expense (section 36 of the Highways Act 1980) even if the footpath had not previously had that status.

13. A local highway authority can make and confirm an order under section 3 if there are no unwithdrawn objections. If the order is opposed it has to be submitted to the Secretary of State for confirmation. The necessary procedures for the making and confirmation of an order are set down in section 3 and in the 1984 Regulations. For convenience the advice in this Circular follows the general sequence followed when an order is made and confirmed. The advice is cross referenced to the 1984 Act and 1984 Regulations which should be read together with it.

### Agricultural Land

14. Section 3(2) of the 1984 Act provides that a local highway authority shall not make an order under section 3(1) converting a footpath which crosses agricultural land unless the written consent of all those having a legal interest in the land has been obtained.

15. Agriculture land is defined as in section 1(2) of the Agricultural Holdings Act 1948; that is, land used for agriculture which is so used for the purpose of trade or business and land designated by the Minister of Agriculture Fisheries and Food under section 109(1) of the Agriculture Act 1947.

16. Agriculture includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of lands as woodlands where that use is ancillary to the farming of the land for other agricultural purposes.

17. Legal interest is defined so as not to include those with an interest in land which amounts to less than a tenancy from year to year.

18. As no order can be made in respect of a footpath or the parts of a footpath that cross agricultural land if the consent(s) required by section 3(2) are withheld, it is advisable for an authority to seek such consent(s) at as early a stage as possible.

### Consultation

19. Regulation 3 of the 1984 Regulations specify that a local highway authority proposing to make an order under section 3(1) has, before making the order, to consult:

- (a) one or more organisations representing persons who use the footpath involved or who are likely to be affected by any provision of the proposed order;
- (b) any other local authority, parish council or community council within whose area the footpath is located;
- (c) those statutory undertakers whose operational land is crossed by the footpath; and
- (d) the chief officer of police for the area.

20. The Secretaries of State wish to emphasise that it is their view that there should be widespread consultation on any proposal to introduce cyclists onto facilities formerly reserved solely for pedestrian use. Consultation under regulation 3(a) should be as wide as possible including not only organisations representing users of a footpath but also local, and/or national, cycling organisations. It is particularly important to seek the views of organisations representing the interests of disabled people.

21. A list of the National organisations a local authority should consult is at Annex A. The Joint Committee on Mobility of Blind and Partially Sighted People has undertaken to co-ordinate the responses of organisations representing blind and partially sighted people. The Joint Committee on Mobility for the Disabled has agreed to act as a focus for consultation with organisations representing disabled people. Local highway authorities are advised to consult the Joint Committees in the first instance. Authorities should keep in mind the difficulties blind or partially sighted people may have in dealing with written material. These difficulties can also arise with respect to subsequent statutory notices etc.

22. Local highway authorities may also wish to take steps to bring the proposals to the attention of local residents and to explain the implications to them.

23. Though an order made under section 3(1) of the 1984 Act will relate solely to the principle of conversion of all, or part, of a footpath it is considered advisable to ensure that during any consultation exercise, or as part of any explanatory material accompanying any subsequent statutory notice, the fullest practicable details are given on the works the local highway authority proposes to undertake when providing the cycle track. This is because many of the organisations that a local highway authority consults under regulation 3 are likely to wish to consider the form of segregation it is proposed to provide between a proposed cycle track and an adjacent footpath eg. when it is proposed to convert half the width of a footpath. Equally, such organisations may wish to take account of any safety works which a local highway authority proposes to undertake on a cycle track or adjacent footpath.

### Making an Order

24. When a local highway authority has received any consent(s) required under section 3(2) and undertaken the consultation specified in regulation 3 it can proceed to make an order under section 3(1) to convert all, or part, of a footpath to a cycle track.

25. A copy of a model order is attached (Annex B). The lengths and, when appropriate, width of footpath to be converted should be clearly indicated or specified. If a later date is not specified in the order it takes effect on the date notice of confirmation is published – section 3(8).

### Notice of the Making of an Order

26. Regulation 4(a) requires the publication of a notice of the making of an order in at least one local newspaper circulating in the area in which the footpath to which the order applies is located. The notice has to:

- (a) describe the general effect of the order, stating that it has been made and that it requires confirmation;
- (b) indicate where a copy of the order and be inspected free of charge; and
- (c) specify the period in which objections can be made to the order (which must be at least 28 days from the first publication of the notice of the making of the order), indicates the address to which objections should be sent and states that an objection should be in writing and should state the grounds of objection.

27. Regulation 4(b) requires a copy of the notice to be displayed at the ends of the length, or lengths, of footpath to which the order applies.

28. Regulation 4(c) requires a copy of the notice to be displayed in at least one of the places where public notices are usually displayed in the locality.

29. Regulation 4(d) requires a copy of the notice to be sent to all those previously consulted under regulation 3.

### Objection to an Order

30. Under regulation 5 any person can lodge an objection to an order made under section 3(1) so long as the objection is lodged within the period specified in the notice of the making of the order published under regulation 4(a), is in writing and contains a statement of objection and the grounds of the objection.

### Confirmation of an Order

31. If no objections are received to an order, or any objections that have been received are withdrawn, the local highway authority who made the order can proceed to confirm it under section 3(3)(b) 1984 Act but only in the form in which it was originally made. A form of endorsement is at Annex B.

32. A local highway authority cannot therefore vary an order it has made under section 3(1). But it can agree to alter any works it proposed to undertake in connection with the provision of the cycle track to meet the concerns of objectors. If any such changes require as a consequence, a variation in the term of the original order, this would then trigger a fresh consultation and possibly the making of a new order.

33. If there are unwithdrawn objections to an order under section 3(1) the order can only be confirmed by the Secretary of State. Orders requiring the Secretary of State's confirmation should be submitted to the appropriate Department of Transport Regional Office or the Welsh Office.

### Local Inquiries

34. Under regulation 6(1) when an order is submitted by the local highway authority to the Secretary of State for confirmation he shall cause a local inquiry to be held unless under the exercise of the discretion given in regulation 6(2) he decides to dispense with an inquiry when he is satisfied that in the circumstances of the case the holding of an inquiry is unnecessary. For example, the Secretary of State will consider exercising his discretion under regulation 6(2) to dispense with an inquiry when the parties to a contested conversion order agree to proceed to his decision on the order on the basis of written representations.

### Notice of an Inquiry

35. Under regulation 7(1) the Secretary of State is to fix the time, date and place of the holding of an inquiry and sends written notice to every objector at least 42 days before the opening of the inquiry.

36. If all the objectors agree in writing the Secretary of State can give a lesser period of notice of the inquiry (regulation 7(1)(a)).

37. If it becomes necessary, or advisable, to vary the time or place fixed for inquiry the Secretary of State can do so giving reasonable notice to the objector of any such change (regulation 7(1)(b)).

38. Under regulation 7(2)(a) the local highway authority must display a copy of the notice of the inquiry issued by the Secretary of State under regulation 7(1) at a conspicuous place near the footpath to which the order relates and in at least one other location in the area where public notices are usually displayed at least 21 days before the inquiry.

39. If directed by the Secretary of State (regulation 7(2)(b)) the local highway authority shall publish in at least one local newspaper circulating in the area such notice of the inquiry as he may specify. Local highway authorities can give additional publicity to the holding of an inquiry beyond that required under the 1984 Regulations should they consider it appropriate.

### Inspectors

40. Under regulation 8 the Secretary of State can direct that the inquiry Inspector can make the decision to confirm the order, with or without modifications.

41. A direction by the Secretary of State that the Inspector shall decide the case can be provided either by a separate notice issued to objectors under regulation 8 or as part of the notice of the inquiry.

### Consideration of Objections at Inquiry

42. Under regulation 9(1) any person interested in the subject matter of the inquiry can attend it or be represented at it.

43. Under regulation 9(2) any person may submit written representations to the Inspector to be considered by him at the inquiry. Such representations need to be sent to the address referred to or specified under regulation 4(a)(iii). This address should therefore ideally be repeated in the notice of the inquiry issued under regulation 7 where this entitlement can conveniently be set out.

44. Under regulation 9(3)(a) the appointed person can refuse to hear any objection or representation if the views of the person or his objection or representation are frivolous.

45. Under regulation 9(3)(b) the appointed person can refuse to hear any person at the inquiry if his views have been adequately stated by some other person at the inquiry.

46. When considering evidence given at the inquiry or any written representation submitted under regulation 9(2) the appointed person, or the Secretary of State, can take into account any undertakings given by the local highway authority regarding any works it proposed to undertake to separate the proposed cycle track from any adjacent footpath or to increase the safety of users of the cycle track or footpath.

47. Section 3(5) of the 1984 Act applies subsections (2) to (5) of section 250 of the Local Government Act 1972, covering giving of evidence at, and defraying the costs of, local inquiries to inquiries held under section 3.

### Secretary of State's Decision

48. Under section 3(3)(a) the Secretary of State may refuse to confirm an order, or confirm it either in the form in which it was made or subject to such modifications as are considered appropriate.

### Notice of Final Decision

49. When the local highway authority has been notified of a decision by the Secretary of State, or a duly designated inspector, to confirm an order under section 3(3)(a) of the Act, or the local highway authority has itself confirmed an uncontested order under section 3(3)(b), regulation 10(1) requires the local highway authority to give notice of the confirmation of the order.

50. The notice should state the general effect of the order as confirmed and, if confirmed by the Secretary of State or a duly designated inspector, specify whether the order has been confirmed with, or without, modifications. The notice should further state the date on which the order takes effect (regulation 10(1)(i)). Under section 3(8) of the 1984 Act an order can take effect either on the date of publication of the notice of the confirmation of the order or on any later date specified in the order.

51. The notice should also name a place in the general locality of the footpath where the confirmed order can be examined free of charge (regulation 10(1)(ii)).

52. Under regulation 10(2) the notice under 10(1) shall be given:

- (a) by publication in at least one local newspaper circulating in the area in which the footpath to which the order applies is located (regulation 10(2)(a));
- (b) by a copy of the notice being displayed at the ends of the length, or lengths, of footpath to which the order applies (regulation 10(2)(b)); and
- (c) (if a local inquiry was held) by sending a copy of the notice to all those who attended the inquiry, or submitted written representation under regulation 9(2), and who asked to be notified of the decision (regulation 10(2)(c)).

### Challenge to the Legal Validity of an Order

53. Section 3(6) provides that a person aggrieved by a confirmed order has a right to challenge its validity on certain grounds. Any application needs to be made to the High Court within six weeks of the date of publication of the notice of confirmation of the order under regulation 10(2)(a).

54. Section 3(7)(a) provides that the High Court can, by interim order, suspend the operation of a confirmed order either in whole or in part pending final determination of an application made under section 3(6).

55. Section 3(7)(b) provides that the High Court can, on final judgement, quash a defective order, either in whole or in part, if the Court is satisfied that the order is not within the powers in section 3, or that the interests of an applicant have been substantially prejudiced by a failure to comply with any requirement of section 3 of the 1984 Act.

56. Section 3(8) provides that there can be no legal challenge to a confirmed order other than an application to the High Court as provided for in section 3(6) and (7).

### Definitive Maps

57. When an order made under section 3(1) comes into effect, the footpath, or part of it, which is covered by the order ceases to be a footpath and becomes a cycle track with a right of way on foot.

58. If the footpath is shown on a definitive map and statement of public rights of way it will have to be deleted from that map and statement if all the footpath has been converted to a cycle track.

59. If only part of the width of the footpath has been converted there will be two distinct but adjacent ways: a cycle track and a footpath. As a footpath remains in existence it can remain on the definitive map; however, any statement describing the footpath may need to be amended to reflect its reduced width.

60. The Departments are consulting the Director General of the Ordnance Survey on the need to show cycle tracks on OS maps and on whether orders confirmed under section 3 should be notified to the Ordnance Survey.

### Highways Maintained at Public Expense

61. If the footpath which has been converted, in whole or in part, was not formerly a highway maintainable at public expense the confirmation of an order under section 3 makes the cycle track such a highway (section 3(1)).

62. If the footpath was previously a highway maintainable at public expense the cycle track retains that status.

#### Work to give Effect to an Order

63. Section 3(10) gives a local highway authority power to undertake any necessary work to give effect to an order made and confirmed under section 3. Any work that would constitute development under Part III of the Town and Country Planning Act 1971 is deemed to have been given planning permission.

#### Revocation of an Order

64. Section 3(9) allows an order made and confirmed under section 3 to be revoked under the same procedures applied to the making and confirmation of the original order. When such an order is revoked the cycle track reverts to being a footpath, or part of one, and ceases to be a highway maintainable at public expense if the footpath was not previously, or has not itself become, a highway maintainable at public expense.

#### WORKS IN CYCLE TRACKS

65. Section 4(1) gives highway authorities power to provide and maintain barriers in any cycle track. Previously, highway authorities only had power to provide barriers in cycle tracks which were included in a highway containing a carriageway – section 66(3) of the Highways Act 1980.

66. Section 4(2) gives highway authorities power to undertake whatever work they think necessary in the interests of safety to separate person using the cycle track from those using an adjacent footpath or footway.

67. Section 4(3) allows highway authorities to alter or remove any barriers or other works provided under section 4(1) and (2).

68. Section 4(4) restricts a highway authority's power under this section to cycle tracks, footways and footpaths which are highways maintainable at public expense by that highway authority.

#### COMPENSATION

69. Section 5(1) gives a right to compensation for damage consequent on the undertaking of work to give effect to an order under section 3(10), or the erection of barriers or works under section 4.

70. Section 5(2) gives a right to claim compensation for any reduction in the value of an interest in land arising as a consequence of the coming into operation of an order under section 3, but excludes claims which can be made or anticipated under section 5(1).

71. Section 5(3) refers disputes to the Lands Tribunal linked to section 307 of the Highways Act 1980. Section 307(1) of that Act provides that any dispute arising on a claim for compensation shall be determined by the Lands Tribunal. Subsection (2) of that section applies section 4 of the Land Compensation Act 1961 (costs). Subsection (3) of section 307 applies rules 2 to 4 of the rules in section 5 of the Land Compensation Act 1961 (rules for valuation under compulsory acquisition) to the calculation of compensation, insofar as it is calculated by reference to depreciation of the value of an interest in land.

#### APPLICATION TO CROWN LAND

72. Section 6(1) enables orders to be made and confirmed under section 3, and barriers and works to be provided under section 4 in respect of Crown Land following agreement between the appropriate authority for that land and the highway authority.

73. Section 6(2) provides that any agreement under subsection (1) may contain provisions of a financial character, but provides that any provisions of such character shall not be included in an agreement made by a Government Department without the Treasury's approval.

74. Section 6(3) defines “Crown Land” and the “appropriate authority”. When there is any dispute over what authority is the appropriate authority in relation to any Crown Land the final decision rests with the Treasury.

75. When highway authorities wish to apply the provisions of the 1984 Act to Crown Land the agreement of the appropriate authority for that land should be obtained at an early stage. Such an agreement cannot preclude the highway authority from observing any of the other requirements of the 1984 Act or 1984 Regulations.

#### REMAINING SECTIONS

76. Section 7 covers expenses. Section 8 provides interpretations of “the 1980 Act” (the Highways Act 1980) and of “motor vehicle” (within the meaning of the Road Traffic Act 1972). Section 9(1) confers the short title of the 1984 Act. Section 9(2) covers commencement; the 1984 Act having received the royal assent on July 12, 1984, came into operation on September 12, 1984. Section 9(3) extends the 1984 Act to England and Wales only.

#### FINANCIAL AND MANPOWER EFFECTS OF THE ACT AND REGULATIONS

77. The powers conferred by the Act should not involve significant public expenditure nor result in any increase in public service manpower.

Yours faithfully

N T REES  
Assistant Secretary  
DTp

A H H JONES  
Assistant Secretary  
Welsh Office

Enquiries about the contents of the Joint Circular should be directed to the following:

For DTp: Traffic Policy Division, Room C10/02, 2 Marsham Street, London SW1P 3EB

For WO: Transport, Highways and Planning Group  
10<sup>th</sup> Floor, Government Buildings, Ty Glas Road  
Llanishen, Cardiff EF4 5PL

Distribution Enquiries should be made to:

Administration Road Construction 2 Division

Telephone 01-212-5169

## NATIONAL ORGANISATIONS INTERESTED IN FOOTPATH CONVERSION PROPOSALS

<u>Organisation</u>	<u>Address</u>
<u>Ramblers' Association</u> ) <u>Pedestrians Association</u> )	Ramblers and Pedestrians Cycle Tracks Unit 1/5 Wandsworth Road London SW8 2LJ
<u>Joint Committee on Mobility of Blind and Partially Sighted People</u>	The Secretary Joint Committee on Mobility of Blind and Partially Sighted People 224 Great Portland Street London W1N 6AA
<u>Joint Committee on Mobility for the Disabled</u>	The Hon Secretary Joint Committee on Mobility for the Disabled 9 Moss Close Pinner Middlesex HA5 3AY
<u>Cyclists' Touring Club</u>	The National Secretary Cyclists' Touring Club Cotterell House 69 Meadow Godalming Surrey GU7 3HS
<u>Friends of the Earth</u>	Friends of the Earth Ltd 377 City Road London EC1V 1NA

CYCLE TRACKS ACT 1984

THE COUNTY COUNCIL OF

( ) CYCLE TRACKS ORDER 198 .

The County Council of , in exercise of the powers conferred upon them by Section 3(1) of the Cycle Tracks Act 1985, [having obtained the written consents required by section 3(2) of that Act and] having undertaken the consultations required by regulation 3 of the Cycle Tracks Regulations 1984, hereby makes the following Order:-

1. The footpath described in the schedule to this Order and shown by zebra hatching on the annexed plan is hereby designated a cycle track.

2. This Order may be cited as the County Council of ( ) Cycle Tracks Order 198 [shall come into operation at the end of 28 days from the date on which notice of confirmation of this is first published (1)]

Given under the Common Seal of the Council the day of  
198

The Common Seal of the Council  
was hereunto affixed in the presence of:-

Chairman of the Council

Clerk of the Council

(1) In the absence of a date being specified the Order comes into operation on first publication of the notice of confirmation.



SCHEDULE

The footpath designated a cycle track by this Order is that length of footpath situated at \_\_\_\_\_ in the \_\_\_\_\_ of \_\_\_\_\_ which extends from \_\_\_\_\_ to \_\_\_\_\_ (for a maximum width of \_\_\_\_\_ metres measured from \_\_\_\_\_ ).