

PART VIII**STOPPING UP AND DIVERSION OF HIGHWAYS AND STOPPING UP OF MEANS OF ACCESS TO HIGHWAYS***Stopping up and diversion of highways***119 Diversion of footpaths and bridleways.**

(1) **[F1** Where it appears to a council as respects a footpath or bridleway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or **]** of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order,—

- (a) create, as from such date as may be specified in the order, any such new footpath or bridleway as appears to the council requisite for effecting the diversion, and
- (b) extinguish, as from such date as may be **[F2** specified in the order or determined **]** in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.

An order under this section is referred to in this Act as a "public path diversion order".

(2) A public path diversion order shall not alter a point of termination of the path or way—

- (a) if that point is not on a highway, or
- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public.

[F3(3) Where it appears to the council that work requires to be done to bring the new site of the footpath or bridleway into a fit condition for use by the public, the council shall—

- (a) specify a date under subsection (1)(a) above, and
- (b) provide that so much of the order as extinguishes (in accordance with subsection (1)(b) above) a public right of way is not to come into force until the local highway authority for the new path or way certify that the work has been carried out.]

(4) A right of way created by a public path diversion order may be either unconditional or (whether or not the right of way extinguished by the order was subject to limitations or conditions of any description) subject to such limitations or conditions as may be specified in the order.

(5) Before determining to make a public path diversion order **[F4** on the representations of an owner, lessee or occupier of land crossed by the path or way, the council may require him **]** to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards,—

- (a) any compensation which may become payable under section 28 above as applied by section 121(2) below, or
- (b) where the council are the highway authority for the path or way in question, any expenses which they may incur in bringing the new site of the path or way into fit condition for use for the public, or
- (c) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority under the provisions of section 27(2) above as applied by subsection (9) below.

(6) The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—

- (a) the diversion would have on public enjoyment of the path or way as a whole,
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it,

so, however, that for the purposes of paragraphs (b) and (c) above the Secretary of State or, as the case may be, the council shall take into account the provisions as to compensation referred to in subsection (5)(a) above.

[F5](6A) The considerations to which—

- (a) the Secretary of State is to have regard in determining whether or not to confirm a public path diversion order, and
- (b) a council are to have regard in determining whether or not to confirm such an order as an unopposed order,

include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would create or extinguish a public right of way.]

(7) A public path diversion order shall be in such form as may be prescribed by regulations made by the Secretary of State and shall contain a map, on such scale as may be so prescribed,—

- (a) showing the existing site of so much of the line of the path or way as is to be diverted by the order and the new site to which it is to be diverted,
- (b) indicating whether a new right of way is created by the order over the whole of the new site or whether some part of it is already comprised in a footpath or bridleway, and
- (c) where some part of the new site is already so comprised, defining that part.

(8) Schedule 6 to this Act has effect as to the making, confirmation, validity and date of operation of public path diversion orders.

(9) Section 27 above (making up of new footpaths and bridleways) applies to a footpath or bridleway created by a public path diversion order with the substitution, for references to a public path creation order, of references to a public path diversion order and, for references to section 26(2) above, of references to section 120(3) below.

Annotations:

Amendments (Textual)

- F1** Words substituted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), ss. 53, 54, Sch. 16 paras. 5(1), 10(1)
- F2** Words in s. 119(1)(b) substituted (12.2.2003 for E. and 31.5.2005 for W.) by 2000 c. 37, s. 57, Sch. 6 Pt. I para. 9(2); S.I. 2003/272, art. 2(a)(f); S.I. 2005/1314, art. 2(b)(iii)
- F3** S. 119(3) substituted (12.2.2003 for E. and 31.5.2005 for W.) by 2000 c. 37, s. 57, Sch. 6 Pt. I para. 9(3); S.I. 2003/272, art. 2(a)(f); S.I. 2005/1314, art. 2(b)(iii)
- F4** Words substituted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), ss. 53, 54, Sch. 16 paras. 5(1), 10(1)
- F5** S. 119(6A) inserted (12.2.2003 for E. and 1.4.2004 for W.) by 2000 c. 37, s. 57, Sch. 6 Pt. I para. 9(5); S.I. 2003/272, art. 2(a)(b); S.I. 2004/315, art. 2(c); S.I. 2006/3257, art. 2(a)(i)

Modifications etc. (not altering text)

- C1** S. 119 extended by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5)(6), 23(2), 27(2), **Sch. 3 para. 47(1)**
- C2** S. 118-121 extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 11(c)** (with ss. 7(6), 115, 117, Sch. 8 para. 7).
- C3** S. 119: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
- C4** S. 119 applied (with modifications) (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2, **Sch. Pt. I; S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2**