



# Highways Act 1980

## 1980 CHAPTER 66

### PART VIII

#### STOPPING UP AND DIVERSION OF HIGHWAYS AND STOPPING UP OF MEANS OF ACCESS TO HIGHWAYS

##### *Stopping up and diversion of highways*

#### **120 Exercise of powers of making public path extinguishment and diversion orders.**

(1) Where a footpath<sup>[F1]</sup>, bridleway or restricted byway] lies partly within and partly outside the area of a council the powers conferred by sections 118 <sup>[F2]</sup>, 118A, 119 and 119A] above on the council extend, subject to subsection (2) below, to the whole of the path or way as if it lay wholly within their area.

<sup>[F3]</sup>(1A) Where a council are the highway authority for only part of a highway, the powers conferred on the council by sections 118B, 119B and 119D above are exercisable with respect to the whole of the highway, but subject to subsection (2) and only with the consent of every other council which is a highway authority for any other part with respect to which the powers are exercised.]

(2) The powers of making <sup>[F4]</sup>orders under sections 118 <sup>[F5]</sup>to 119D]] above are not exercisable by a council—

- (a) with respect to any part of a <sup>[F6]</sup>highway] which is within their area, without prior consultation with <sup>[F7]</sup>any] other council in whose area that part of the <sup>[F6]</sup>highway] is situated;
- (b) with respect to any part of a <sup>[F6]</sup>highway] which is outside their area, without the consent of every council in whose area it is; and
- (c) with respect to any part of a <sup>[F6]</sup>highway] in a National Park, without prior consultation with <sup>[F8]</sup>Natural England]]<sup>[F9]</sup>(if the National Park is in England) or <sup>[F10]</sup>the Natural Resources Body for Wales] (if the National Park is in Wales)].

(3) Where it appears to the Secretary of State as respects a footpath<sup>[F11]</sup>, bridleway or restricted byway] that it is expedient as mentioned in section 118(1) <sup>[F12]</sup>or 118A(1)

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or 119A(1)] above that the path or way should be stopped up [<sup>F13</sup>or diverted], [<sup>F14</sup>or where it appears to the Secretary of State as respects a relevant highway as defined by section 118B(2), 119B(2) or 119D(2) that it is expedient as mentioned in section 118B(1)(a) or (b), 119B(1)(a) or (b) or 119D(1)(b) that the highway should be stopped up or diverted] or where an owner, lessee or occupier of land crossed by a footpath<sup>F11</sup>, bridleway or restricted byway] satisfies the Secretary of State that a diversion of it is expedient as mentioned in section 119(1) above, then if—

- (a) no council having power to do so have made and submitted to him a public path extinguishment order [<sup>F15</sup>a special extinguishment order, a public path diversion order, a rail crossing diversion order, a special diversion order or an SSSI diversion order] or a public path diversion order, as the case may be, and
- (b) the Secretary of State is satisfied that, if such an order were made and submitted to him, he would have power to confirm the order in accordance with the provisions in that behalf of sections 118 [<sup>F16</sup>to 119D] above,

he may himself make the order after consultation [<sup>F17</sup>(subject to the following provisions of this section)] with the appropriate authority [<sup>F18</sup>and, in the case of an SSSI diversion order, with the appropriate conservation body].

<sup>F19</sup>[(3A) Where—

- (a) the operator of a railway makes a request to a council to make an order under section 118A or 119A above in respect of a crossing over the railway,
- (b) the request is in such form and gives such particulars as are prescribed by regulations made by the Secretary of State, and
- (c) the council have neither confirmed the order nor submitted it to the Secretary of State within 6 months of receiving the request,

the power conferred on the Secretary of State by subsection (3) above may be exercised without consultation with the council.]

<sup>F20</sup>(3B) Unless an appeal to the Secretary of State is brought under section 121D(1) below, the power conferred on the Secretary of State by subsection (3) above to make a special extinguishment order or a special diversion order is exercisable only after consultation with the [<sup>F21</sup>local policing body] in whose area the highway lies.

(3C) The power conferred on the Secretary of State by subsection (3) above to make an SSSI diversion order may be exercised even though the appropriate conservation body has not made an application under section 119D above to the council who are the highway authority for the highway.

(3D) Where—

- (a) the appropriate conservation body has made an application under section 119D above to a council in respect of a highway for which the council are the highway authority, and
- (b) the council have neither confirmed the order nor submitted it to the Secretary of State for confirmation within 6 months of receiving the application,

the power conferred on the Secretary of State by subsection (3) above to make an SSSI diversion order may be exercised without consultation with the council.]

(4) A council proposing to make a public path diversion order [<sup>F22</sup>, a rail crossing diversion order, a special diversion order or an SSSI diversion order] such that the authority who will be the highway authority for a part of the [<sup>F23</sup>highway] after the diversion will be a different body from the authority who before the diversion are the highway authority for it shall, before making the order, notify the first mentioned authority.

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- [<sup>F24</sup>(5) The Secretary of State may, before determining—
- (a) under subsection (3) above, to make a public path diversion order,
  - (b) under subsection (3) above, to make a public path extinguishment order, special extinguishment order, public path diversion order or special diversion order on an appeal under section 121D(1)(a) below,
  - (c) to confirm a public path extinguishment order, special extinguishment order, public path diversion order or special diversion order in respect of which an appeal under section 121D(1)(b) or (c) below has been brought, or
  - (d) under subsection (3) above, to make a rail crossing diversion order on the representations of the operator of the railway concerned,
- require the appropriate person to enter into such agreement as he may specify with such council as he may specify for that person to defray, or to make such contribution as may be specified in the agreement towards, any such compensation or expenses as are specified in paragraphs (a), (b) and (c) of section 119(5), or as the case may be, section 118ZA(6), 119A(8) or 119C(3) above.
- (6) In subsection (5) above “ the appropriate person ” means—
- (a) in a case falling within paragraph (a) of that subsection—
    - (i) where an appeal under section 121D(1)(a) below has been brought, the appellant, or
    - (ii) in any other case, the person on whose representations the Secretary of State is acting,
  - (b) in a case falling within paragraph (b) or (c) of that subsection, the appellant, and
  - (c) in a case falling within paragraph (d) of that subsection, the operator of the railway concerned.]

#### Textual Amendments

- F1** Words in s. 120(1) substituted (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. 1](#); S.I. 2006/1172, [art. 2\(a\)-\(d\)](#) (with art. 3); S.I. 2006/1279, [art. 2\(a\)-\(d\)](#) (with art. 3)
- F2** Words in s. 120(1) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 13\(2\)](#); S.I. 2003/272, [art. 2\(a\)\(i\)](#); S.I. 2005/1314, [art. 3\(d\)\(i\)](#); S.I. 2007/1493, [art. 2](#)
- F3** S. 120(1A) inserted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 13\(3\)](#); S.I. 2003/272, [art. 2\(a\)\(i\)](#); S.I. 2005/1314, [art. 3\(d\)\(i\)](#); S.I. 2007/1493, [art. 2](#)
- F4** Words in s. 120(2) substituted (22.12.1992 for certain purposes and otherwise 31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, [Sch. 2 para. 5\(3\)](#); S.I. 1992/3144, arts. 2, 3, [Sch.](#)
- F5** Words in s. 120(2) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 13\(4\)\(a\)](#); S.I. 2003/272, [art. 2\(a\)\(i\)](#); S.I. 2005/1314, [art. 3\(d\)\(i\)](#); S.I. 2007/1493, [art. 2](#)
- F6** Word in s. 120(2) substituted (12.2.2003 and 21.5.2007 for E. for certain purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 13\(4\)\(b\)](#); S.I. 2003/272, [art. 2\(a\)\(i\)](#); S.I. 2005/1314, [art. 3\(d\)\(i\)](#); S.I. 2007/1493, [art. 2](#)
- F7** Word in s. 120(2)(a) substituted (1.4.1996) by 1994 c. 19, s. 22(1), [Sch. 7 Pt. I para. 12](#) (with s. 54(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 3, [Sch. 1](#).

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- F8** Words in s. 120(2)(c) substituted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), s. 105(1), **Sch. 11 para. 66**; S.I. 2006/2541, **art. 2**
- F9** Words inserted (5.11.1990) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 130(1), 164(3), **Sch. 8 para. 5(3)**
- F10** Words in s. 120(2)(c) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 164** (with Sch. 7)
- F11** Words in s. 120(3) substituted (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. 1**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)
- F12** Words in s. 120(3) inserted (22.12.1992 for certain purposes and otherwise 31.1.1993) by Transport and Works Act 1992 (c. 42), s. 47, **Sch. 2 para. 5(4)(a)**; S.I. 1992/3144, arts. 2, 3, **Sch.**
- F13** Words in s. 120(3) inserted (22.12.1992 for certain purposes and otherwise 31.1.1993) by Transport and Works Act 1992 (c. 42), s. 47, **Sch. 2 para. 5(4)(b)**; S.I. 1992/3144, arts. 2, 3, **Sch.**
- F14** Words in s. 120(3) inserted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(5)(a); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**; S.I. 2007/1493, **art. 2**
- F15** Words in s. 120(3)(a) substituted (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(5)(b); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**
- F16** Words in s. 120(3)(b) substituted (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(5)(c); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**
- F17** Words in s. 120(3) substituted (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(5)(d); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**
- F18** Words in s. 120(3) inserted (12.2.2003 for E. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(5)(e); S.I. 2003/272, **art. 2(a)(i)**
- F19** S. 120(3A) inserted (22.12.1992 for certain purposes and otherwise 31.1.1993) by Transport and Works Act 1992 (c. 42), s. 47, **Sch. 2 para. 5(5)**; S.I. 1992/3144, arts. 2, 3, **Sch.**
- F20** S. 120(3B)-(3D) inserted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(7); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**; S.I. 2007/1493, **art. 2**
- F21** Words in s. 120(3B) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), ss. 99, 157(1), **Sch. 16 para. 139**; S.I. 2011/3019, art. 3, **Sch. 1(nnn)(iii)**
- F22** Words in s. 120(4) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(8)(a); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**; S.I. 2007/1493, **art. 2**
- F23** Word in s. 120(4) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(8)(b); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**; S.I. 2007/1493, **art. 2**
- F24** S. 120(5)(6) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) for s. 120(5) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 13(9); S.I. 2003/272, **art. 2(a)(i)**; S.I. 2005/1314, **art. 3(d)(i)**; S.I. 2007/1493, **art. 2**

**Modifications etc. (not altering text)**

- C1** S. 120 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)**

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- 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. 120 applied (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

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)