

Highways Act 1980 c. 66

s. 118B Stopping up of certain highways for purposes of crime prevention, etc.



Law In Force

Version 3 of 3

16 January 2012 - Present

Subjects

Penology and criminology; Road traffic

Keywords

Crime prevention; Highways; Local authorities' powers and duties; Ministers' powers and duties; Public path extinguishment orders; Stopping up

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118B.— Stopping up of certain highways for purposes of crime prevention, etc.

(1) This section applies where it appears to a council—

(a) that, as respects any relevant highway for which they are the highway authority and which is in an area designated by the Secretary of State by order for the purposes of this section, the conditions in subsection (3) below are satisfied and it is expedient, for the purpose of preventing or reducing crime which would otherwise disrupt the life of the community, that the highway should be stopped up, or

(b) that, as respects any relevant highway for which they are the highway authority and which crosses land occupied for the purposes of a school, it is expedient, for the purpose of protecting the pupils or staff from—

(i) violence or the threat of violence,

(ii) harassment,

(iii) alarm or distress arising from unlawful activity, or

(iv) any other risk to their health or safety arising from such activity,

that the highway should be stopped up.

(2) In subsection (1) above “*relevant highway*” means—

(a) any footpath, bridleway or restricted byway,

(b) any highway which is shown in a definitive map and statement as a footpath, a bridleway, or a restricted byway, but over which the public have a right of way for vehicular and all other kinds of traffic, or

(c) any highway which is shown in a definitive map and statement as a byway open to all traffic,

but does not include a highway that is a trunk road or a special road.

(3) The conditions referred to in subsection (1)(a) above are—

- (a) that premises adjoining or adjacent to the highway are affected by high levels of crime, and
 - (b) that the existence of the highway is facilitating the persistent commission of criminal offences.
- (4) Where this section applies, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the highway.
- (5) An order under subsection (4) above is in this Act referred to as a “*special extinguishment order*” .
- (6) Before making a special extinguishment order, the council shall consult the [local policing body]² for the area in which the highway lies.
- (7) The Secretary of State shall not confirm a special extinguishment order made by virtue of subsection (1)(a) above, 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 conditions in subsection (3) above are satisfied, that the stopping up of the highway is expedient as mentioned in subsection (1)(a) above and that it is expedient to confirm the order having regard to all the circumstances, and in particular to—
- (a) whether and, if so, to what extent the order is consistent with any strategy for the reduction of crime and disorder prepared under [section 6](#) of the [Crime and Disorder Act 1998](#),
 - (b) the availability of a reasonably convenient alternative route or, if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the highway under [section 119B](#) below rather than stopping it up, and
 - (c) the effect which the extinguishment of the right of way would have as respects land served by the highway, account being taken of the provisions as to compensation contained in [section 28](#) above as applied by [section 121\(2\)](#) below.
- (8) The Secretary of State shall not confirm a special extinguishment order made by virtue of subsection (1)(b) above, 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 stopping up of the highway is expedient as mentioned in subsection (1)(b) above and that it is expedient to confirm the order having regard to all the circumstances, and in particular to—
- (a) any other measures that have been or could be taken for improving or maintaining the security of the school,
 - (b) whether it is likely that the coming into operation of the order will result in a substantial improvement in that security,
 - (c) the availability of a reasonably convenient alternative route or, if no reasonably convenient alternative route is available, whether it would be reasonably practicable to divert the highway under [section 119B](#) below rather than stopping it up, and
 - (d) the effect which the extinguishment of the right of way would have as respects land served by the highway, account being taken of the provisions as to compensation contained in [section 28](#) above as applied by [section 121\(2\)](#) below.
- (9) A special extinguishment 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 prescribed, defining the land over which the public right of way is thereby extinguished.
- (10) [Schedule 6](#) to this Act has effect as to the making, confirmation, validity and date of operation of special extinguishment orders.[...] ³

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Notes

¹ Added by Countryside and Rights of Way Act 2000 c. 37 [Sch.6\(1\) para.8](#) (February 12, 2003 as SI 2003/272)

Notes

- [2](#) Words substituted by Police Reform and Social Responsibility Act 2011 c. 13 [Sch.16\(3\) para.137](#) (January 16, 2012)
[3](#) Added by Countryside and Rights of Way Act 2000 c. 37 [Sch.6\(I\) para.8](#) (July 15, 2005: insertion has effect on July 15, 2005 for purposes specified in SI 2005/1314 art.3(b))
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*Part VIII STOPPING UP AND DIVERSION OF HIGHWAYS AND STOPPING UP
OF MEANS OF ACCESS TO HIGHWAYS > Stopping up and diversion of highways
> s. 118B Stopping up of certain highways for purposes of crime prevention, etc.*

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Highways Act 1980 c. 66

s. 119B Diversion of certain highways for purposes of crime prevention, etc.



Law In Force

Version 5 of 5

16 January 2012 - Present

Subjects

Penology and criminology; Road traffic

Keywords

Crime prevention; Diversion of highways; Local authorities' powers and duties; Ministers' powers and duties; Public path diversion orders

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119B.— Diversion of certain highways for purposes of crime prevention, etc.

(1) [...] ² This section applies where it appears to a council—

(a) that, as respects any relevant highway for which they are the highway authority and which is in an area designated by the Secretary of State by order under [section 118B\(1\)\(a\)](#) above, the conditions in subsection (3) below are satisfied and it is expedient, for the purpose of preventing or reducing crime which would otherwise disrupt the life of the community, that the line of the highway, or part of that line should be diverted (whether on to land of the same or another owner, lessee or occupier), or

(b) that, as respects any relevant highway for which they are the highway authority and which crosses land occupied for the purposes of a school, it is expedient, for the purpose of protecting the pupils or staff from—

(i) violence or the threat of violence,

(ii) harassment,

(iii) alarm or distress arising from unlawful activity, or

(iv) any other risk to their health or safety arising from such activity,

that the line of the highway, or part of that line, should be diverted (whether on to land of the same or another owner, lessee or occupier).

(2) In subsection (1) above “*relevant highway*” means—

(a) any footpath, bridleway or restricted byway,

(b) any highway which is shown in a definitive map and statement as a footpath, a bridleway, or a restricted byway, but over which the public have a right of way for vehicular and all other kinds of traffic, or

(c) any highway which is shown in a definitive map and statement as a byway open to all traffic,

but does not include a highway that is a trunk road or a special road.

(3) The conditions referred to in subsection (1)(a) above are—

- (a) that premises adjoining or adjacent to the highway are affected by high levels of crime, and
 - (b) that the existence of the highway is facilitating the persistent commission of criminal offences.
- (4) Where this section applies, the council may 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—
 - (i) new footpath, bridleway or restricted byway, or
 - (ii) in a case falling within subsection (2)(b) or (c) above, new highway over which the public have a right of way for vehicular and all other kinds of traffic,
- as appears to the council requisite for effecting the diversion, and
- (b) extinguish, as from such date as may be specified in the order or determined in accordance with the provisions of subsection (8) below, the public right of way over so much of the highway as appears to the council to be requisite for the purpose mentioned in paragraph (a) or (b) of subsection (1) above.
- (5) An order under subsection (4) above is in this Act referred to as a “*special diversion order*”.
- (6) Before making a special diversion order, the council shall consult the [local policing body]³ for the area in which the highway is situated.
- (7) A special diversion order shall not alter a point of termination of the highway—
- (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.
- (8) Where it appears to the council that work requires to be done to bring the new site of the highway into a fit condition for use by the public, the council shall—
- (a) specify a date under subsection (4)(a) above, and
 - (b) provide that so much of the order as extinguishes (in accordance with subsection (4)(b) above) a public right of way is not to come into force until the local highway authority for the new highway certify that the work has been carried out.
- (9) A right of way created by a special 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.
- (10) The Secretary of State shall not confirm a special diversion order made by virtue of subsection (1)(a) above, 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 conditions in subsection (3) above are satisfied, that the diversion of the highway is expedient as mentioned in subsection (1) (a) above and that it is expedient to confirm the order having regard to all the circumstances, and in particular to—
- (a) whether and, if so, to what extent the order is consistent with any strategy for the reduction of crime and disorder prepared under [section 6](#) of the [Crime and Disorder Act 1998](#),
 - (b) the effect which the coming into operation of the order would have as respects land served by the existing public right of way, and
 - (c) the effect which 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 contained in [section 28](#) above as applied by [section 121\(2\)](#) below.

(11) The Secretary of State shall not confirm a special diversion order made by virtue of subsection (1)(b) above, 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 of the highway is expedient as mentioned in subsection (1)(b) above and that it is expedient to confirm the order having regard to all the circumstances, and in particular to—

- (a) any other measures that have been or could be taken for improving or maintaining the security of the school,
- (b) whether it is likely that the coming into operation of the order will result in a substantial improvement in that security,
- (c) the effect which the coming into operation of the order would have as respects land served by the existing public right of way, and
- (d) the effect which 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 (c) and (d) above the Secretary of State or, as the case may be, the council shall take into account the provisions as to compensation contained in [section 28](#) above as applied by [section 121\(2\)](#) below.

(12) A special 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 highway 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 highway, and
- (c) where some part of the new site is already so comprised, defining that part.

(13) [Schedule 6](#) to this Act has effect as to the making, confirmation, validity and date of operation of special diversion orders.

(14) [Section 27](#) above (making up of new footpaths [, bridleways and restricted byways]⁴) applies to a highway created by a special diversion order with the substitution—

- (a) for references to a footpath [, bridleway or restricted byway]⁴ of references to a footpath, a bridleway, a restricted byway or a highway over which the public have a right of way for vehicular and all other kinds of traffic,
- (b) for references to a public path creation order of references to a special diversion order, and
- (c) for references to [section 26\(2\)](#) above of references to [section 120\(3\)](#) below.

(15) Neither [section 27](#) nor [section 36](#) above is to be regarded as obliging a highway authority to provide on any highway created by a special diversion order a metalled carriage-way.

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Notes

- ¹ Added by Countryside and Rights of Way Act 2000 c. 37 [Sch.6\(1\) para.12](#) (February 12, 2003 as SI 2003/272)
- ² Added by Countryside and Rights of Way Act 2000 c. 37 [Sch.6\(1\) para.12](#) (July 15, 2005: insertion has effect on July 15, 2005 for purposes specified in SI 2005/1314 art.3(b))

Notes

- 3 Words substituted by Police Reform and Social Responsibility Act 2011 c. 13 [Sch.16\(3\) para.138](#) (January 16, 2012)
4 Amended by Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006/1177
[Sch.1\(I\) para.1](#) (July 11, 2006; July 2, 2006 in relation to England; July 11, 2006 otherwise)
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