
WELSH STATUTORY INSTRUMENTS

2005 No. 1809 (W.140)

HIGHWAYS, WALES

**The Highways (Schools) (Special Extinguishment and
Special Diversion Orders) (Wales) Regulations 2005**

Made - - - - 5 July 2005

Coming into force - - 15 July 2005

The National Assembly for Wales (“the National Assembly”), in exercise of the powers conferred upon the Secretary of State by sections 28(2) (as applied by section 121(2)), 118B(9) and (10) and 119B(12) and (13) of, and paragraphs 1(1) and (3)(b)(iv), 3(1), (2) and (3)(b), 4(1) and 6 of Schedule 6 to, the Highways Act 1980 (“the Act”)(1), all of which are now exercisable by the National Assembly(2), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Highways (Schools) (Special Extinguishment and Special Diversion Orders) (Wales) Regulations 2005 and they come into force on 15 July 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Authority” means the relevant highway authority;

an “order” means—

- (a) a special extinguishment order(3);
- (b) a special diversion order(4); or
- (c) an order varying or revoking an order of a type specified in (a) or (b); and

(1) 1980 c. 66; sections 118B and 119B were inserted by paragraphs 8 and 12 of Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37); section 121(2) was amended by paragraph 14(3) of Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37); relevant amendments to Schedule 6 to the Highways Act 1980 were made by paragraph 23 of Schedule 6 to the Countryside and Rights of Way Act 2000.

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) as extended by section 99 of the Countryside and Rights of Way Act 2000.

(3) See section 118B(5) of the Act.

(4) See section 119B(5) of the Act.

reference to a form or notice prescribed by these Regulations includes reference to that form or notice in the English or Welsh language (or both) and to a form or notice substantially to the same effect to that prescribed.

Forms of order

3.—(1) Where it appears to an Authority that a relevant highway which crosses land occupied for the purposes of a school for a purpose specified in—

- (a) section 118B(1)(b) of the Act is required to be stopped up by a special extinguishment order, the order must be in the form set out in Schedule 1 to these Regulations;
- (b) section 119B(1)(b) of the Act is required to be diverted by a special diversion order, the order must be in the form set out in Schedule 2 to these Regulations.

(2) The map required to be contained in an order must be on a scale of not less than 1/2,500 or, if no such map is available, on the largest scale readily available.

(3) In the case of a special extinguishment order, the map referred to in paragraph (2) must show any reasonably convenient alternative route.

Notices

4.—(1) A notice required to be given under paragraph 1(1) of Schedule 6 to the Act in respect of the making of an order must be in the form set out in Form 1 in Schedule 3 to these Regulations.

(2) A notice required to be served under paragraph 4(1) of Schedule 6 to the Act in respect of the confirmation of an order must be in the form set out in Form 2 in Schedule 3 to these Regulations.

(3) A notice required to be served under paragraph 4(1) of Schedule 6 to the Act in respect of the making of an order by the National Assembly must be in the form set out in Form 3 in Schedule 3 to these Regulations.

(4) A notice required to be served under paragraph 1(3)(b)(iv)(**5**) or 4(1)(a)(**6**) of Schedule 6 to the Act must, additionally, be served on the persons prescribed in Schedule 4 to these Regulations.

Procedure for orders

5.—(1) An order must be made in duplicate.

(2) Where an order is submitted to the National Assembly for confirmation, the order and duplicate must be sent to the National Assembly, accompanied by—

- (a) two further copies of the order;
- (b) a copy of the notice given under paragraph 1(1) of Schedule 6 to the Act;
- (c) any representations or objections with respect to the order which were duly made and have not been withdrawn;
- (d) any observations the Authority has on those representations or objections; and
- (e) a statement of the grounds on which the Authority considers that the order should be confirmed.

(3) Any proceedings preliminary to the confirmation of a special extinguishment order may be taken concurrently with any proceedings preliminary to the confirmation of a public path creation order(**7**), a public path diversion order(**8**), a rail crossing diversion order(**9**) or a special diversion order.

(5) Paragraph 1(3)(b) was substituted by the Wildlife and Countryside Act 1981 (c. 69), Schedule 16, paragraph 6.

(6) Paragraph 4(1)(a) was substituted by the Wildlife and Countryside Act 1981, Schedule 16, paragraph 8.

(7) See section 26(1) of the Act.

(4) After a decision not to confirm an order, the Authority must, as soon as the requirements of paragraph 4(3) of Schedule 6 to the Act have been complied with, certify that fact in writing to the National Assembly.

(5) After an order has been confirmed by the National Assembly, the Authority must, as soon as the requirements of paragraph 4(1) of Schedule 6 to the Act have been complied with, certify that fact in writing to the National Assembly.

(6) After an order has been confirmed, the Authority must send a copy of the order, as confirmed, to the Ordnance Survey.

Claims for compensation as respects orders

6.—(1) A claim made in accordance with section 28 of the Act (compensation for loss caused by public path creation order), as applied by section 121(2) of the Act⁽¹⁰⁾, in consequence of the coming into operation of an order must be made in writing and must be served on the Authority or, in the case of an order made by the National Assembly, on the Authority nominated by the National Assembly as provided by section 28(3) of the Act, by delivering it to the offices of the Authority or the authority nominated by the National Assembly (as the case may be), addressed to its Chief Executive, or by sending it by prepaid post so addressed.

(2) A claim made under paragraph (1) must be served so as to be received not later than six months after the date on which the order in respect of which the claim is made came into force.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽¹¹⁾.

5 July 2005

D. Elis-Thomas
The Presiding Officer of the National Assembly

(8) See section 119(1) of the Act.

(9) See section 119A(3) of the Act.

(10) Section 121(2) of the Act was amended by the Transport and Works Act 1992 (c. 42), Schedule 2, paragraph 6 and by the Countryside and Rights of Way Act 2000 (c. 37), Schedule 6, paragraph 14.

(11) 1998 c. 38.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 3(1)(a)

FORMHIGHWAYS ACT 1980, SECTION 118BSPECIAL EXTINGUISHMENT ORDER FOR CERTAIN HIGHWAYS WHICH CROSS LAND OCCUPIED FOR THE PURPOSES OF A SCHOOL

[NAME OF AUTHORITY]

[TITLE OF ORDER]

This Order is made by [insert the name of the Authority] ("the Authority") under section 118B(4) of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that, as respects the relevant highway [see footnote 1] described in article 1 below ("the highway"),-

- (a) the Authority is the highway authority for the highway;
- (b) the highway crosses land occupied for the purposes of a school; and
- (c) it is expedient for the purposes 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.

The police authority [insert the name of the police authority] for the area in which the highway lies has been consulted as required by section 118B(6) of the 1980 Act.

The [insert name(s)] Authorit[y][ies] [has] [have] been consulted as required by section 120(2)(a) of the 1980 Act [complete or delete as appropriate].

The [insert name(s)] Authorit[y][ies] [has] [have] consented to the making of the Order as required by section 120(1A) and (2)(b) of the 1980 Act [complete or delete as appropriate].

[The [insert name] National Park Authority has been consulted as required by section 120(2)(a) of the 1980 Act]

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

[The [insert name] National Park Authority has consented to the making of the Order as required by section 120(2)(b) of the 1980 Act] [complete or delete as appropriate]

[The Countryside Council for Wales has been consulted as required by section 120(2)(c) of the 1980 Act.]

BY THIS ORDER:

1. The public right of way over the land situated at [insert location], shown by a continuous bold line on the map contained in this Order and described in the Schedule to this Order will be extinguished after [insert number] days from the date of confirmation of this Order.

2. [The following provision(s) apply for the protection of [insert name of statutory undertaker], namely: [insert provision(s)]] [complete or delete as appropriate - see footnote 2].

[insert date]

Signed [insert signature]

[position held with the Authority]

[name of the Authority]

SCHEDULE

[Describe position, length and width of the highway in sections, eg A-B, B-C etc, as indicated on the map]

Footnotes

1. "Relevant highway" is defined in section 118B(2) of the 1980 Act as -
 - (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 is a special road.

2. See section 121(5) of the 1980 Act.

Complete the blank spaces as appropriate.

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SCHEDULE 2

Regulation 3(1)(b)

FORMHIGHWAYS ACT 1980, SECTION 119B SPECIAL DIVERSION ORDER FOR CERTAIN HIGHWAYS WHICH CROSS LAND OCCUPIED FOR THE PURPOSES OF A SCHOOL

[NAME OF AUTHORITY]

[TITLE OF ORDER]

This Order is made by [insert the name of the Authority] ("the Authority") under section 119B(4) of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that, as respects the relevant highway [see footnote 1] described in article 1 below ("the highway"),-

- (a) the Authority is the highway authority for the highway;
- (b) the highway crosses land occupied for the purposes of a school;
- (c) 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; and

- (d) it is requisite for that purpose to extinguish the public right of way described in Part 1 of the Schedule to this Order and to create the public right of way described in Part 2 of that Schedule.

The police authority [insert the name of the police authority] for the area in which the highway lies has been consulted as required by section 119B(6) of the 1980 Act.

The [insert name(s)] Authorit[y][ies] [has] [have] been consulted as required by section 120(2)(a) of the 1980 Act [complete or delete as appropriate].

The [insert name(s)] Authorit[y][ies] [has] [have] consented to the making of the Order as required by section 120(1A) and (2)(b) of the 1980 Act [complete

or delete as appropriate].

[The [insert name] National Park Authority has been consulted as required by section 120(2)(a) of the 1980 Act]

[The [insert name] National Park Authority has consented to the making of the Order as required by section 120(2)(b) of the 1980 Act] [complete or delete as appropriate] and

[The Countryside Council for Wales has been consulted as required by section 120(2)(c) of the 1980 Act.]

BY THIS ORDER:

1. The public right of way over the land situated at [insert location], shown by a bold continuous line on the map contained in this Order and described in Part 1 of the Schedule to this Order will be extinguished after [insert number] days from the date of confirmation of this Order [but not before the day following the date of certification] [delete if not appropriate - see footnote 2].

[In this article, "the date of certification" means the date on which the highway authority for the new highway mentioned in article 3 certifies that such work has been carried out as is required to be done to bring the site of that highway into a fit condition for use by the public.] [delete if not appropriate - see footnote 2].

2. The following provision(s) apply for the protection of [insert the name of the statutory undertaker], namely [insert provision(s)] [complete or delete as appropriate - see footnote 3].
3. There will, at the end of [insert number] days from the date of confirmation of this Order be a new public right of way being a [specify the type of the new right of way - see footnote 4] over the land situated at [insert location] described in Part 2 of the Schedule and shown by a bold broken line on the map contained in this Order.
4. The rights conferred on the public under this Order are subject to the limitations and conditions set out in Part 3 of the Schedule to this Order] [delete if no limitations and conditions are specified in this Order].

[insert date]

Signed [insert signature]

[position held with the Authority]

[name of the Authority]

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SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING HIGHWAY

[Describe position, length and width of the highway in sections, eg A-B, B-C etc, as indicated on the map]

PART 2

DESCRIPTION OF SITE OF NEW PUBLIC RIGHT OF WAY

[Describe position, length and width of the new way in sections, eg C-D, D-E etc, as indicated on the map]

PART 3

LIMITATIONS AND CONDITIONS

[Specify any limitations and conditions which are to apply - see footnote 5. Delete this Part if no limitations and conditions are specified in this Order]

Footnotes

1. "Relevant highway" is defined in section 119B(2) of the 1980 Act as-
 - (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.
2. See section 119B(4)(b) and (8)(b) of the 1980 Act.
3. See section 121(5) of the 1980 Act.
4. The new public right of way being created will be-
 - (a) such new footpath, bridleway or restricted byway; or
 - (b) in a case where the highway being diverted falls within (b) or (c) of footnote 1 above, such 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 (see section 119B(4)(a) of the 1980 Act).
5. The power to specify limitations and conditions is conferred by section 119B(9) of the 1980 Act.

Complete blank spaces as appropriate.

SCHEDULE 3

Regulation 4(1) to (3)

FORM 1 HIGHWAYS ACT 1980, SECTION [118B] [119B] AND SCHEDULE 6 NOTICE OF MAKING OF SPECIAL [EXTINGUISHMENT] [DIVERSION] ORDER

IMPORTANT - THIS COMMUNICATION
AFFECTS YOUR PROPERTY [SEE
FOOTNOTE 1]

[NAME OF AUTHORITY]

[TITLE OF ORDER]

[To [insert the name of the person to whom this notice is being sent] of [insert their address] [see footnote 1].

The above Order was made on [insert date] under section [118B] [119B] of the Highways Act 1980.

The Order will [extinguish] [divert] the public right of way [insert a description of the effect of the Order].

A copy of the Order, and the map contained in it, may be inspected free of charge at [insert location] from [insert time] a.m. to [insert time] p.m. on [insert date(s)].

Copies of the Order and map may be purchased there at the price of [insert amount] [see footnote 2].

[Compensation for depreciation of the value of an interest in, or for disturbance in the enjoyment of, land arising in consequence of the coming into force of the Order is payable under section 28 of the Highways Act 1980 (as applied by section 121(2) of that Act). Copies of these sections, and of section 120(3) of that Act (to which section 121(2) refers), are attached] [see footnote 1].

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Any representations about, or objections to, the Order may be sent in writing to [insert the title of the appropriate officer and the name and address of the Authority] not later than [insert date] [see footnote 3]. Please state the grounds on which they are made.

If no such representations or objections are duly made, or if any so made are withdrawn, the [insert the name of the Authority] may confirm the Order as an unopposed order. If the Order is sent to the National Assembly for Wales for confirmation, any representations or objections which have not been withdrawn will be sent with the Order.

[insert date]

Signed [insert signature]

[position held with the Authority]

[name of the Authority]

Footnotes

1. Insert only in notices to be served on a person specified in, or under, paragraph 1(3)(b) of Schedule 6 to the Highways Act 1980. Where this notice is required, by paragraph 1(3)(b) of that Schedule, to be served on an owner, occupier or lessee of land affected by the Order or on certain other persons, a copy of that Order must be included with this notice (paragraph 1(4B) of Schedule 6 to the Highways Act 1980).
2. The Authority must make the Order and map available for inspection at all reasonable hours and copies of the Order and the map may be obtained at a reasonable charge (paragraph 1(1)(b) of Schedule 6 to the Highways Act 1980).
3. This date must not be less than 28 days from the date of the first publication of this notice (paragraph 1(1)(c) of Schedule 6 to the Highways Act 1980).

Delete alternatives in square brackets and complete blank spaces as appropriate.

FORM 2 HIGHWAYS ACT 1980, SECTION [118B] [119B] AND SCHEDULE 6 NOTICE OF CONFIRMATION OF SPECIAL [EXTINGUISHMENT] [DIVERSION] ORDER

**IMPORTANT - THIS COMMUNICATION
AFFECTS YOUR PROPERTY**

[NAME OF AUTHORITY]

[TITLE OF ORDER]

[To [insert the name of the person to whom this notice is being sent] of [insert their address] [see footnote 1]

[On [insert date], the National Assembly for Wales confirmed [with] [without] modifications the above Order, made under section [118B] [119B] of the Highways Act 1980]

[On [insert date], the [insert the name of the Authority] confirmed without modification the above Order, made under section [118B] [119B] of the Highways Act 1980].

The effect of the Order as confirmed is to [extinguish] [divert] the public right of way [insert a description of the effect of the Order].

A copy of the Order as confirmed, and the map contained in it, may be inspected free of charge at [insert location] from [insert time] a.m. to [insert time] p.m. on [insert date(s)].

Copies of the Order and map may be purchased there at the price of [insert amount] [see footnote 2].

[Any person who wishes to claim compensation under section 28 of the Highways Act 1980, as applied by section 121(2) of that Act, for depreciation of the value of an interest in, or for disturbance in the enjoyment of, land in consequence of the coming into force of the Order must make a claim in writing addressed to [insert the title of the appropriate officer and the name and address of the Authority] and serve it by delivering it at, or sending it by prepaid post to, the above address not later than [insert date].

Copies of these sections and of section 120(3) of that Act (to which section 121(2) refers) are attached] [see footnote 1].

The public right of way extinguished by the Order is extinguished after [complete in accordance with the terms of article 1 of the Order].

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The public right of way created by the Order comes into existence at the end of [complete in accordance with the terms of article 3 of the Order in the case of a special diversion order or delete in the case of a special extinguishment order].

If any person aggrieved by the Order desires to question the validity of, or of any provision contained in, the Order on the ground that it is not within the powers of the Highways Act 1980, or on the ground that any requirement of that Act, or of any regulations made under it, has not been complied with in relation to the Order, that person may, under paragraph 2 of Schedule 2 to that Act (as applied by paragraph 5 of Schedule 6 to that Act), within six weeks from [insert the date on which this notice was first published], make an application to the High Court.

[insert date]

Signed [insert signature]

[position held with the Authority]

[name of the Authority]

Footnotes

1. Insert only in notices to be served on a person specified in paragraph 4(1)(a) of Schedule 6 to the Highways Act 1980. Where this notice is required under paragraph 4(1)(a) of that Schedule to be served on an owner, occupier or lessee of land affected by the Order or on certain other persons, a copy of that Order must be included with this notice (paragraph 4(2) of Schedule 6 to the Highways Act 1980).
2. The Authority must make the confirmed Order and map available for inspection at all reasonable hours and copies of the Order and map may be obtained at a reasonable charge (paragraph 4(1) of Schedule 6 to the Highways Act 1980).

Delete alternatives in square brackets and complete blank spaces as appropriate.

FORM 3HIGHWAYS ACT 1980, SECTION 120(3) AND SCHEDULE 6NOTICE OF MAKING OF SPECIAL [EXTINGUISHMENT] [DIVERSION] ORDER BY THE NATIONAL ASSEMBLY FOR WALES

**IMPORTANT - THIS COMMUNICATION
AFFECTS YOUR PROPERTY**

[TITLE OF ORDER]

[To [insert the name of the person to whom this notice is being sent] of [insert their address] [see footnote 1].

On [insert date], the National Assembly for Wales made the above Order under section 120(3) of the Highways Act 1980.

The effect of the Order is to [extinguish] [divert] the public right of way [insert a description of the effect of the Order].

A copy of the Order as confirmed, and the map contained in it, may be inspected free of charge at [insert location] from [insert time] a.m. to [insert time] p.m. on [insert date].

Copies of the Order and map may be purchased there at the price of [insert amount] [see footnote 2].

[Any person who wishes to claim compensation under section 28 of the Highways Act 1980, as applied by section 121(2) of that Act, for depreciation of the value of an interest in, or for disturbance in the enjoyment of, land in consequence of the coming into force of the Order must make a claim in writing addressed to [insert the title of the appropriate officer and the name and address of the Authority] and serve it by delivering it at, or sending it by prepaid post to, the above address not later than [insert date].

Copies of these sections and of section 120(3) of that Act (to which section 121(2) refers) are attached] [see footnote 1].

The public right of way extinguished by the Order is extinguished after [complete in accordance with the terms of article 1 of the Order].

The public right of way created by the Order comes into existence at the end of [complete in accordance with the terms of article 3 of the Order in the case of a special diversion order or delete in the case of a special extinguishment Order].

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If any person aggrieved by the Order desires to question the validity of, or of any provision contained in, the Order on the ground that it is not within the powers of the Highways Act 1980, or on the ground that any requirement of that Act or of any regulations made under it has not been complied with in relation to the Order, that person may, under paragraph 2 of Schedule 2 to that Act (as applied by paragraph 5 of Schedule 6 to that Act), within six weeks from [insert the date on which this notice was first published], make an application to the High Court.

[insert date]

Signed [insert signature]

Authorised to sign on behalf of the National Assembly for Wales

Footnotes

1. Insert only in notices to be served on a person specified in paragraph 4(1)(a) of Schedule 6 to the Highways Act 1980. Where this notice is required under paragraph 4(1)(a) of that Schedule to be served on an owner, occupier or lessee of land affected by the Order or on certain other persons, a copy of that Order shall be included with this notice (paragraph 4(2) of Schedule 6 to the Highways Act 1980).
2. The Authority must make the confirmed Order and map available for inspection at all reasonable hours. The charge for copies must not exceed a reasonable charge (paragraph 4(1) of Schedule 6 to the Highways Act 1980).

Delete alternatives in square brackets and complete blank spaces as appropriate.

SCHEDULE 4

Regulation 4(4)

ADDITIONAL PERSONS TO BE SERVED WITH NOTICE OF ORDERS

ACU Motorcycling GB

The authority discharging the functions of fire authority under the Fire and Rescue Services Act 2004 for the area in which the land to which the order relates is situated

British Horse Society

Byways and Bridleways Trust

Cyclists Touring Club

Open Spaces Society

Ramblers' Association

Town and community councils for the area in which the land to which the order relates is situated

EXPLANATORY NOTE

(This note is not part of the Regulations)

Sections 118B and 119B of the Highways Act 1980 (“the 1980 Act”) were inserted by paragraphs 8 and 12 of Schedule 6 to the Countryside and Rights of Way Act 2000 respectively. They enable orders to be made to stop up (by a “special extinguishment order”) and divert (by a “special diversion order”) certain highways for the purposes of crime prevention or for the protection of pupils or staff of schools.

These Regulations, which come into force on 15 July 2005, prescribe the forms and notices, and make provision as to the procedure, for special extinguishment orders and special diversion orders which relate to highways crossing land occupied for the purposes of a school and which are required to protect pupils or staff. The application of these types of orders for the purposes of crime prevention will be implemented at a later date.

Regulation 3 and Schedules 1 and 2 prescribe the form of a special extinguishment order and a special diversion order respectively.

Regulation 4(1) to (3) and Schedule 3 prescribe the form of notices to be—

- (a) given once an order has been made by the relevant highway authority;
- (b) served once an order has been confirmed; and
- (c) served once an order has been made by the National Assembly for Wales.

Regulation 4(4) and Schedule 4 prescribe additional persons on whom the notices specified in that regulation are to be served.

Regulation 5 sets out the procedures to be followed in the submission for confirmation, and confirmation, of the orders.

Regulation 6 prescribes the requirements with regard to the service of claims for compensation under section 28 of the 1980 Act for depreciation or disturbance in consequence of an order and requires any such claim to be served so as to be received within 6 months of the order coming into force.