



# Town and Country Planning (Scotland) Act 1972

## 1972 CHAPTER 52

### PART X

#### HIGHWAYS

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

#### **198 Highways affected by development: orders by Secretary of State**

- (1) The Secretary of State may by order authorise the stopping up or diversion of any highway if he is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III of this Act, or to be carried out by a government department.
- (2) Any order under this section may make such provision as appears to the Secretary of State to be necessary or expedient for the provision or improvement of any other highway, and may direct—
  - (a) that any highway so provided or improved shall be maintained and managed by the highway authority;
  - (b) that the Secretary of State, or any local authority specified in that behalf in the order, shall be the highway authority for that highway;
  - (c) in the case of a highway for which the Secretary of State is to be the highway authority, that the highway shall, on such date as may be specified in the order, become a trunk road within the meaning of the Trunk Roads Acts 1936 and 1946.
- (3) Any order made under this section may contain such incidental and consequential provisions as appear to the Secretary of State to be necessary or expedient, including in particular—
  - (a) provision for authorising the Secretary of State, or requiring any other authority or person specified in the order—

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*Status: This is the original version (as it was originally enacted).*

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- (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work; or
  - (ii) to repay, or to make contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section 1 or 2 of the Restriction of Ribbon Development Act 1935 in relation to any highway stopped up or diverted under the order;
  - (b) provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to which the order relates.
- (4) An order may be made under this section authorising the stopping up or diversion of any highway which is temporarily stopped up or diverted under any other enactment.
- (5) The provisions of this section shall have effect without prejudice to—
- (a) any power conferred on the Secretary of State by any other enactment to authorise the stopping up or diversion of a highway;
  - (b) the provisions of section 3 of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; or
  - (c) the provisions of section 203(1)(a) of this Act.

#### **199 Footpaths and bridleways affected by development: orders by local planning authorities**

- (1) Subject to section 206 of this Act, a local planning authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied as mentioned in section 198(1) of this Act.
- (2) An order under this section may, if the local planning authority are satisfied that it should do so, provide—
- (a) for the creation of an alternative footpath or bridleway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing path or way for such use ;
  - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement, provision is made by the order;
  - (c) for the preservation of any rights of statutory under takers in respect of apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway ;
  - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

#### **200 Highways crossing or entering route of proposed new highway, etc.**

- (1) If planning permission is granted under Part III of this Act for constructing or improving, or the Secretary of State proposes to construct or improve, a highway (hereafter in this section referred to as " the main highway "), the Secretary of State may by order authorise the stopping up or diversion of any other highway which

crosses or enters the route of the main highway or which is, or will be, otherwise affected by the construction or improvement of the main highway, if it appears to the Secretary of State expedient to do so—

- (a) in the interests of the safety of users of the main highway ; or
- (b) to facilitate the movement of traffic on the main highway.

(2) Subsections (2) to (5) of section 198 of this Act shall apply to an order under this section as they apply to an order under that section.