

SCHEDULES

SCHEDULE 6

AMENDMENTS RELATING TO CREATION, STOPPING UP AND DIVERSION OF HIGHWAYS

PART I

AMENDMENTS OF HIGHWAYS ACT 1980

- 14 (1) Section 121 of the 1980 Act (supplementary provisions as to public path extinguishment and diversion orders) is amended as follows.
- (2) In subsection (1)—
- (a) after “rail crossing extinguishment order,” there is inserted “a special extinguishment order”,
 - (b) for “or a rail crossing diversion order”, wherever occurring, there is substituted “, a rail crossing diversion order, a special diversion order or an SSSI diversion order”, and
 - (c) for “path or way”, wherever occurring, there is substituted “highway”.
- (3) In subsection (2)—
- (a) after “rail crossing extinguishment orders,” there is inserted “special extinguishment orders”,
 - (b) for “and rail crossing diversion orders” there is substituted “, rail crossing diversion orders, special diversion orders and SSSI diversion orders”, and
 - (c) for the words from “but” onwards there is substituted—
 - “but as if—
 - (a) the references in it to section 26(2) above were references to section 120(3) above, and
 - (b) in relation to special extinguishment orders, special diversion orders and SSSI diversion orders, the reference in section 28(4) to a footpath or bridleway included a reference to a restricted byway or a highway over which the public have a right of way for vehicular and all other kinds of traffic.”.
- (4) In subsection (3)—
- (a) for “(protection for agriculture and forestry)” there is substituted “(duty to have regard to agriculture, forestry and nature conservation)”,
 - (b) after “rail crossing extinguishment orders,” there is inserted “special extinguishment orders”, and
 - (c) for “and rail crossing diversion orders” there is substituted “, rail crossing diversion orders, special diversion orders and SSSI diversion orders”.
- (5) In subsection (4)—

Status: This is the original version (as it was originally enacted).

- (a) after “rail crossing extinguishment order,” there is inserted “a special extinguishment order”, and
 - (b) for “or a rail crossing diversion order” there is substituted “, a rail crossing diversion order, a special diversion order or an SSSI diversion order”.
- (6) After subsection (5) there is inserted—
- “(5A) Before making a determination under subsection (5) above the appropriate Minister may, if he thinks fit, give any person an opportunity to be heard on the question, and he must either give such an opportunity or cause a local inquiry to be held if a request to be heard with respect to the question to be determined is made—
- (a) by the statutory undertakers,
 - (b) in the case of an order made on an application under section 118ZA, 118C, 119ZA or 119C above, by the person who made the application, and
 - (c) in the case of an order to be made on an appeal under section 121D(1)(a) below, by the appellant.
- (5B) The appropriate Minister may appoint any person to exercise on his behalf, with or without payment, the function of determining a question falling to be determined under subsection (5) above.
- (5C) Schedule 12ZA to this Act shall have effect with respect to appointments under subsection (5B) above; and subsection (5A) above has effect subject to the provisions of that Schedule.
- (5D) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (giving of evidence at, and defraying of costs of, inquiries) shall apply in relation to hearings or local inquiries which the appropriate Minister causes to be held under subsection (5A) above as they apply (by virtue of section 302(1) of this Act) to local inquiries which the Secretary of State causes to be held under this Act.
- (5E) Section 322A of the Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or inquiry under subsection (5A) above as it applies in relation to a hearing or local inquiry for the purposes referred to in that section, but as if references to the Secretary of State were references to the appropriate Minister.”
- (7) In subsection (6), for “subsection (5)” there is substituted “subsections (5) to (5E)”.