



# National Parks and Access to the Countryside Act 1949

1949 CHAPTER 97

## PART IV

### PUBLIC RIGHTS OF WAY

#### *Diversion and Closure of Public Paths*

#### **42 Diversion of public paths**

- (1) Where an owner, lessee or occupier of land crossed by a public path satisfies the council of the county borough or county district in which the land is situated that for securing the efficient use of the land or of other land held therewith or providing a shorter or more commodious path it is expedient that the line of the path across his land, or part of that line, should be diverted (whether on to other land of his or on to land of another owner, lessee or occupier), the council may by order (hereinafter referred to as a "diversion order") made by them and submitted to and confirmed by the Minister—
  - (a) create, as from such date as may be specified in the order, any such new public right of way as appears to the council requisite for effecting the diversion, and
  - (b) extinguish, as from such date as may be so specified in accordance with the provisions of the next following subsection, the public right of way over so much of the path as appears to the council requisite as aforesaid.
- (2) Where it appears to the council that any work requires to be done to provide necessary facilities for the convenient exercise of any such new public right of way as is mentioned in paragraph (a) of the last foregoing subsection, the date specified under paragraph (b) of that subsection shall be later than the date specified under paragraph (a) thereof by such time as appears to the council requisite for enabling the work to be carried out.

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*Status: This is the original version (as it was originally enacted).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

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- (3) A public right of way created by a diversion order shall be either a right of way on foot only, or a right of way on foot and on horseback (including a right of leading a horse along the highway), as may be specified in the order in accordance with the nature of the right of way extinguished by the order, and may either be unconditional or may (whether or not the last-mentioned right was subject to limitations or conditions of any description) be subject to such limitations or conditions as may be so specified.
- (4) Before determining to make a diversion order on the representation of any owner, lessee or occupier, the council may require him to enter into an agreement with the council to defray, or to make such contribution as may be specified in the agreement towards—
- (a) any compensation which may become payable under the following provisions of this Part of this Act in consequence of the coming into operation of the order, or
  - (b) where the council are the highway authority as respects the path in question, any expenses which they may incur in bringing the new site of the path into a fit condition for use by the public, or
  - (c) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority in consequence of the order under the provisions of subsection (4) of section forty-eight of this Act.
- (5) The Minister shall not confirm a diversion order unless he is satisfied that the diversion to be effected thereby is expedient as mentioned in subsection (1) of this section, and further that the path will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—
- (a) the diversion would have on public enjoyment of the path as a whole.
  - (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and
  - (c) any new public right of way created by the order would have as respects the land over which the right is so created and of any land held therewith,
- so however that for the purposes of paragraphs (b) and (c) of this subsection the Minister shall take into account the provisions as to compensation hereinafter contained.
- (6) A diversion order shall be in such form as may be prescribed by regulations made by the Minister, and shall contain a map, on such scale as may be so prescribed, showing the existing site of so much of the line of the path as is to be diverted by the order and the new site to which it is to be diverted, and indicating whether a new right of way is created by the order over the whole of the new site or whether some part thereof is already comprised in a public path and, in the latter case, defining the part thereof so comprised.
- (7) The provisions in that behalf of the First Schedule to this Act shall have effect as to the making, confirmation, coming into operation and validity of diversion orders.
- (8) References in this section and in the said First Schedule to the diversion of the line of a path shall be construed as including, in the case of a path which terminates at a point on any public path or other highway, references to modifying the line of the path so as to terminate at another point on the same highway or on a highway connected therewith, being a point substantially as convenient to the public.