



Highways Act 1980

1980 CHAPTER 66

PART VIII

STOPPING UP AND DIVERSION OF HIGHWAYS AND STOPPING UP OF MEANS OF ACCESS TO HIGHWAYS

Stopping up and diversion of highways

121 Supplementary provisions as to public path extinguishment and diversion orders.

- (1) A public path extinguishment order [^{F1}, a rail crossing extinguishment order, [^{F2}a special extinguishment order] a public path diversion order [^{F3}, a rail crossing diversion order, a special diversion order or an SSSI diversion order]] affecting in any way the area of more than one council may contain provisions requiring one of the councils to defray, or contribute towards, expenses incurred in consequence of the order by another of the councils; and a public path diversion order [^{F3}, a rail crossing diversion order, a special diversion order or an SSSI diversion order] diverting a part of the line of a [^{F4}highway] from a site in the area of one local highway authority to a site in the area of another may provide that the first mentioned authority are to continue to be the highway authority for that part of the [^{F4}highway] after the diversion.
- (2) Section 28 above (compensation for loss caused by public path creation order) applies in relation to public path extinguishment orders [^{F5}, rail crossing extinguishment orders, [^{F6}special extinguishment orders]public path diversion orders [^{F7}, rail crossing diversion orders, special diversion orders and SSSI diversion orders]] as it applies in relation to public path creation orders [^{F8}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 [^{F9}a footpath, bridleway or restricted byway included a reference to] a highway over which the public have a right of way for vehicular and all other kinds of traffic.]

Changes to legislation: Highways Act 1980, Section 121 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) Section 29 above [^{F10}(duty to have regard to agriculture, forestry and nature conservation)] applies in relation to the making of public path extinguishment orders [^{F11}, rail crossing extinguishment orders, [^{F12}special extinguishment orders] public path diversion orders [^{F13}, rail crossing diversion orders, special diversion orders and SSSI diversion orders]] as it applies in relation to the making of public path creation agreements and public path creation orders.
- (4) The Secretary of State shall not make or confirm a public path extinguishment order [^{F14}, a rail crossing extinguishment order, [^{F15}a special extinguishment order] a public path diversion order [^{F16}, a rail crossing diversion order, a special diversion order or an SSSI diversion order]], and a council shall not confirm such an order as an unopposed order, if the order extinguishes a right of way over land under, in, upon, over, along or across which there is any apparatus belonging to or used by any statutory undertakers for the purpose of their undertaking unless the undertakers have consented to the making or, as the case may be, confirmation of the order.
- (5) A consent under subsection (4) above may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they reasonably require, but a consent under that subsection shall not be unreasonably withheld, and any question whether the withholding of such a consent is unreasonable or whether any requirement is reasonable shall be determined by the appropriate Minister.
- [^{F17}(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 [^{F18}in England] 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 ^{M1}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 [^{F19}in England] 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.]

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[^{F20}(5F) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under subsection (5A) above in Wales as it applies in relation to a hearing or inquiry mentioned in that section.]

- (6) In [^{F21}subsections (5) to (5E)] above the “appropriate Minister” means—
- (a) in relation to statutory undertakers carrying on an undertaking for the supply of ^{F22} . . . , ^{F23} . . . , [^{F24}or hydraulic power], the Secretary of State; and
 - (b) in relation to any other statutory undertakers, the Minister.

Textual Amendments

- F1** Words in s. 121(1) substituted (31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, [Sch. 2 para. 6\(2\)\(a\)](#); S.I. 1992/3144, art. 3, [Sch.](#)
- F2** Words in s. 121(1) inserted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(2\)\(a\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 3\(d\)\(ii\)](#); S.I. 2007/1493, [art. 2](#)
- F3** Words in s. 121(1) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(2\)\(b\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 3\(d\)\(ii\)](#); S.I. 2007/1493, [art. 2](#)
- F4** Word in s. 121(1) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(2\)\(c\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 3\(d\)\(ii\)](#); S.I. 2007/1493, [art. 2](#)
- F5** Words in s. 121(2) substituted (31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, [Sch. 2 para. 6\(3\)](#); S.I. 1992/3144, art. 3, [Sch.](#)
- F6** Words in s. 121(2) inserted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(3\)\(a\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 3\(d\)\(ii\)](#); S.I. 2007/1493, [art. 2](#)
- F7** Words in s. 121(2) substituted (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(3\)\(b\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 3\(d\)\(ii\)](#)
- F8** Words in s. 121(2) substituted (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(3\)\(c\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 3\(d\)\(ii\)](#)
- F9** Words in s. 121(2)(b) substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2, [Sch. Pt. 1](#); S.I. 2006/1172, [art. 2\(a\)-\(d\)](#) (with art. 3); S.I. 2006/1279, [art. 2\(a\)-\(d\)](#) (with art. 3)
- F10** Words in s. 121(3) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 31.5.2005 for W. and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(4\)\(a\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 2\(b\)\(v\)](#); S.I. 2007/1493, [art. 2](#)
- F11** Words in s. 121(3) substituted (31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, [Sch. 2 para. 6\(4\)](#); S.I. 1992/3144, art. 3, [Sch.](#)
- F12** Words in s. 121(3) inserted (12.2.2003 for E. for certain purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3), [Sch. 6 Pt. I para. 14\(4\)\(b\)](#); S.I. 2003/272, [art. 2\(a\)\(j\)](#); S.I. 2005/1314, [art. 3\(d\)\(ii\)](#)
- F13** Words in s. 121(3) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by [2000 c. 37](#), ss. 57, 103(3),

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- Sch. 6 Pt. I para. 14(4)(c); S.I. 2003/272, **art. 2(a)(j)**; S.I. 2005/1314, **art. 3(d)(ii)**; S.I. 2007/1493, **art. 2**
- F14** Words in s. 121(4) substituted (31.1.1993) by Transport and Works Act 1992 (c. 42), s. 47, **Sch. 2 para. 6(5)**; S.I. 1992/3144, **art. 3, Sch.**
- F15** Words in s. 121(4) inserted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 14(5)(a); S.I. 2003/272, **art. 2(a)(j)**; S.I. 2005/1314, **art. 3(d)(ii)**; S.I. 2007/1493, **art. 2**
- F16** Words in s. 121(4) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 14(5)(b); S.I. 2003/272, **art. 2(a)(j)**; S.I. 2005/1314, **art. 3(d)(ii)**; S.I. 2007/1493, **art. 2**
- F17** S. 121(5A)-(5E) inserted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 14(6); S.I. 2003/272, **art. 2(a)(j)**; S.I. 2005/1314, **art. 3(d)(ii)**; S.I. 2007/1493, **art. 2**
- F18** Words in s. 121(5D) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 5 para. 2(2)**; S.I. 2016/52, **art. 4(a)** (with **art. 17**)
- F19** Words in s. 121(5E) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 5 para. 2(3)**; S.I. 2016/52, **art. 4(a)** (with **art. 17**)
- F20** S. 121(5F) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 5 para. 2(4)**; S.I. 2016/52, **art. 4(a)** (with **art. 17**)
- F21** Words in s. 121(6) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 for certain further purposes, 15.7.2005 for W. for certain purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 14(7); S.I. 2003/272, **art. 2(a)(j)**; S.I. 2005/1314, **art. 3(d)(ii)**; S.I. 2007/1493, **art. 2**
- F22** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F23** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F24** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 62(6), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Modifications etc. (not altering text)

- C1** S. 121 modified by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(10)(c)**, Sch. 8 para. 33
- C2** S. 121 modified by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 3(2)(g), Sch. 17 paras. 33, **35(1)**
- C3** S. 121 modified by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 1(10)(vii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- C4** S. 121 extended by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), **ss. 2(5)(6)**, 23(2), 27(2) Sch. 3 para. 47(1)
- C5** S. 118-121 extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 11(c)** (with ss. 7(6), 115, 117, Sch. 8 para. 7).
 S. 121 modified (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(11)(c)**; S.I. 1996/218, **art. 2**.
- C6** S. 121 applied (2.5.2006 for E. and 11.5.2006 for W.) by The Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006 (S.I. 2006/1177), regs. 1(2)(4), 2, **Sch. Pt. I**; S.I. 2006/1172, **art. 2**; S.I. 2006/1279, **art. 2**

Marginal Citations

- M1** 1990 c. 8.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)