



Transport and Works Act 1992

1992 CHAPTER 42

PART II

SAFETY OF RAILWAYS ETC

CHAPTER II

OTHER SAFETY PROVISIONS

Rail crossings

47 Stopping up and diversion of crossings

- (1) Schedule 2 to this Act (which amends the Highways Act 1980 so as to provide for the stopping up or diversion of footpaths and bridleways crossing railways and tramways) shall have effect.
- (2) Where a public right of way over a footpath or bridleway where it crosses a railway or tramway is extinguished by an order under sections 118 to 119A of the Highways Act 1980, any obligation (however imposed) to maintain the crossing for the benefit of the public shall cease to have effect.

48 Footpaths and bridleways over railways

- (1) This section applies where—
 - (a) a public right of way over a footpath or bridleway crosses a railway or tramway otherwise than by a tunnel or bridge,
 - (b) the operator of the railway or tramway has made a closure or diversion application in respect of the crossing, and
 - (c) in the opinion of the Secretary of State the crossing constitutes a danger to members of the public using it or likely to use it.

Status: This is the original version (as it was originally enacted).

- (2) The Secretary of State may by order require the operator to provide a tunnel or a bridge, or to improve an existing tunnel or bridge, to carry the path or way over or under the railway or tramway at or reasonably near to the crossing to which the closure or diversion application relates.
- (3) An order under this section may include particulars as to the tunnel or bridge which is to be provided or as to the improvements which are to be made.
- (4) The Secretary of State shall not make an order under this section after the end of the period of two years beginning with the day on which the closure or diversion application is made, and not less than two months before making an order he shall give written notice of his proposal to make the order to the operator and to each local authority in whose area the crossing (or any proposed new crossing) is situated.
- (5) A notice given under subsection (4) above must be accompanied by a draft of the proposed order under this section; and any order eventually made may include modifications of the draft.
- (6) An operator shall not be regarded as in breach of a duty imposed by an order under this section if he has used his best endeavours to comply with the order.
- (7) Where an operator is required by an order under this section to provide or improve a bridge or tunnel, but is unable to do so because he does not have the powers or rights (including rights over land) needed for the purpose, he shall not be taken to have used his best endeavours to comply with the order unless he has used his best endeavours to obtain those powers or rights (whether by means of an order under section 1 above or otherwise).
- (8) In this section—
- “bridleway” has the same meaning as in the Highways Act 1980;
 - “closure or diversion application” means—
 - (a) an application made under section 6 above, or
 - (b) a request made in accordance with section 120(3A)(b) of the Highways Act 1980,
 for an order by virtue of which a public right of way would be extinguished or diverted;
 - “footpath” has the same meaning as in the Highways Act 1980;
 - “local authority” means a county council, a district council, a London borough council, the Common Council of the City of London, a parish or community council and a parish meeting of a parish not having a separate parish council;
 - “operator”, in relation to a railway or tramway, means any person carrying on an undertaking which includes maintaining the permanent way.

49 Securing of gates and barriers

- (1) Section 75 of the Railways Clauses Consolidation Act 1845 and section 68 of the Railways Clauses Consolidation (Scotland) Act 1845 (which make it an offence for any person to fail to fasten gates) shall be amended as follows.
- (2) After the word “gate” there shall be inserted the words “or to lower any barrier”.

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

- (3) For the words “not exceeding” onwards there shall be substituted the words “not exceeding level 3 on the standard scale.”

50 Orders under Transport Act 1968

—Section 124 of the Transport Act 1968 (which gives the Secretary of State power to impose obligations in respect of level crossings), in its application in England and Wales, shall cease to have effect.

51 Amendment of Level Crossings Act 1983.

—In section 1 of the Level Crossings Act 1983 (safety arrangements at level crossings) in subsection (11), for the definition of “operator” there shall be substituted—

“ “operator”, in relation to a crossing, means any person carrying on an undertaking which includes maintaining the permanent way;”.