

Highways Act 1980 c. 66

s. 119A Diversion of footpaths



Law In Force

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Subjects

Road traffic

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119A.— Diversion of footpaths [, bridleways and restricted byways]² crossing railways.

- (1) This section applies where it appears to a council expedient in the interests of the safety of members of the public using it or likely to use it that a footpath [, bridleway or restricted byway]² in their area which crosses a railway, otherwise than by tunnel or bridge, should be diverted (whether on to land of the same or of another owner, lessee or occupier).
- (2) Where this section applies, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order—
 - (a) create, as from such date as may be specified in the order, any such new path or way as appears to the council requisite for effecting the diversion, and
 - (b) extinguish, as from such date as may be specified in the order or determined under subsection (7) below, the public right of way over the crossing and over so much of the path or way of which the crossing forms part as appears to the council requisite as aforesaid.
- (3) An order under this section is referred to in this Act as a “*rail crossing diversion order*”.
- (4) The Secretary of State shall not confirm a rail crossing diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient to do so having regard to all the circumstances, and in particular to—
 - (a) whether it is reasonably practicable to make the crossing safe for use by the public, and
 - (b) what arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.
- (5) A rail crossing diversion order shall not alter a point of termination of a path or way diverted under the order—
 - (a) if that point is not on a highway over which there subsists a like right of way (whether or not other rights of way also subsist over it), or
 - (b) (where it is on such a highway) otherwise than to another point which is on the same highway, or another such highway connected with it.
- (6) A rail crossing diversion order may make provision requiring the operator of the railway to maintain all or part of the footpath [, bridleway or restricted byway]² created by the order.

(7) Where it appears to the council that work requires to be done to bring the new site of the footpath [, bridleway or restricted byway]² into a fit condition for use by the public, the council shall—

(a) specify a date under subsection (2)(a) above, and

(b) provide that so much of the order as extinguishes (in accordance with subsection (2)(b) above) a public right of way is not to come into force until the local highway authority for the new path or way certify that the work has been carried out.

(8) Before determining to make a rail crossing diversion order on the representations of the operator of the railway crossed by the path or way, the council may require him to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards,—

(a) any compensation which may become payable under [section 28](#) above as applied by [section 121\(2\)](#) below;

(b) any expenses which the council may incur in connection with the erection or maintenance of barriers and signs;

(c) where the council are the highway authority for the path or way in question, any expenses which they may incur in bringing the new site of the path or way into fit condition for use by the public;

(d) where the council are not the highway authority, any expenses which may become recoverable from them by the highway authority under the provisions of [section 27\(2\)](#) above as applied by subsection (11) below.

(9) A rail crossing diversion order shall be in such form as may be prescribed by regulations made by the Secretary of State and shall contain a map, on such scale as may be so prescribed—

(a) showing the existing site of so much of the line of the path or way as is to be diverted by the order and the new site to which it is to be diverted,

(b) indicating whether a new right of way is created by the order over the whole of the new site or whether some part of it is already comprised in a footpath [, bridleway or restricted byway]², and

(c) where some part of the new site is already so comprised, defining that part.

(10) [Schedule 6](#) to this Act has effect as to the making, confirmation, validity and date of operation of rail crossing diversion orders.

(11) [Section 27](#) above (making up of new footpaths [, bridleways and restricted byways]²) applies to a footpath [, bridleway or restricted byway]² created by a rail crossing diversion order with the substitution, for references to a public path creation order, of references to a rail crossing diversion order and, for references to [section 26\(2\)](#) above, of references to [section 120\(3\)](#) below.

(12) In this section and in [section 120](#) below—

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

“railway” includes tramway but does not include any part of a system where rails are laid along a carriageway.

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Notes

¹ Amended by Countryside and Rights of Way Act 2000 c. 37 [Sch.6\(I\) para.11](#) (May 31, 2005 as SI 2005/1314)

Notes

- 2 Amended by Restricted Byways (Application and Consequential Amendment of Provisions) Regulations 2006/1177 [Sch.1\(I\) para.1](#) (July 11, 2006: July 2, 2006 in relation to England; July 11, 2006 otherwise)
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Part VIII STOPPING UP AND DIVERSION OF HIGHWAYS AND STOPPING UP OF MEANS OF ACCESS TO HIGHWAYS > Stopping up and diversion of highways > s. 119A Diversion of footpaths

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