



# Highways Act 1980

## 1980 CHAPTER 66

### PART VI

#### CONSTRUCTION OF BRIDGES OVER AND TUNNELS UNDER NAVIGABLE WATERS AND DIVERSION ETC. OF WATERCOURSES

##### *Diversion etc. of watercourses*

#### **108 Power to divert navigable watercourses.**

- (1) An order made under this subsection may authorise a highway authority to divert such part of any navigable watercourse as may be specified in the order if, in the opinion of the authority, the diversion of that part is necessary or desirable in connection with—
- (a) the construction, improvement or alteration of a highway;
  - (b) the provision of a new means of access to any premises from a highway; or
  - (c) the provision of a maintenance compound or, if that authority are a special road authority, of a service area.

[<sup>F1</sup>(1A) Subsection (1) is subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders in relation to highways for which development consent required).]

- (2) An order under subsection (1) above shall—
- (a) if the authority proposing to divert the watercourse is the Minister, be made by him; and
  - (b) if that authority are a [<sup>F2</sup>any other ] highway authority, be made by that authority and confirmed by the Minister.
- (3) Parts I and III of Schedule 1 to this Act have effect as to the making of any order under subsection (1) above, and Schedule 2 to this Act has effect as to the validity and date of operation of any such order.
- (4) An order or scheme which provides for the construction of a bridge over or a tunnel under any navigable waters may authorise the highway authority by whom the bridge

*Status: Point in time view as at 05/12/2017.*

*Changes to legislation: Highways Act 1980, Section 108 is up to date with all changes known to be in force on or before 07 August 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)*

or tunnel is to be constructed to divert such part of any navigable watercourse as may be specified in the order or scheme if, in the opinion of that authority, the diversion of that part is necessary or desirable for purposes connected with the bridge or tunnel, or its construction.

- (5) An order under section 14 or 18 above may authorise the highway authority by whom the order is made to divert such part of any navigable watercourse as may be specified in the order if, in the opinion of that authority, the diversion of that part is necessary or desirable in connection with—
- (a) the construction or improvement of the trunk road, special road or classified road, as the case may be, to which the order relates;
  - (b) the construction or alteration of any other highway to which the order relates;
  - (c) the provision in pursuance of the order of a new means of access to any premises; or
  - (d) the provision of a maintenance compound in connection with the trunk road, special road or classified road, as the case may be, to which the order relates or, in the case of an order under section 18, the provision of a service area.
- (6) Where by virtue of an order under subsection (1) above or an order or scheme falling within subsection (4) or (5) above a highway authority are authorised to divert any part of a navigable watercourse they may also divert any towing path or other way adjacent to that part.

#### **Textual Amendments**

- F1** S. 108(1A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), ss. 36, 241, [Sch. 2 para. 27](#) (with s. 226); [S.I. 2010/101](#), [art. 2](#) (with [art. 6](#))
- F2** Words in s. 108(2)(b) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 35](#); [S.I. 2015/481](#), reg. 2(a)

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