



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART X

#### HIGHWAYS

##### *Orders by other authorities*

#### **257 Footpaths [<sup>F1</sup>, bridleways and restricted byways] affected by development: orders by other authorities.**

- (1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath [<sup>F2</sup>, bridleway or restricted byway] if they are satisfied that it is necessary to do so in order to enable development to be carried out—
- in accordance with planning permission granted under Part III [<sup>F3</sup> or section 293A], or
  - by a government department.

[<sup>F4</sup>(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion [<sup>F5</sup>... of any footpath, bridleway or restricted byway if they are satisfied that—

- an application for planning permission in respect of development has been made under Part 3, and
  - if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.]
- (2) An order under this section may, if the competent authority are satisfied that it should do so, provide—
- for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
  - for authorising or requiring works to be carried out in relation to any footpath [<sup>F2</sup>, bridleway or restricted byway] for whose stopping up or diversion, creation or improvement provision is made by the order;

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- (c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath [<sup>F2</sup>, bridleway or restricted byway];
  - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (3) An order may be made under this section authorising the stopping up or diversion of a footpath [<sup>F2</sup>, bridleway or restricted byway] which is temporarily stopped up or diverted under any other enactment.
- (4) In this section “competent authority” means—
- (a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State [<sup>F6</sup>or by the Welsh Ministers], who would have had power to grant it; <sup>F7</sup>...
  - (b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.
  - [<sup>F8</sup>(c) in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under section 62A [<sup>F9</sup>or to the Welsh Ministers under section 62D, 62F, 62M or 62O], the local planning authority to whom the application would otherwise have been made.]

#### Textual Amendments

- F1** Words in s. 257 sidenote substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), **Sch. 1 Pt. 1** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))
- F2** Words in s. 257(1)(2)(b)(c)(3) substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), **Sch. 1 Pt. 1** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))
- F3** Words in s. 257(1)(a) inserted (7.6.2006) by [The Planning and Compulsory Purchase Act 2004 \(Commencement No. 9 and Consequential Provisions\) Order 2006 \(S.I. 2006/1281\)](#), **art. 5(c)**
- F4** S. 257(1A) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 12(2)**, 35(3)
- F5** Words in s. 257(1A) omitted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by virtue of [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 38(2)**, 58(2)(b)(4)(b); [S.I. 2016/52](#), art. 5(b)
- F6** Words in s. 257(4)(a) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 4 para. 14(a)**; [S.I. 2016/52](#), art. 3(e)
- F7** Word in s. 257(4) omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 12(3)(a)**, 35(3)
- F8** S. 257(4)(c) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 12(3)(b)**, 35(3)
- F9** Words in s. 257(4)(c) inserted (6.9.2015 for specified purposes, 1.3.2016 for specified purposes) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), s. 58(2)(b)(4)(b), **Sch. 4 para. 14(b)**; [S.I. 2016/52](#), art. 3(e)

#### Modifications etc. (not altering text)

- C1** S. 257 modified by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 5, **Sch. 3 para. 8(1)**

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- C2** Ss. 257-261 applied (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 2(1), **Sch. Pt. 1** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))

## **258 Extinguishment of public rights of way over land held for planning purposes.**

- (1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by a local authority for the purposes for which it was acquired or appropriated, then, subject to section 259, the local authority may by order extinguish any public right of way over the land, being a footpath <sup>[**F10**]</sup>, bridleway or restricted byway], if they are satisfied—
- (a) that an alternative right of way has been or will be provided; or
  - (b) that the provision of an alternative right of way is not required.
- (2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 246(1) as if this section were in Part IX.
- (3) Subsection (1) shall also apply (with the substitution of a reference to the Broads Authority for the reference to the local authority) in relation to any land within the Broads which is held by the Broads Authority and which was acquired by, or vested in, the Authority for any purpose connected with the discharge of any of its functions.

### **Textual Amendments**

- F10** Words in [s. 258\(1\)](#) substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), **Sch. 1 Pt. 1** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))

### **Modifications etc. (not altering text)**

- C3** [S. 258](#): power to apply (with modifications) conferred by [Local Government, Planning and Land Act 1980 \(c. 65, SIF 123:1\)](#), s. 149(3)(b), **Sch. 29 Pt. II para. 8** as substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 44(13)**
- C4** [S. 258](#): power to modify conferred (10.11.1993) by 1993 c. 28, s. **171(3)(b)**; [S.I. 1993/2762](#), **art. 3**
- C5** [S. 258](#) applied (with modifications) (7.6.2004) by [The Milton Keynes \(Urban Area and Planning Functions\) Order 2004 \(S.I. 2004/932\)](#), art. 5, **Sch. para. 8** (with arts. 6, 7)  
[S. 258](#) applied (with modifications) (12.10.2005) by [The Thurrock Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2572\)](#), **art. 5** (with arts. 6, 7)  
[S. 258](#) applied (with modifications) (31.10.2005) by [The London Thames Gateway Development Corporation \(Planning Functions\) Order 2005 \(S.I. 2005/2721\)](#), **art. 6**  
[S. 258](#) applied (with modifications) (6.4.2006) by [The West Northamptonshire Development Corporation \(Planning Functions\) Order 2006 \(S.I. 2006/616\)](#), **art. 6**
- C6** Ss. 257-261 applied (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), reg. 2(1), **Sch. Pt. 1** (see [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3) and [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3))  
[S. 258](#) applied (with modifications) (7.9.2006) by [The Olympic Delivery Authority \(Planning Functions\) Order 2006 \(S.I. 2006/2185\)](#), **art. 6**
- C7** [S. 258](#) applied (with modifications) (1.10.2012) by [The London Legacy Development Corporation \(Planning Functions\) Order 2012 \(S.I. 2012/2167\)](#), arts. 1, **7** (with Sch. 1, Sch. 2)
- C8** [S. 258](#) applied (with modifications) (1.4.2015) by [The Old Oak and Park Royal Development Corporation \(Planning Functions\) Order 2015 \(S.I. 2015/442\)](#), arts. 1, **7** (with Sch.)

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- C9** S. 258 applied (with modifications) (1.7.2015) by [The Ebbsfleet Development Corporation \(Planning Functions\) Order 2015 \(S.I. 2015/748\)](#), arts. 1, **5** (with Sch.)
- C10** S. 258(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)** (with ss. 7(6), 115, 118, Sch. 8 para. 7)

## 259 Confirmation of orders made by other authorities.

- (1) An order made under section 257 or 258 shall not take effect unless confirmed by the <sup>[F11]</sup>appropriate national authority] or unless confirmed, as an unopposed order, by the authority who made it.
- <sup>[F12]</sup>(1A) An order under section 257(1A) may not be confirmed unless the <sup>[F13]</sup>appropriate national authority] or (as the case may be) the authority is satisfied—
- that planning permission in respect of the development has been granted, and
  - it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.]
- (2) The <sup>[F14]</sup>appropriate national authority] shall not confirm <sup>[F15]</sup>any order under section 257(1) or 258] unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.
- (3) The time specified—
- in an order under section 257 as the time from which a footpath <sup>[F16]</sup>, bridleway or restricted byway] is to be stopped up or diverted; or
  - in an order under section 258 as the time from which a right of way is to be extinguished,
- shall not be earlier than confirmation of the order.
- (4) Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.
- <sup>[F17]</sup>(5) The appropriate national authority, for the purposes of this section, is—
- in relation to England, the Secretary of State;
  - in relation to Wales, the Welsh Ministers.]

### Textual Amendments

- F11** Words in s. 259(1) substituted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 38(3)(a), 58(2)(b)(4)(b)**; S.I. 2016/52, art. 5(b)
- F12** S. 259(1A) inserted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 12(4), 35(3)**
- F13** Words in s. 259(1A) substituted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 38(3)(a), 58(2)(b)(4)(b)**; S.I. 2016/52, art. 5(b)
- F14** Words in s. 259(2) substituted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 38(3)(a), 58(2)(b)(4)(b)**; S.I. 2016/52, art. 5(b)
- F15** Words in s. 259(2) substituted (25.6.2013) by [Growth and Infrastructure Act 2013 \(c. 27\)](#), **ss. 12(5), 35(3)**
- F16** Words in s. 259(3)(a) substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
- F17** S. 259(5) inserted (6.9.2015 for specified purposes, 16.3.2016 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), **ss. 38(3)(b), 58(2)(b)(4)(b)**; S.I. 2016/52, art. 5(b)

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**Modifications etc. (not altering text)**

**C11** Ss. 257-261 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), reg. 2(1), Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))

**260 Telecommunication apparatus: orders by or on application of other authorities.**

- (1) This section applies where—
- (a) any order is made by a local authority under section 258(1), or on the application of a local authority under section 251(1), which extinguishes a public right of way; or
  - (b) any order is made by a competent authority under section 257 which authorises the stopping up or diversion of a footpath [<sup>F18</sup>, bridleway or restricted byway],
- and at the time of the publication of the notice required by section 252(1) or, as the case may be, paragraph 1 of Schedule 14 any [<sup>F19</sup>electronic communications apparatus] was kept installed for the purposes of [<sup>F20</sup>an electronic communications code network] under, in, on, over, along or across the land over which the right of way subsisted.
- (2) In subsection (1) “competent authority” has the same meaning as in section 257 and in the following provisions of this section references to the authority are to the authority who made the order or, as the case may be, to the authority on whose application it was made.
- (3) The power of the operator of [<sup>F21</sup>the electronic communications code network] to remove the apparatus—
- (a) shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of three months from the date on which the right of way is extinguished or authorised to be stopped up or diverted; and
  - (b) if before the end of that period the operator of the [<sup>F22</sup>network] has given notice to the authority of his intention to remove the apparatus or a part of it, shall be exercisable in respect of the whole or, as the case may be, that part of the apparatus after the end of that period.
- (4) The operator of the [<sup>F22</sup>network] may by notice given in that behalf to the authority not later than the end of that period abandon the [<sup>F19</sup>electronic communications apparatus] or any part of it.
- (5) Subject to subsection (4), the operator of the [<sup>F22</sup>network] shall be deemed at the end of that period to have abandoned any part of the apparatus which the operator has then neither removed nor given notice of his intention to remove.
- (6) The operator of the [<sup>F22</sup>network] shall be entitled to recover from the authority the expense of providing, in substitution for the apparatus and any other [<sup>F19</sup>electronic communications apparatus] connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any [<sup>F23</sup>electronic communications apparatus] in such other place as the operator may require.
- (7) Where under the previous provisions of this section the operator of the [<sup>F22</sup>network] has abandoned the whole or any part of any [<sup>F19</sup>electronic communications apparatus], that apparatus or that part of it shall vest in the authority and shall be deemed, with

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its abandonment, to cease to be kept installed for the purposes of [<sup>F20</sup>an electronic communications code network] .

- (8) As soon as reasonably practicable after the making of any such order as is mentioned in paragraph (a) or (b) of subsection (1) in circumstances in which that subsection applies in relation to the operator of [<sup>F20</sup>an electronic communications code network] , the person by whom the order was made shall give notice to the operator of the making of the order.
- (9) Subsections (5) and (6) of section 256 apply for the purposes of this section as they apply for the purposes of that section.

### Textual Amendments

- F18** Words in s. 260(1)(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), **Sch. 1 Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
- F19** Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by **Communications Act 2003** (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(c)** (with transitional provisions in **Sch. 18**); S.I. 2003/1900, arts. 1(2), **2(1)**, **Sch. 1** (with transitional provisions in **arts. 3-6**); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
- F20** Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by **Communications Act 2003** (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(b)** (with transitional provisions in **Sch. 18**); S.I. 2003/1900, arts. 1(2), **2(1)**, **Sch. 1** (with transitional provisions in **arts. 3-6**); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
- F21** Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by **Communications Act 2003** (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(d)** (with transitional provisions in **Sch. 18**); S.I. 2003/1900, arts. 1(2), **2(1)**, **Sch. 1** (with transitional provisions in **arts. 3-6**); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
- F22** Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by **Communications Act 2003** (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(d)(2)(e)** (with transitional provisions in **Sch. 18**); S.I. 2003/1900, arts. 1(2), **2(1)**, **Sch. 1** (with transitional provisions in **arts. 3-6**); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)
- F23** Words in s. 260 substituted (25.7.2003 and 29.12.2003 in accordance with the commencing S.I.s) by **Communications Act 2003** (c. 21), ss. 406, 411, **Sch. 17 para. 103(1)(c)(2)(c)** (with transitional provisions in **Sch. 18**); S.I. 2003/1900, arts. 1(2), **2(1)**, **Sch. 1** (with transitional provisions in **arts. 3-6**); S.I. 2003/3142, arts. 1(2), **3(2)** (with art. 11)

### Modifications etc. (not altering text)

- C12** S. 260 applied (25.11.1998 for specified purposes otherwise 3.7.2000) by 1998 c. 45, s. 23, **Sch. 6**, para. 16(2); S.I. 1998/2952, **art. 2(1)**; S.I. 2000/1173, **art. 2(2)(c)**
- C13** Ss. 257-261 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), reg. 2(1), **Sch. Pt. 1** (see S.I. 2006/1172, art. 2(a)-(d) (with art. 3) and S.I. 2006/1279, art. 2(a)-(d) (with art. 3))
- C14** S. 260(1) extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(1), **Sch. 8 para. 2(3)(a)**

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