



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART IX **S**

ROADS, FOOTPATHS AND RIGHTS OF WAY

Supplementary provisions

212 [^{F1}Electronic communications apparatus] . **S**

- (1) Where in pursuance of an order under section 202, 203 or 207 a road is stopped up, diverted or changed and immediately before the date on which the order became operative there was under, in, on, over, along or across the road any [^{F1}electronic communications apparatus] kept installed for the purposes of [^{F2}an electronic communications code network], the operator of that [^{F3}network] shall have the same powers in respect of the [^{F1}electronic communications apparatus] as if the order had not come into force.
- (2) Notwithstanding subsection (1), any person entitled to land over which the road subsisted shall be entitled to require the alteration of the apparatus.
- (3) Where—
 - (a) any such order provides for the improvement of a road for which the Secretary of State is not the roads authority, and
 - (b) immediately before the date on which the order came into force, there was under, in, on, over, along or across the road any [^{F1}electronic communications apparatus] kept installed for the purposes of [^{F2}an electronic communications code network],

the local roads authority shall be entitled to require the alteration of the apparatus.

Status: Point in time view as at 21/04/2006. This version of this provision has been superseded.

Changes to legislation: Town and Country Planning (Scotland) Act 1997, Section 212 is up to date with all changes known to be in force on or before 15 July 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)

- (4) Subsection (3) does not have effect so far as it relates to the alteration of any [^{F1}electronic communications apparatus] for the purpose of authority's works within the meaning of Part IV of the ^{M1}New Roads and Street Works Act 1991.
- (5) Where an order under section 206(1)(b) extinguishing a public right of way or an order under section 208 authorising the stopping up or diversion of any footpath or bridleway is made by a planning authority and, at the time of the publication of the notice required by paragraph 6 of Schedule 16, any [^{F1}electronic communications apparatus] was kept installed for the purposes of [^{F2}an electronic communications code network] under, in, on, over, along or across the land over which the right of way subsisted—
- (a) the power of the operator of the [^{F3}network] to remove the apparatus shall, notwithstanding the making of the order, be exercisable at any time not later than the end of the period of 3 months from the date on which the right of way is extinguished or, as the case may be, the footpath or bridleway is stopped up or diverted and shall be exercisable in respect of the whole or any part of the apparatus after the end of that period if before the end of that period the operator of the [^{F3}network] has given notice to the authority which made the order of his intention to remove the apparatus or that part of it, as the case may be;
 - (b) the operator of the [^{F3}network] may by notice given to the authority which made the order not later than the end of the said period of 3 months abandon the [^{F1}electronic communications apparatus] or any part of it;
 - (c) subject to paragraph (b), the operator of the [^{F3}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;
 - (d) the operator of the [^{F3}network] shall be entitled to recover from the authority which made the order the expense of providing, in substitution for the apparatus and any other [^{F1}electronic communications apparatus] connected with it which is rendered useless in consequence of the removal or abandonment of the first-mentioned apparatus, any [^{F1}electronic communications apparatus] in such other place as the operator may require; and
 - (e) where under the preceding provisions of this subsection the operator of the [^{F3}network] has abandoned the whole or any part of any [^{F1}electronic communications apparatus] that apparatus or that part of it shall vest in the authority which made the order and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of [^{F2}an electronic communications code network].
- (6) As soon as reasonably practicable after the making of any such order as is mentioned in subsection (5) in circumstances in which that subsection applies in relation to the operator of [^{F2}an electronic communications code network], the authority which made the order shall give notice to the operator of the making of the order.
- (7) Paragraph 1(2) of the [^{F4}electronic communications code] (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (8) Paragraph 21 of the [^{F4}electronic communications code] (restriction on removal of [^{F1}electronic communications apparatus]) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any [^{F1}electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.

Status: Point in time view as at 21/04/2006. This version of this provision has been superseded.

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Textual Amendments

- F1** Words in s. 212 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 13(1)(d)(2)(d)
- F2** Words in s. 212 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 13(1)(d)(2)(a)
- F3** Word in s. 212 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 13(1)(d)(2)(f)
- F4** Words in s. 212 substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), art. 1(1), Sch. 1 para. 13(1)(d)(2)(e)

Marginal Citations

- M1** 1991 c. 22.

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