



# Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997)

## 1972 CHAPTER 52

### PART X

#### HIGHWAYS

##### *Stopping up and diversion of highways*

#### **198 Highways affected by development: orders by Secretary of State.**

- (1) The Secretary of State may by order authorise the stopping up or diversion of any [<sup>F1</sup>road] if he is 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 of this Act, [<sup>F2</sup>or by virtue of Schedule 32 to the <sup>M1</sup>Local Government, Planning and Land Act 1980], or to be carried out by a government department.
- [<sup>F3</sup>(2) Any order under this section may make such provision as appears to the Secretary of State to be necessary or expedient for the construction or improvement of any other road, and may direct that the other road so constructed or improved—
  - (a) shall be entered by the local roads authority in the list of public roads kept by them under section 1 of the Roads (Scotland) Act 1984; or
  - (b) shall be deemed for the purposes of that Act to have been constructed by him under section 19 thereof,and in the case of a road so deemed, that it shall, on such date as may be specified in the order, become a trunk road within the meaning of that Act.]
- (3) Any order made under this section may contain such incidental and consequential provisions as appear to the Secretary of State to be necessary or expedient, including in particular—
  - (a) provision for authorising the Secretary of State, or requiring any other authority or person specified in the order—

*Status: Point in time view as at 01/02/1991.*

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- (i) to pay, or to make contributions in respect of, the cost of doing any work provided for by the order or any increased expenditure to be incurred which is attributable to the doing of any such work;<sup>F4</sup>
- (ii)
- <sup>F4</sup>(b) provision 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 the [<sup>F5</sup>road] to which the order relates.
- (4) An order may be made under this section authorising the stopping up or diversion of any [<sup>F6</sup>road] which is temporarily stopped up or diverted under any other enactment.
- (5) The provisions of this section shall have effect without prejudice to—
- (a) any power conferred on the Secretary of State by any other enactment to authorise the stopping up or diversion of a [<sup>F6</sup>road];
- (b) the provisions of section 3 of the <sup>M2</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; or
- (c) the provisions of section 203(1)(a) of this Act.

#### Textual Amendments

- F1** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)(a)** (with s. 128(1))
- F2** Words inserted by Local Government, Planning and Land Act 1980 (c. 65), **Sch. 32 para 19(4)**
- F3** S. 198(2) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)(b)** (with s. 128(1))
- F4** S. 198(3)(a)(ii) and the word “or” immediately preceding that sub-paragraph repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1)(3), **Sch. 9 para. 70(8)(c)(i)**, Sch. 11 (with s. 128(1))
- F5** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)(c)(ii)**, Sch. 11 (with s. 128(1))
- F6** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(8)(d)** (with s. 128(1))

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

- C1** S. 198 extended by Mineral Workings Act 1951 (c. 60, SIF 86), s. 32 as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 41(1)** (with ss. 128(1), 156(1), Sch. 9 para. 41(2))
- C2** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
- C3** S. 198(3) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(7)(a)(9)** (with s. 112(3), Sch. 17 paras. 33, 35(1))
- C4** Ss. 198(3), 199(2), 202(3) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**
- C5** S. 198(3)(b) extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**

#### Marginal Citations

- M1** 1980 c. 65.
- M2** 1947 c. 42.

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## [<sup>F7</sup>198A Highways affected by development: orders by planning authorities.

- (1) Subject to section 206 of this Act and to subsection (5) below, a planning authority may by order authorise the stopping up diversion of any [<sup>F8</sup>road] which is not—
- (a) a trunk road within the meaning of [<sup>F9</sup>the Roads (Scotland) Act 1984]; or
  - (b) a special road provided by the Secretary of State in pursuance of a scheme under [<sup>F10</sup>that Act],
- if they are satisfied as mentioned in section 198(1) of this Act.
- (2) An order under this section—
- (a) may make such provision as appears to the planning authority to be necessary or expedient for the [<sup>F11</sup>construction] or improvement of any other [<sup>F11</sup>road] (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of subsection (1) above) and may direct that [<sup>F11</sup>the other road so constructed or improved shall be entered by the local roads authority in the list of public roads kept by the local roads authority under section 1 of the Roads (Scotland) Act 1984];
  - (b) may contain such incidental and consequential provisions as appear to the planning authority to be necessary or expedient, including in particular—
    - (i) provision for authorising the planning authority, or requiring any other authority or person specified in the order, to make such payments, repayments or contributions as are mentioned in [<sup>F12</sup>paragraph (a) of subsection (3) of section 198 of this Act];
    - (ii) such provision as is mentioned in paragraph (b) of that subsection.
- (3) An order may be made under this section authorising the stopping up or diversion of any [<sup>F13</sup>road] (not being a trunk road such as is mentioned in paragraph (a), or a special road such as is mentioned in paragraph (b), of subsection (1) above) which is temporarily stopped up or diverted under any other enactment.
- (4) The provisions of this section shall have effect without prejudice to any power conferred on the planning authority by any other enactment to authorise the stopping up or diversion of a [<sup>F13</sup>road].
- (5) The planning authority shall not make an order under this section without consulting the [<sup>F14</sup>roads] authority (in a case where they are themselves not that authority).]

### Textual Amendments

- F7** S. 198A inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23\)](#), [Sch. 2 para. 25](#)
- F8** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 70\(9\)\(a\)\(i\)](#) (with s. 128(1))
- F9** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 70\(9\)\(a\)\(ii\)](#)
- F10** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 70\(9\)\(a\)\(iii\)](#) (with s. 128(1))
- F11** Word(s) substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 70\(9\)\(b\)\(i\)](#) (with s. 128(1))
- F12** Words repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1)(3), [Sch. 9 para. 70\(9\)\(b\)\(ii\)](#), Sch. 11 (with s. 128(1))
- F13** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 70\(9\)\(c\)](#) (with s. 128(1))

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**F14** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 70(9)(d)** (with s. 128(1))

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

**C6** S. 198A extended by Mineral Workings Act 1951 (c. 60, SIF 86), s. 32 as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 41(1)** (with ss. 128(1), 156(1), Sch. 9 para. 41(2))

**199 Footpaths and bridleways affected by development: orders by local planning authorities.**

- (1) Subject to section 206 of this Act, a <sup>F15</sup>planning authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied as mentioned in section 198(1) of this Act.
- (2) An order under this section may, if the <sup>F15</sup> planning authority are satisfied that it should do so, provide—
  - (a) for the creation of an alternative footpath or bridleway 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 path or way for such use;
  - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement, provision is made by the order;
  - (c) for the preservation of any rights of statutory undertakers in respect of apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;
  - (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 or bridleway which is temporarily stopped up or diverted under any other enactment.

**Textual Amendments**

**F15** Word repealed by Local Government (Scotland) Act 1973 (c. 65), s. 172(2)

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

- C7** S. 199 extended by the Mineral Workings Act 1951 (c. 60, SIF 86), s. 32 as substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 41(1)** (with ss. 128(1), 156(1), Sch. 9 para. 41(2))
- C8** S. 108(2), 117–119, 121, 138, 154(3), 170–172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211, 212, 214, 216–230, 233(7), 242, 259, 266(6)(b), 275(2), Sch. 8, Sch. 17 para. 1–3, Sch. 18 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(1)(xxv) (with **Sch. 8 para. 33**)
- C9** S. 199(2) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1), **Sch. 16 para. 2(7)(a)(9)** (with s. 112(3), Sch. 17 paras. 33, 35(1))
- C10** S. 199(2) amended by British Telecommunications Act 1981 (c. 38), s. 87, **Sch. 3 para. 10(2)(d)**; extended by Civil Aviation Act 1982 (c. 16), **Sch. 2 para. 4**
- C11** Ss. 198(3), 199(2), 202(3) extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xix)**; S.I. 1996/218, **art. 2**

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**200** F16 .....

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**Textual Amendments**

**F16** S. 200 repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11**

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Town and Country Planning (Scotland) Act 1972 (repealed 27.5.1997), Cross Heading: Stopping up and diversion of highways.