



Highways Act 1980

1980 CHAPTER 66

PART VIII

STOPPING UP AND DIVERSION OF HIGHWAYS AND STOPPING UP OF MEANS OF ACCESS TO HIGHWAYS

Stopping up and diversion of highways

116 Power of magistrates' court to authorise stopping up or diversion of highway.

(1) Subject to the provisions of this section, if it appears to a magistrates' court, after a view, if the court thinks fit, by any two or more of the justices composing the court, that a highway (other than a trunk road or a special road) as respects which the [^{F1}highway] authority have made an application under this section—

- (a) is unnecessary, or
- (b) can be diverted so as to make it nearer or more commodious to the public,

the court may by order authorise it to be stopped up or, as the case may be, to be so diverted.

(2) ^{F2}

(3) If an authority propose to make an application under this section for an order relating to any highway (other than a classified road) they shall give notice of the proposal to—

- [^{F3}(a) if the highway is in a non-metropolitan district, the council of that district; and]
- [^{F4}(aa) if the highway is in Wales, the Welsh council for the area in which it is situated if they are not the highway authority for it; and]

(b) if the highway is in England, the council of the parish (if any) in which the highway is situated or, if the parish does not have a separate parish council, to the chairman of the parish meeting; and

(c) if the highway is in Wales, the council (if any) of the community in which the highway is situated;

and the application shall not be made if within 2 months from the date of service of the notice by the authority notice is given to the authority by the district council [^{F5}or

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Welsh council] or by the parish or community council or, as the case may be, by the chairman of the parish meeting that the council or meeting have refused to consent to the making of the application.

- (4) An application under this section may be made, and an order under it may provide, for the stopping up or diversion of a highway for the purposes of all traffic, or subject to the reservation of a footpath [^{F6}, bridleway or restricted byway].
- (5) An application or order under this section may include 2 or more highways which are connected with each other.
- (6) A magistrates' court shall not make an order under this section unless it is satisfied that the applicant authority have given the notices required by Part I of Schedule 12 to this Act.
- (7) On the hearing of an application under this section the applicant authority, any person to whom notice is required to be given under paragraph 1 of Schedule 12, any person who uses the highway and any other person who would be aggrieved by the making of the order applied for, have a right to be heard.
- (8) An order under this section authorising the diversion of a highway—
 - (a) shall not be made unless the written consent of every person having a legal interest in the land over which the highway is to be diverted is produced to and deposited with the court; and
 - (b) except in so far as the carrying out of the diversion may necessitate temporary interference with the highway, shall not authorise the stopping up of any part of the highway until the new part to be substituted for the part to be stopped up (including, where a diversion falls to be carried out under orders of 2 different courts, any necessary continuation of the new part in the area of the other court) has been completed to the satisfaction of 2 justices of the peace acting [^{F7}in the same local justice] area as the court by which the order was made and a certificate to that effect signed by them has been transmitted to the clerk of the applicant authority.
- (9) Every order under this section shall have annexed to it a plan signed by the chairman of the court and shall be transmitted by [^{F8}a justices' clerk] to the proper officer of the applicant authority, together with any written consents produced to the court under subsection (8) above.
- (10) Part II of Schedule 12 to this Act applies where, in pursuance of an order under this section, a highway is stopped up or diverted and, immediately before the order is made, there is under, in, upon, over, along or across the highway any apparatus belonging to or used by any statutory undertakers for the purpose of their undertaking.

[^{F9}(11) In this section “statutory undertakers” includes operators of driver information systems.]

Textual Amendments

- F1** Word substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 24\(a\)](#)
- F2** [S. 116\(2\)](#) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F3** [S. 116\(3\)\(a\)](#) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 24\(b\)](#)
- F4** [S. 116\(3\)\(aa\)](#) inserted (1.4.1996) by [1994 c. 19, s. 22\(1\)](#), [Sch. 7 Pt. I para. 11](#) (with s. 54(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396](#), art. 3, [Sch. 1](#).

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- F5** Words in s. 116(3) inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 11** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**.
- F6** Words in s. 116(4) substituted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, s. 51, Sch. 5 Pt. II para. 15; S.I. 2006/1172, **art. 2(e)(g)(iv)**; S.I. 2006/1279, **art. 2(e)(g)**
- F7** Words in s. 116(8)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 257(2)**; S.I. 2005/910, **art. 3(y)**
- F8** Words in s. 116(9) substituted (1.4.2005) by Courts Act 2003 (c. 39), s. 109(1), **Sch. 8 para. 257(3)**; S.I. 2005/910, **art. 3(y)**
- F9** S. 116(11) inserted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 13(1), **Sch. 4 para. 3(3)**

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