



# Town and Country Planning Act 1990

## 1990 CHAPTER 8

### PART X

#### HIGHWAYS

##### *Temporary highway orders: mineral workings*

#### **261 Temporary stopping up of highways for mineral workings.**

- (1) Where the Secretary of State [<sup>F1</sup>or the council of a London borough] is satisfied—
- (a) that an order made by him [<sup>F2</sup>or, as the case may be, the council] under section 247 for the stopping up or diversion of a highway is required for the purpose of enabling minerals to be worked by surface working; and
  - (b) that the highway can be restored, after the minerals have been worked, to a condition not substantially less convenient to the public,
- the order may provide for the stopping up or diversion of the highway during such period as may be prescribed by or under the order and for its restoration at the expiration of that period.
- (2) Where a competent authority within the meaning of section 257 are satisfied—
- (a) that an order made by them under that section for the stopping up or diversion of a footpath [<sup>F3</sup>, bridleway or restricted byway] is required for the purpose of enabling minerals to be worked by surface working; and
  - (b) that the footpath [<sup>F3</sup>, bridleway or restricted byway] can be restored, after the minerals have been worked, to a condition not substantially less convenient to the public,
- the order may provide for the stopping up or diversion of the footpath [<sup>F3</sup>, bridleway or restricted byway] during such period as may be prescribed by or under the order and for its restoration at the expiration of that period.
- (3) Without prejudice to the provisions of section 247 or 257, any such order as is authorised by subsection (1) or (2) may contain such provisions as appear to the

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Secretary of State [<sup>F4</sup>, the council of the London borough or] the competent authority [<sup>F5</sup>(as the case may be)] to be expedient—

- (a) for imposing upon persons who, apart from the order, would be subject to any liability with respect to the repair of the original highway during the period prescribed by or under the order a corresponding liability in respect of any highway provided in pursuance of the order;
- (b) for the stopping up at the expiry of that period of any highway so provided and for the reconstruction and maintenance of the original highway;

and any provision included in the order in accordance with subsection (4) of section 247 or subsection (2) of section 257 requiring payment to be made in respect of any cost or expenditure under the order may provide for the payment of a capital sum in respect of the estimated amount of that cost or expenditure.

- (4) In relation to any highway which is stopped up or diverted by virtue of an order under section 247 or 248, sections 271 and 272 shall have effect—

- (a) as if for references to land which has been acquired as there mentioned and to the acquiring or appropriating authority there were substituted respectively references to land over which the highway subsisted and to the person entitled to possession of that land; and
- (b) as if references in subsection (5) of each of those sections to a local authority or statutory undertakers included references to any person (other than a Minister) who is entitled to possession of that land,

and sections 275 to 278 shall have effect accordingly.

- (5) Subsection (4) shall not apply to land constituting the site of a highway in respect of which opencast planning permission (within the meaning of section 51 of the <sup>M1</sup>Opencast Coal Act 1958) has been granted.

#### Textual Amendments

- F1** Words in s. 261(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(2)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F2** Words in s. 261(1) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(2)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F3** Words in s. 261(2) 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))
- F4** Words in s. 261(3) substituted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(3)(a)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**
- F5** Words in s. 261(3) inserted (3.7.2000) by 1999 c. 29, s. 270, **Sch. 22 para. 9(3)(b)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch.**

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

- C1** S. 261 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 2(3)(a)**
- 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))

#### Marginal Citations

- M1** 1958 c. 69.

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