



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART IX

ROADS, FOOTPATHS AND RIGHTS OF WAY

Powers of local authorities to extinguish certain rights

203 Order extinguishing right to use vehicles on road

- (1) This section applies where—
 - (a) a competent authority by resolution adopt a proposal for improving the amenity of part of their area, and
 - (b) the proposal involves a road in that area (being a road over which the public have a right of way with vehicles, but not a trunk road or a road classified as a principal road for the purposes of advances under section 3 of the Roads (Scotland) Act 1984) being changed to a footpath or bridleway.
- (2) Subject to paragraph 5 of Schedule 16 and to subsection (9), the competent authority may by order provide for the extinguishment of any right which persons may have to use vehicles on that road.
- (3) An order made under subsection (2) may include such provision as the competent authority (after consultation with the planning authority and the roads authority, if different from the competent authority) think fit for permitting the use on the road of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that subsection.
- (4) Such provision as is mentioned in subsection (3) may be framed by reference to—
 - (a) particular descriptions of vehicles,
 - (b) particular persons by whom, or on whose authority, vehicles may be used, or

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- (c) the circumstances in which, or the times at which, vehicles may be used for particular purposes.
- (5) No provision contained in, or having effect under, any enactment, being a provision prohibiting or restricting the use of footpaths or bridleways, shall affect any use of a vehicle on a road in relation to which an order made under subsection (2) has effect, where the use is permitted in accordance with provisions of the order included by virtue of subsections (3) and (4).
- (6) Without prejudice to section 275(7), the competent authority may, subject to paragraph 5 of Schedule 16 and to subsection (9), by order revoke an order made by them in relation to a road under subsection (2); and if they do so, any right to use vehicles on the road in relation to which the order was made which was extinguished by virtue of the order under subsection (2) shall be reinstated.
- (7) An order under this section—
 - (a) may make such provision as appears to the competent authority to be necessary or expedient for the construction or improvement of any other 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 section 207(1)) and may direct that 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, and
 - (b) may contain such incidental and consequential provisions as appear to the competent authority to be necessary or expedient, including in particular—
 - (i) provision for authorising the competent authority, or requiring any other authority or person specified in the order, to make such payments, repayments or contributions as are mentioned in section 202(4)(a), and
 - (ii) such provision as is mentioned in section 202(4)(b).
- (8) This section is without prejudice to—
 - (a) any power conferred on the competent authority by any other enactment to authorise the stopping up or diversion of a road, or
 - (b) section 206(1)(b).
- (9) The competent authorities for the purposes of this section and section 204 are local authorities, and a competent authority shall not make an order under subsection (2) or (6), if they are not the roads authority, without obtaining the consent of that authority.

204 Compensation for orders under section 203

- (1) Any person who, at the time of an order under section 203(2) coming into force, has an interest in land having lawful access to a road to which the order relates shall be entitled to be compensated by the competent authority in respect of—
 - (a) any depreciation in the value of his interest which is directly attributable to the order, and
 - (b) any other loss or damage which is so attributable.
- (2) A claim for compensation under subsection (1) shall be made to the competent authority within the prescribed time and in the prescribed manner.

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- (3) For the purpose of assessing any such compensation the rules set out in section 12 of the Land Compensation (Scotland) Act 1963 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (4) Where an interest in land is subject to a heritable security—
 - (a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the security,
 - (b) a claim for any such compensation may be made by any creditor in a heritable security over the interest, but without prejudice to the making of a claim by the person entitled to the interest,
 - (c) no compensation to which this section applies shall be payable in respect of the interest of the creditor in the heritable security (as distinct from the interest which is subject to the security), and
 - (d) any compensation to which this section applies which is payable in respect of the interest which is subject to the heritable security shall be paid to the creditor in the security, or if there is more than one such creditor, to the creditor whose security ranks first, and shall in either case be applied by him as if it were proceeds of sale by him under the powers competent to creditors in heritable securities.
- (5) Except in so far as may be provided by any regulations made under this Act, any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal.
- (6) In relation to the determination of any such question, the provisions of sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply subject to any necessary modifications and to the provisions of any regulations made under this Act.

205 Provision of amenity for road reserved to pedestrians

- (1) Where an order has been made under section 203(2) in relation to a road, a competent authority may carry out and maintain any such works on or in the road, or place on or in it any such objects or structures, as appear to them—
 - (a) to be expedient for the purposes of—
 - (i) giving effect to the order, or
 - (ii) enhancing the amenity of the road and its immediate surroundings, or
 - (b) to be otherwise desirable for a purpose beneficial to the public.
- (2) The powers exercisable by a competent authority under this section include—
 - (a) laying out any part of the road with lawns, trees, shrubs and flowerbeds, and
 - (b) providing facilities for recreation or refreshment.
- (3) A competent authority may so exercise their powers under this section as to restrict the access of the public to any part of the road, but shall not so exercise them as—
 - (a) to prevent persons from entering the road at any place where they could enter it before the order under section 203 was made,
 - (b) to prevent the passage of the public along the road,
 - (c) to prevent normal access by pedestrians to premises adjoining the road,

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- (d) to prevent any use of vehicles which is permitted by an order made under section 203 and applying to the road,
 - (e) to prevent statutory undertakers from having access to any works of theirs under, in, on, over, along or across the road, or
 - (f) to prevent the operator of any telecommunications code system from having access to any works of his under, in, on, over, along or across the road.
- (4) An order under section 203(6) may make provision requiring the removal of any obstruction of the road resulting from the exercise by a competent authority of their powers under this section.
- (5) The competent authorities for the purposes of this section are local authorities, and a competent authority shall not exercise any powers conferred by this section, if they are not the roads authority, without obtaining the consent of that authority.

206 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—
- (a) the Secretary of State may by order extinguish any public right of way over the land if he is satisfied that an alternative right of way has been or will be provided or that the provision of an alternative right of way is not required;
 - (b) subject to paragraph 5 of Schedule 16, the local authority may by order extinguish any such right over the land if they are so satisfied.
- (2) In this section any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with section 201 as if this section were in Part VIII.