



Highways Act 1980

1980 CHAPTER 66

PART III

CREATION OF HIGHWAYS

26 **Compulsory powers for creation of footpaths ^[F1], bridleways and restricted byways].**

- (1) Where it appears to a local authority^[F2] or a strategic highways company] that there is need for a footpath ^[F3]bridleway or restricted byway] over land in their area and they are satisfied that, having regard to—
- (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and
 - (b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28 below,

it is expedient that the path or way should be created, the authority^[F4] or company] may by order made by them^[F5] or it] and submitted to and confirmed by the Secretary of State, or confirmed by them^[F5] or it] as an unopposed order, create a footpath ^[F3]bridleway or restricted byway] over the land.

An order under this section is referred to in this Act as a “public path creation order”; and for the purposes of this section “local authority” has the same meaning as in section 25 above.

- (2) Where it appears to the Secretary of State in a particular case that there is need for a footpath ^[F3]bridleway or restricted byway] as mentioned in subsection (1) above, and he is satisfied as mentioned in that subsection, he may, after consultation with each body which is a local authority for the purposes of this section in relation to the land concerned, make a public path creation order creating the footpath ^[F3]bridleway or restricted byway].

Changes to legislation: Highways Act 1980, Section 26 is up to date with all changes known to be in force on or before 26 May 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) View outstanding changes

- (3) A local authority^[F6] and a strategic highways company] shall, before exercising any power under this section, consult any^[F7]... local authority or authorities in whose area the land concerned is situated.

[F8](3A) The considerations to which—

- (a) the Secretary of State is to have regard in determining whether or not to confirm or make a public path creation order, and
 - (b) a local authority^[F9] and a strategic highways company] are to have regard in determining whether or not to confirm such an order as an unopposed order, include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the proposed footpath^[F3] bridleway or restricted byway] would be created.]
- (4) A right of way created by a public path creation order may be either unconditional or subject to such limitations or conditions as may be specified in the order.
- (5) A public path creation order shall be in such form as may be prescribed by regulations made by the Secretary of State, and shall contain a map, on such scale as may be so prescribed, defining the land over which a footpath^[F3] bridleway or restricted byway] is thereby created.
- (6) Schedule 6 to this Act shall have effect as to the making, confirmation, validity and date of operation of public path creation orders.

Textual Amendments

- F1** Words in s. 26 sidenote substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2, **Sch. Pt. 1**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)
- F2** Words in s. 26(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 18(2)(a)**; S.I. 2015/481, reg. 2(a)
- F3** Words in s. 26(1)(2)(3A)(5) substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2, **Sch. Pt. 1**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)
- F4** Words in s. 26(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 18(2)(b)**; S.I. 2015/481, reg. 2(a)
- F5** Words in s. 26(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 18(2)(c)**; S.I. 2015/481, reg. 2(a)
- F6** Words in s. 26(3) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 18(3)(a)**; S.I. 2015/481, reg. 2(a)
- F7** Word in s. 26(3) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 18(3)(b)**; S.I. 2015/481, reg. 2(a)
- F8** S. 26(3A) inserted (12.2.2003 for E. and 1.4.2004 for W.) by 2000 c. 37, s. 57, Sch. 6 Pt. I para. 1; S.I. 2003/272, **art. 2(a)(b)**; S.I. 2004/315, {art. 2(c)}; S.I. 2006/3257, art. 2(a)(i)
- F9** Words in s. 26(3A)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 18(4)**; S.I. 2015/481, reg. 2(a)

Modifications etc. (not altering text)

- C1** Ss. 26-29 extended by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 2(5)(6), 23(2), 27(2), **Sch. 3 para. 47(1)**

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- C2** Ss. 25-29 extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), **Sch. 9 para. 11(a)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**).
- C3** S. 26: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
- C4** Ss. 25-28 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), regs. 1(2)(4), 2, **Sch. Pt. I**; S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2
- C5** S. 26(1) functions exercisable concurrently (1.4.2018) by **The Sub-national Transport Body (Transport for the North) Regulations 2018** (S.I. 2018/103), regs. 1(2), **9(3)**, 11(d)
- C6** S. 26(2) amended (30.1.2001) by 2000 c. 37, ss. **58(1)**, 103(2)
- C7** S. 26(2)(3)(3A) modified (1.4.2018) by **The Sub-national Transport Body (Transport for the North) Regulations 2018** (S.I. 2018/103), regs. 1(2), **12(c)(ii)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)