

Amendments to the Highways Act 1980

The new right to apply, and the associated rights of appeal to the Secretary of State, are introduced by section 57 and Schedule 6 of the Countryside and Rights of Way Act 2000 (the “CROW Act”), which insert new sections 118ZA, 118C, 119ZA, 119C, 121A, 121C, 121D and 121E (and consequential amendments) into the Highways Act 1980.

A summary of the relevant provisions is given below:

- Sections 118ZA and 119ZA** Provide new rights for certain landowners and occupiers to apply to a local authority for a public path order to extinguish (section 118ZA) or divert (section 119ZA) any footpath or bridleway which crosses their land. If, after 4 months, the application has not been determined, the Secretary of State may after consulting the local authority, direct the authority to determine the application within a specified time;
- Sections 118C and 119C** Provide new rights for school proprietors to apply to a local authority for a special extinguishment order (section 118C) or special diversion order (section 119C) in relation to certain highways for the purposes of protecting pupils.¹ If, after 4 months, the application has not been determined, the Secretary of State may after consulting the local authority, direct the authority to determine the application within a specified time;
- Section 121A** Enables the Secretary of State to make regulations with respect to applications under sections 118ZA, 118C, 119ZA and 119C;
- Section 121C** Sets out the circumstances in which a local authority may decline to determine an application;
- Section 121D** Provides a right for the applicant to appeal to the Secretary of State if the local authority refuses to:-
(a) make an order,
(b) confirm an unopposed order, or
(c) submit an opposed order to the Secretary of State for determination;
- Section 121E** Sets out provisions in relation to the determination of appeals, including the making of regulations.

¹ This applies to a footpath; a bridleway; a restricted byway; a highway shown on the definitive map and statement as a footpath, bridleway or restricted byway but over which the public have a right for vehicular and all other kinds of traffic; any highway which is shown on the definitive map and statement as a byway open to all traffic.