WELSH STATUTORY INSTRUMENTS

2005 No. 1809 (W.140)

HIGHWAYS, WALES

The Highways (Schools) (Special Extinguishment and Special Diversion Orders) (Wales) Regulations 2005

Made - - - -	*5 July 2005*
Coming into force - -	*15 July 2005*

The National Assembly for Wales ("the National Assembly"), in exercise of the powers conferred upon the Secretary of State by sections 28(2) (as applied by section 121(2)), 118B(9) and (10) and 119B(12) and (13) of, and paragraphs 1(1) and (3)(b)(iv), 3(1), (2) and (3)(b), 4(1) and 6 of Schedule 6 to, the Highways Act 1980 ("the Act")(**1**), all of which are now exercisable by the National Assembly(**2**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Highways (Schools) (Special Extinguishment and Special Diversion Orders) (Wales) Regulations 2005 and they come into force on 15 July 2005.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations, unless the context otherwise requires—

"Authority" means the relevant highway authority;

an "order" means—

(a) a special extinguishment order(**3**);

(b) a special diversion order(**4**); or

(c) an order varying or revoking an order of a type specified in (a) or (b); and

(**1**) 1980 c. 66; sections 118B and 119B were inserted by paragraphs 8 and 12 of Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37); section 121(2) was amended by paragraph 14(3) of Schedule 6 to the Countryside and Rights of Way Act 2000 (c. 37); relevant amendments to Schedule 6 to the Highways Act 1980 were made by paragraph 23 of Schedule 6 to the Countryside and Rights of Way Act 2000.

(**2**) *See* the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) as extended by section 99 of the Countryside and Rights of Way Act 2000.

(**3**) *See* section 118B(5) of the Act.

(**4**) *See* section 119B(5) of the Act.

reference to a form or notice prescribed by these Regulations includes reference to that form or notice in the English or Welsh language (or both) and to a form or notice substantially to the same effect to that prescribed.

Forms of order

3.—(1) Where it appears to an Authority that a relevant highway which crosses land occupied for the purposes of a school for a purpose specified in—

(a) section 118B(1)(b) of the Act is required to be stopped up by a special extinguishment order, the order must be in the form set out in Schedule 1 to these Regulations;

(b) section 119B(1)(b) of the Act is required to be diverted by a special diversion order, the order must be in the form set out in Schedule 2 to these Regulations.

(2) The map required to be contained in an order must be on a scale of not less than 1/2,500 or, if no such map is available, on the largest scale readily available.

(3) In the case of a special extinguishment order, the map referred to in paragraph (2) must show any reasonably convenient alternative route.

Notices

4.—(1) A notice required to be given under paragraph 1(1) of Schedule 6 to the Act in respect of the making of an order must be in the form set out in Form 1 in Schedule 3 to these Regulations.

(2) A notice required to be served under paragraph 4(1) of Schedule 6 to the Act in respect of the confirmation of an order must be in the form set out in Form 2 in Schedule 3 to these Regulations.

(3) A notice required to be served under paragraph 4(1) of Schedule 6 to the Act in respect of the making of an order by the National Assembly must be in the form set out in Form 3 in Schedule 3 to these Regulations.

(4) A notice required to be served under paragraph 1(3)(b)(iv)(**5**) or 4(1)(a)(**6**) of Schedule 6 to the Act must, additionally, be served on the persons prescribed in Schedule 4 to these Regulations.

Procedure for orders

5.—(1) An order must be made in duplicate.

(2) Where an order is submitted to the National Assembly for confirmation, the order and duplicate must be sent to the National Assembly, accompanied by—

(a) two further copies of the order;

(b) a copy of the notice given under paragraph 1(1) of Schedule 6 to the Act;

(c) any representations or objections with respect to the order which were duly made and have not been withdrawn;

(d) any observations the Authority has on those representations or objections; and

(e) a statement of the grounds on which the Authority considers that the order should be confirmed.

(3) Any proceedings preliminary to the confirmation of a special extinguishment order may be taken concurrently with any proceedings preliminary to the confirmation of a public path creation order(**7**), a public path diversion order(**8**), a rail crossing diversion order(**9**) or a special diversion order.

(**5**) Paragraph 1(3)(b) was substituted by the Wildlife and Countryside Act 1981 (c. 69), Schedule 16, paragraph 6.
(**6**) Paragraph 4(1)(a) was substituted by the Wildlife and Countryside Act 1981, Schedule 16, paragraph 8.
(**7**) *See* section 26(1) of the Act.

(4) After a decision not to confirm an order, the Authority must, as soon as the requirements of paragraph 4(3) of Schedule 6 to the Act have been complied with, certify that fact in writing to the National Assembly.

(5) After an order has been confirmed by the National Assembly, the Authority must, as soon as the requirements of paragraph 4(1) of Schedule 6 to the Act have been complied with, certify that fact in writing to the National Assembly.

(6) After an order has been confirmed, the Authority must send a copy of the order, as confirmed, to the Ordnance Survey.

Claims for compensation as respects orders

6.—(1) A claim made in accordance with section 28 of the Act (compensation for loss caused by public path creation order), as applied by section 121(2) of the Act(**10**), in consequence of the coming into operation of an order must be made in writing and must be served on the Authority or, in the case of an order made by the National Assembly, on the Authority nominated by the National Assembly as provided by section 28(3) of the Act, by delivering it to the offices of the Authority or the authority nominated by the National Assembly (as the case may be), addressed to its Chief Executive, or by sending it by prepaid post so addressed.

(2) A claim made under paragraph (1) must be served so as to be received not later than six months after the date on which the order in respect of which the claim is made came into force.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**11**).

D. Elis-Thomas
The Presiding Officer of the National Assembly

5 July 2005

(**8**) *See* section 119(1) of the Act.
(**9**) *See* section 119A(3) of the Act.
(**10**) Section 121(2) of the Act was amended by the Transport and Works Act 1992 (c. 42), Schedule 2, paragraph 6 and by the Countryside and Rights of Way Act 2000 (c. 37), Schedule 6, paragraph 14.
(**11**) 1998 c. 38.

SCHEDULE 1 Regulation 3(1)(a)

FORMHIGHWAYS ACT 1980, SECTION 118BSPECIAL EXTINGUISHMENT ORDER FOR CERTAIN HIGHWAYS WHICH CROSS LAND OCCUPIED FOR THE PURPOSES OF A SCHOOL

[NAME OF AUTHORITY]

[TITLE OF ORDER]

This Order is made by [insert the name of the Authority] ("the Authority") under section 118B(4) of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that, as respects the relevant highway [see footnote 1] described in article 1 below ("the highway"),-

(a) the Authority is the highway authority for the highway;

(b) the highway crosses land occupied for the purposes of a school; and

(c) it is expedient for the purposes of protecting the pupils or staff from-

(i) violence or the threat of violence,

(ii) harassment,

(iii) alarm or distress arising from unlawful activity, or

(iv) any other risk to their health or safety arising from such activity,

that the highway should be stopped up.

The police authority [insert the name of the police authority] for the area in which the highway lies has been consulted as required by section 118B(6) of the 1980 Act.

The [insert name(s)] Authorit[y][ies] [has] [have] been consulted as required by section 120(2)(a) of the 1980 Act [complete or delete as appropriate].

The [insert name(s)] Authorit[y][ies] [has] [have] consented to the making of the Order as required by section 120(1A) and (2)(b) of the 1980 Act [complete or delete as appropriate].

[The [insert name] National Park Authority has been consulted as required by section 120(2)(a) of the 1980 Act]

[The [insert name] National Park Authority has consented to the making of the Order as required by section 120(2)(b) of the 1980 Act] [complete or delete as appropriate]

[The Countryside Council for Wales has been consulted as required by section 120(2)(c) of the 1980 Act.]

BY THIS ORDER:

1. The public right of way over the land situated at [insert location], shown by a continuous bold line on the map contained in this Order and described in the Schedule to this Order will be extinguished after [insert number] days from the date of confirmation of this Order.

2. [The following provision(s) apply for the protection of [insert name of statutory undertaker], namely: [insert provision(s)]] [complete or delete as appropriate - see footnote 2].

[insert date]

Signed [insert signature]

[position held with the Authority]

[name of the Authority]

SCHEDULE

[Describe position, length and width of the highway in sections, eg A-B, B-C etc, as indicated on the map]

Footnotes

1. "Relevant highway" is defined in section 118B(2) of the 1980 Act as -
   (a) any footpath, bridleway or restricted byway;
   (b) any highway which is shown in a definitive map and statement as a footpath, a bridleway, or a restricted byway, but over which the public have a right of way for vehicular and all other kinds of traffic; or
   (c) any highway which is shown in a definitive map and statement as a byway open to all traffic,

   but does not include a highway that is a trunk road or is a special road.

2. See section 121(5) of the 1980 Act.

Complete the blank spaces as appropriate.