RIGHTS OF WAY

1959 No. 2245

The Public Path Orders Regulations, 1959

Made - - - -	23*rd December*, 1959
Laid before Parliament	31*st December*, 1959
Coming into Operation	1*st January*, 1960

The Minister of Housing and Local Government, in exercise of the powers conferred on him by sections 28, 31, 110, 111, 113 and subsection (2) of section 286 and paragraph 3 of the Seventh Schedule of the Highways Act, 1959(a), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

PART I

General

1. These regulations may be cited as the Public Path Orders Regulations, 1959, and shall come into operation on the 1st day of January, 1960.

2.—(1) In these regulations—

"the Act" means the Highways Act, 1959;

"the Minister" means the Minister of Housing and Local Government;

"a public path creation order" means an order made under section 28 of the Act;

"a public path extinguishment order" means an order made under section 110 of the Act;

"a public path diversion order" means an order made under section 111 of the Act.

(2) The Interpretation Act, 1889(b), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. The National Parks and Access to the Countryside Regulations, 1950(c), so far as they relate to orders made under sections 28, 110 and 111 of the Act, shall cease to have effect, but this revocation shall not affect the validity of any order or notice made or used in a form prescribed by the said regulations before the coming into operation of these regulations.

PART II

Form of Order

4. Public path creation orders, public path extinguishment orders and public path diversion orders shall be in the forms (or substantially in the forms) respectively set out in the first schedule hereto with such modifications as the circumstances may require, and an order revoking or varying any such order shall be in the like form so far as is appropriate.

(a) 7 & 8 Eliz. 2 c. 25. (b) 52 & 53 Vict. c. 63. (c) S.I. 1950/1066 (1950 II, p. 186).

5. The maps required to be contained in the above-mentioned orders shall be on a scale of not less than twenty-five inches to one mile ; provided that a smaller scale may be allowed by the Minister in any particular case if he thinks fit.

6. In the case of any conflict between the map and the particulars contained in the schedule to the order, the schedule shall prevail.

PART III

Procedure

7. For the purposes of this part of these regulations " order " means any of the following orders, namely—a public path creation order, a public path extinguishment order or a public path diversion order and includes an order revoking or varying any of those orders.

8. An order submitted to the Minister for confirmation shall be made in duplicate and accompanied by two copies of the order and a copy of any notice published before the submission as required by the Seventh Schedule to the Act, together with a statement by the authority by whom the order was made of the grounds on which they consider that the order should be confirmed and, in any case in which the Act requires the authority to obtain the consent of, or to consult with, any other body, before the order is made, a certificate that such consent has been obtained or such consultation has taken place.

9. After the order has been confirmed, the authority by whom the order was made shall, as soon as the requirements of paragraph 4 of the Seventh Schedule to the Act have been complied with, furnish to the Minister a certificate to that effect.

10. Where it is proposed to submit to the Minister for confirmation a public path extinguishment order or where the Minister proposes to make a public path extinguishment order, and it is proposed at the same time to submit to the Minister for confirmation a public path creation order or a public path diversion order or the Minister proposes to make a public path creation order or a public path diversion order, any proceedings required to be taken under the Act for the purposes of the public path extinguishment order may be taken concurrently with any proceedings required to be taken under the Act for the purposes of the public path creation order or public path diversion order.

11. Any notice required to be given, served or displayed under the Seventh Schedule to the Act by an authority by whom an order is made shall be in the form set out in the second schedule hereto, or substantially in such form, in the cases to which that form of notice is applicable.

12. Where the Minister in exercise of any of the powers conferred on him by the Act proposes to make any order, any notice which the Minister is required to give, serve or display under the Seventh Schedule to the Act shall be in the form set out in the second schedule hereto, subject to any necessary modifications:

Provided that the authority, who immediately before the making of the order were the appropriate authority for the purposes of making the order, shall arrange for the deposit of copies of the Minister's draft order and for the giving of access thereto and for any display of notices.

13. Any notice or other document to be served on an owner, lessee or occupier in accordance with sub-paragraph (3) of paragraph 1 of the Seventh Schedule to the Act shall at the beginning of such notice or document have clearly and legibly inscribed upon it in the following form, the words:

IMPORTANT—THIS COMMUNICATION AFFECTS YOUR PROPERTY

and where the notice or document is sent under cover otherwise than in a prepaid registered letter the cover shall in addition be endorsed in like manner.

PART IV

Claims for Compensation

14.—(1) A claim for compensation under section 31 or that section as applied by subsection (2) of section 113 of the Act in consequence of the coming into operation of a public path creation order, a public path extinguishment order or a public path diversion order shall be in writing and shall be served on the authority by whom the order was made, or where the order was made by the Minister, on the appropriate authority as defined by subsection (3) of section 31, by delivering it at the offices of the authority addressed to the Clerk thereof or by sending it by prepaid post addressed as aforesaid.

(2) The time within which any such claim shall be served shall be a period of six months from the coming into operation of the order in respect of which such claim is made:

Provided that such period may at any time be extended by the Minister in any particular case.

FIRST SCHEDULE

Regulation 4

FORMS OF ORDERS

Form No. 1.

Public Path Creation Order

Highways Act, 1959

(Title of Order)

Whereas it appears to the (name of the order-making authority) that there is need for a public [footpath] [bridleway] over the land to which this order relates;

And whereas the said council are satisfied, having regard to the extent to which the [path] [way] would add to the [[convenience] [enjoyment] of a substantial section of the public] [convenience of persons resident in the area] and to the effect which the creation of the [path] [way] would have on the rights of persons interested in the land, that the [path] [way] should be created:

[And whereas the (name of consenting authority or authorities) have consented to the making of the order in pursuance of subsection (3) of section 28 of the Highways Act, 1959 (hereinafter called "the Act"):]

Now therefore the (name of order-making authority) in pursuance of the powers in that behalf conferred by the said section 28 of the Act hereby make the following order:—

1. There shall be at the expiration of days from the date of confirmation of this order a public [footpath] [bridleway] over the land situate at described in the [first part of the] schedule hereto and shown coloured [purple] [green] on the map contained in this order.

[2. The rights conferred on the public under this order shall be subject to the limitations and conditions set out in the second part of the schedule hereto.]

3. This order may be cited as the (name of authority and name or reference to path or way) Public Path Creation Order, 19 .

Schedule

[Part I]

Description of land

(Describe position and width of path or way in sections, e.g. A–B, B–C, etc., as indicated on map.)

[Part II

Limitations and Conditions

Position of path or way to which limitation or condition applies	Limitation or condition]

NOTE: Omit the words in square brackets where inappropriate.

Form No. 2.

Public Path Extinguishment Order

Highways Act, 1959

(*Title of Order*)

Whereas it appears to the (name of order-making authority) that the public [footpath] [bridleway] to which this order relates, is not needed for public use;

[And whereas the (name of consenting authority or authorities) have consented to the making of this order in pursuance of subsection (1) of section 112 of the Highways Act, 1959 (hereinafter called "the Act"):]

Now therefore the (name of order-making authority) in pursuance of the powers in that behalf conferred by section 110 of the Act hereby make the following order:—

1. The public right of way over the land situate at shown coloured brown on the map annexed hereto and described in the schedule hereto shall be extinguished at the expiration of days from the date of confirmation of this order.

[2. Notwithstanding anything contained in this order (name of statutory undertaker) shall have the following rights over the land referred to in paragraph 1 hereof, namely:—

]

3. This order may be cited as the (name of order-making authority and name or reference of path or way) Extinguishment Order, 19 .

Schedule

(Describe position and width of path in sections, e.g. A–B, B–C, etc., as indicated on map.)

Note: Omit the words in square brackets where inappropriate.

Form No. 3.

Public Path Diversion Order

Highways Act, 1959

(*Title of Order*)

Whereas of is the [owner] [lessee] [occupier] of land crossed by the public [footpath] [bridleway] referred to in paragraph 1 of this order, and has satisfied the (name of order-making

authority) that [for securing the efficient use [of that land] [or land held with that land]] [for providing a [shorter] [more commodious] [path] [way]] it is expedient that the line of the [path] [way] should be diverted;

[And whereas the said has agreed to [contribute towards] [defray] [any compensation which becomes payable in consequence of the coming into operation of this order:] [any expenses which are incurred in bringing the new site of the [path] [way] into a fit condition for use by the public:]]

[And whereas the (name of consenting authority or authorities) have consented to the making of this order in pursuance of subsection (1) of section 112 of the Highways Act, 1959 (hereinafter called "the Act"):]

Now therefore the (name of order-making authority) in pursuance of the powers in that behalf conferred by section 111 of the Act hereby make the following order:—

1. The public right of way over the land situate at shown coloured brown on the map annexed hereto and described in A of the [first part of the] schedule hereto shall be extinguished at the expiration of days from the date of confirmation of this order.

[2. Notwithstanding anything contained in paragraph 1 of this order the (name of statutory undertaker) shall have the following rights over the land referred to in the said paragraph, namely:—

]

3. There shall be at the expiration of days from the date of confirmation of this order a public [footpath] [bridleway] over the land situate at described in B of the [first part of the] schedule hereto and shown coloured [purple] [green] on the map contained in this order.

[4. The rights conferred on the public under this order shall be subject to the limitations and conditions set out in the second part of the schedule hereto.]

5. This order may be cited as the (name of authority and name or reference of path or way) Public Path Diversion Order, 19 .

Schedule

[Part I]

[A]

Description of site of existing path or way

(Describe position and width of path or way in sections, e.g. A–B, B–C, etc., as indicated on map.)

[B]

Description of site of new path or way

(Describe position and width of path in sections, e.g. D–E, E–F, etc., as indicated on map.)

[Part II

Limitations and Conditions

Position of path or way to which limitation or condition applies	Limitation or condition]

Note: Omit the words in square brackets where inappropriate.

SECOND SCHEDULE Regulation 11

FORMS OF NOTICES

Form No. 1 Notice of Submission of Public Path Order

Highways Act, 1959

(name of authority by whom the order is made)

(Title of Order)

(1) [To:
of:]

The above order made on the day of , 19 , is about to be submitted to the Minister of Housing and Local Government for confirmation.

Its effect will be to (2) [create a public [footpath] [bridleway] from to] [extinguish the public right of way running from to] [divert the public right of way running from to to a line running from to] [[revoke] [vary] the Order, 19 , so as to]

A copy of the order and the map contained in it has been deposited at and may be inspected free of charge at between a.m. and p.m. on .

(1) [If you wish to have sent to you in due course a notice to the effect that this order has been confirmed, and a copy of the order as confirmed, you should write to (name and address of authority) giving your name, and address to which these documents may be sent.

Compensation for depreciation or damage in consequence of the coming into operation of this order is payable in accordance with section [31] [113(2)] of the above Act, to which reference should be made.]

Any objection or representation concerning the order may be sent in writing to the (2)[Welsh] Secretary, Ministry of Housing and Local Government, (2)[Whitehall, London, S.W.1.] [Cathays Park, Cardiff.], before the day of , 19 , and should state the grounds on which it is made.

Dated this day of , 19 .

Notes. (1) Insert only in personal notices.
(2) Omit what is inappropriate.

Form No. 2. Notice of Confirmation of Public Path Order

Highways Act, 1959

(name of authority by whom the order was made)

(Title of Order)

(1)[To:
of:]

On the day of , 19 , the Minister of Housing and Local Government confirmed (2)[with modifications] the above order.

Its effect is to (2)[create a public [footpath] [bridleway] from to] [extinguish the public right of way running from to]
[divert the public right of way running from to to a line running from to]
[[revoke] [vary] the Order, 19 , so as to]

A copy of the confirmed order and the map contained in it has been deposited at and may be inspected free of charge at
between a.m. and p.m. on

(1)[Any person who wishes to claim compensation as a result of the coming into operation of this order should apply in writing to (name and address of authority) before the day of .]

The Order becomes operative as from the day of , 19 but if any person aggrieved by the order desires to question the validity thereof or of any provision contained therein on the grounds that it is not within the powers of the Highways Act, 1959, or on the ground that any requirement of the Act or any regulation made thereunder has not been complied with in relation to the approval of the order he may, within six weeks from the date of publication of this notice, make application to the High Court.

Dated this day of , 19 .

Notes. (1) Insert only in personal notices.
(2) Omit what is inappropriate.

Given under the official seal of the Minister of Housing and Local Government this twenty-third day of December, nineteen hundred and fifty-nine.

(L.S.)

Henry Brooke,
Minister of Housing and Local Government.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations make provision for various procedural matters under the Highways Act, 1959, which were formerly provided for under the National Parks and Access to the Countryside Act, 1949(a). They replace the National Parks and Access to the Countryside Regulations, 1950, so far as those regulations apply to public path creation, extinguishment and diversion orders.

Part II deals with the form of orders under Parts III and VI of the Act creating, extinguishing or diverting public paths.

Part III deals with the procedure to be followed in connection with the submission and confirmation of these orders.

Part IV deals with the procedure for the making of claims for compensation under sections 31 and 113 (2) of the Act, in respect of these orders.

(a) 12, 13 & 14 Geo. 6. c. 97.