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CHAPTER 25

An Act to consolidate with amendments certain enactments relating to highways, streets and bridges in England and Wales, including certain enactments commonly contained in local Acts, and to make consequential amendments of the common law.

[30th April, 1959]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

HIGHWAY AUTHORITIES

1.—(1) The Minister of Transport and Civil Aviation (hereafter in this Act referred to as “the Minister”) shall be the ^{Highway} highway authority for—

- (a) a highway which is a trunk road ;
- (b) a highway as respects which an order made by him under any enactment expressly provides that he shall be the highway authority therefor but does not direct that the highway shall be a trunk road ;
- (c) any other highway being a highway constructed by him, except where by virtue of section two of this Act or section three thereof or by virtue of some other enactment a local highway authority are the highway authority therefor or where by means of an order made under section nine of this Act or section thirteen thereof the highway is transferred to a local highway authority.

(2) The council of a borough or urban district shall be the highway authority for all highways in the borough or district, whether highways maintainable at the public expense or not, not being—

- (a) highways for which under the foregoing subsection the Minister is the highway authority, or

PART I
—cont.

(b) in the case of a non-county borough or urban district, either county roads for which by virtue of the next following subsection the council of the county comprising the borough or district are the highway authority or county bridges.

(3) The council of a county shall be the highway authority—

(a) for all highways in a rural district within the county, whether highways maintainable at the public expense or not, not being highways for which under subsection (1) of this section the Minister is the highway authority, and

(b) for all county roads in a non-county borough or urban district within the county other than roads for which the council of the borough or district are for the time being the highway authority by virtue of section four of this Act, and

(c) for all county bridges in the county.

(4) The two last foregoing subsections shall be subject, as respects any highway, to any provision of this Act, or of any order made under this or any other Act, by virtue of which a council other than the council specified in either of those subsections as the highway authority for that highway are the highway authority therefor.

Highway authority for road which ceases to be a trunk road.

2. Where an order made under section seven of this Act directs that a trunk road shall cease to be a trunk road, then, without prejudice to the provisions of section four of this Act, as from the date specified in that behalf in the order, the following authority, that is to say—

(a) where the road is situated in a rural district or in a county borough, the council of the county comprising the district or the council of the borough, as the case may be,

(b) where the road is situated in a non-county borough or in an urban district, the council of the county comprising the borough or district, or the council of the borough or district, according as the road is or is not designated by the order as a classified road,

shall become the highway authority for the road.

Local highway authority may be highway authority for certain highways constructed by Minister.

3.—(1) The council of a county, borough or urban district may by agreement with the Minister undertake the maintenance and improvement of a highway in their area, being a highway (other than a trunk road) which the Minister proposes to construct or has, whether before or after the commencement of this Act, constructed.

(2) Where an agreement is made under this section the council who are a party to the agreement shall, on such date as may be provided by the agreement, become the highway authority for the highway to which the agreement relates.

4.—(1) The council of a non-county borough or urban district shall be the highway authority for any county road in their area which they are for the time being entitled to maintain by virtue of section forty-five of this Act.

PART I
—cont.
Highway
authority
for claimed
county roads.

(2) A county road for which the council of such a borough or district are the highway authority is in this Act referred to as a “claimed county road”.

5. The council of a county shall be the highway authority for a highway (other than a classified road) in a non-county borough or urban district within the county, being a highway maintainable at the public expense with respect to which there is such an agreement as the following in force, that is to say, an agreement made under this section between the council of the county and the council of that borough or district, as the case may be, whereby the first-mentioned council agree to undertake, in consideration of such payments as may be agreed, the maintenance and improvement of the highway.

County council
may be
highway
authority for
highway in
non-county
borough, etc.,
which is not
a county road.

6.—(1) Where a bridge wholly or partly situated in a non-county borough or urban district was constructed before the first day of September, eighteen hundred and thirty-five, and on completion became, and has since its completion continued to be, a county bridge, the council of the county comprising the borough or district shall, unless the bridge ceases to be a county bridge and subject to the provisions of subsection (5) of this section, be the highway authority for so much of any highway (not being a county road) within the borough or district as is carried by the bridge or forms an approach thereto and is situated within one hundred yards of either end of the bridge.

Highway
authority for
approaches to,
and parts of,
certain bridges
in non-county
borough or
urban district.

(2) Where—

- (a) a county bridge wholly or partly situated in a non-county borough or urban district was constructed after the thirty-first day of August, eighteen hundred and thirty-five, and
- (b) immediately before the commencement of this Act, the council of the county comprising the borough or district were liable to maintain part of any highway in the borough or district, being a part which forms an approach to that bridge and does not comprise the surface thereof,

that council shall, unless the bridge ceases to be a county bridge and subject to the provisions of subsection (5) of this section, be the highway authority for that part of the highway:

Provided that this subsection shall not apply to any part of a county road.

PART I
—cont.

(3) Where a highway was at any time a turnpike road and before it ceased to be a turnpike road the trustees of the road repaired any bridge carrying the road, that bridge shall, for the purposes of the foregoing provisions of this section, be deemed to have been constructed after the thirty-first day of August, eighteen hundred and thirty-five.

(4) Where a highway forming one of the approaches to a county bridge is situated in a non-county borough or urban district in a county adjoining the county in which the bridge is and the council of the county in which the bridge is would, by virtue of subsection (1) or subsection (2) of this section, be the highway authority for that highway if it had been situated in that county, they shall, notwithstanding anything in section one of this Act, be the highway authority for it.

(5) The council of a non-county borough or urban district may by agreement with the council of a county undertake, on such terms as may be agreed, the maintenance of any highway in that borough or district, as the case may be, for which by virtue of any of the foregoing provisions of this section the council of the county are the highway authority, and on the making of an agreement under this subsection the council of the county shall cease to be the highway authority for the highway to which the agreement relates.

(6) Where part only of a bridge is situated in a non-county borough or urban district and immediately before the commencement of this Act the council of the county comprising the borough or district were liable to maintain that part of the bridge, then, without prejudice to the provisions of subsection (3) of section one of this Act, they shall be the highway authority for that part of the bridge unless and until, by virtue of any provision of this Act (other than subsection (2) of the said section one) or by virtue of any order made under this or any other Act, some other highway authority become the highway authority therefor.

PART II

TRUNK ROADS, SPECIAL ROADS, COUNTY ROADS AND
COUNTY BRIDGES*Trunk roads*

Trunk roads. 7.—(1) Subject to the provisions of this section, all such highways and proposed highways as were immediately before the commencement of this Act trunk roads for the purposes of the Trunk Roads Acts, 1936 and 1946, shall continue to be, and to be known as, trunk roads.

(2) The Minister shall keep under review the national system of routes for through traffic in England and Wales, and if he is satisfied after taking into consideration the requirements of local and national planning, including the requirements of agriculture, that it is expedient for the purpose of extending, improving or reorganising that system either—

(a) that any highway, or any highway proposed to be constructed by the Minister, should become a trunk road, or

(b) that any trunk road should cease to be a trunk road, he may by order direct that that highway or proposed highway shall become, or, as the case may be, that that road shall cease to be, a trunk road as from such date as may be specified in that behalf in the order.

(3) Without prejudice to the powers of the Minister under this Act to improve trunk roads by the construction of cycle tracks and footways for use in connection therewith, or to provide such tracks or ways as part of any trunk road which he is authorised to construct, the power to make orders under this section directing that highways proposed to be constructed by the Minister shall become trunk roads may be exercised in relation to any cycle track or footpath proposed to be constructed by the Minister on land separated by intervening land from the trunk road in connection with which it is to be used.

(4) Part I of the First Schedule to this Act shall have effect as to the making of an order under this section; and the Second Schedule to this Act shall have effect as to the validity and date of operation of any such order.

(5) If objection to an order proposed to be made under this section is duly made in accordance with the provisions of Part I of the said First Schedule by a council who are responsible for the maintenance of a highway to which the order relates, or who will become so responsible by virtue of the order, and is not withdrawn, the order shall be subject to special parliamentary procedure.

(6) If an order made under this section, being an order which directs that a highway proposed to be constructed by the Minister shall become a trunk road, is revoked or varied by a subsequent order made at any time before the date on which the highway is opened for the purposes of through traffic, the revoking or varying order shall not be deemed for the purposes of section two of this Act to be an order directing that a trunk road shall cease to be a trunk road.

(7) In addition to the case where a trunk road ceases to be a trunk road by virtue of an order made under this section, a trunk

PART II
—cont.

road shall cease to be a trunk road if the road is transferred from the Minister to some other highway authority to become part of a special road provided by that authority.

Local and private Act functions with respect to trunk roads.

8.—(1) As from the date when a highway becomes a trunk road, any functions of construction, maintenance or improvement exercisable as respects that highway by a council under a local or private Act shall be deemed to have become exercisable by the Minister alone and, while the highway remains a trunk road, shall continue to be so exercisable.

(2) Where the Minister is satisfied that there has been conferred on a council by a local or private Act a function substantially similar to one conferred by a provision of this Act specified in the Third Schedule thereto, he may, after consultation with the council, by order direct that, in relation to a trunk road, the function conferred by the local or private Act shall be exercisable in accordance with the following conditions, that is to say—

- (a) where the provision of the local or private Act is similar to a provision of this Act specified in Part I of the said Third Schedule, that it shall be exercisable by the Minister only ;
- (b) where the provision of the local or private Act is similar to a provision of this Act specified in Part II of the said Schedule, that it shall not be exercisable by a county council in a borough or urban district, but, save as aforesaid, that, in so far as it is exercisable by a council, it shall be exercisable by that council, as well as by the Minister ;
- (c) where the provision of the local or private Act is similar to a provision of this Act specified in Part III of the said Schedule, that it shall not be exercisable by a county council in a borough or urban district, but, save as aforesaid, that, in so far as it is exercisable by a council, it shall be exercisable by that council with the consent of the Minister, as well as by the Minister.

(3) Where the Minister makes an order under this section in relation to a function conferred by a provision of a local or private Act, and the provision of this Act by which a function substantially similar to the first-mentioned function is conferred is, in relation to a trunk road, subject to any modification, the provision of the local or private Act shall, in relation to a trunk road, be subject to a similar modification, and the Minister may by the same order specify the modification to which the provision of the local or private Act shall accordingly be subject.

9.—(1) The Minister may by an order made under this section in relation to a trunk road not being a special road make provision for any of the following purposes, that is to say—

PART II
—cont.

(a) for authorising the Minister—

Powers of
Minister as
respects side
roads which
cross or join
trunk roads.

(i) to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the trunk road or is or will be otherwise affected by the construction or improvement of the trunk road ;

(ii) to construct a new highway for purposes connected with any such alteration as aforesaid or for any other purpose connected with the trunk road or its construction, and to close after such period as may be specified in the order any new highway so constructed for temporary purposes ;

(b) for transferring to such highway authority as may be specified in the order, as from such date as may be so specified, a highway constructed by the Minister in pursuance of the order or any previous order made under this section ;

(c) for any other purpose incidental to the purposes aforesaid.

(2) No order authorising the stopping up of a highway shall be made by the Minister under this section unless the Minister is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up.

(3) An order under this section may provide for the payment of contributions—

(a) by the Minister to any other highway authority in respect of any additional liabilities imposed on that other authority in consequence of the provisions of the order or of any previous order made under this section,

(b) to the Minister by any other authority in respect of any liabilities so imposed on the Minister, being liabilities which would otherwise have fallen to be discharged by the other authority,

and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

(4) Part I of the First Schedule to this Act shall have effect as to the making of an order under this section ; and the Second Schedule to this Act shall have effect as to the validity and date of operation of any such order.

10.—(1) The Minister may by agreement with the council of a county (including the county of London), with the council of a borough (including a metropolitan borough), or with the council of an urban district, delegate to that council all or any of his functions (including functions under a local or private Act) with respect to the maintenance and improvement of, and

to certain
authorities of
functions with
respect to
trunk roads.

PART II
—cont.

other dealing with, any trunk road or any land which does not form part of a trunk road but which has been acquired by him in connection with a trunk road under subsection (5) or subsection (6) of section two hundred and fourteen of this Act or under section two hundred and fifteen thereof:

Provided that he shall not delegate those functions or any of them to any such council with respect to a trunk road or land outside their area, except with the consent of the council of the county or county borough in which the road or land is situated.

(2) A council to whom functions stand delegated under the foregoing subsection shall, in the discharge of those functions, act as agents for the Minister and in accordance with such conditions as he may attach to the delegation, so, however, that among such conditions there shall be included the following, that is to say—

- (a) that the works to be executed and the expenditure to be incurred by the council in the discharge of the delegated functions shall be subject to the approval of the Minister;
- (b) that the council shall comply with any requirement of the Minister as to the manner in which any such works are to be carried out, and with any directions of the Minister as to the terms of contracts to be entered into for the purposes of the discharge of the delegated functions; and
- (c) that any such works shall be completed to the satisfaction of the Minister.

If at any time the Minister is satisfied that a trunk road or land with respect to which functions are so delegated is not in proper repair and condition, he may give notice to the council requiring them to place it in proper repair and condition within such time as may be specified in the notice, and, if the notice is not complied with, the Minister may do anything that seems to him necessary to place the road or land in proper repair and condition.

(3) A delegation to a council under subsection (1) of this section may be determined by notice given by the Minister to the council, or the functions so delegated may be relinquished by notice given by the council to the Minister:

Provided that—

- (a) the determination or relinquishment shall take effect as from the first day of April in the calendar year next following that in which notice was given; and
 - (b) notice for the purposes of this subsection shall not be given during the last three months of a calendar year.
- (4) The Minister may enter into agreements with the council of a county, borough or urban district for the construction of a

trunk road or for the carrying out by them of any work of improvement of, or other dealing with, any trunk road or any such land as is mentioned in subsection (1) of this section, so, however, that subsection (2) of this section shall apply to the discharge of the functions of a council under any such agreement and to the conditions to be included in any such agreement as it applies to the discharge of functions delegated as aforesaid to any such council and to the conditions to be attached to any such delegation.

PART II
—cont.

(5) Plant or materials belonging to a council to whom functions are delegated under subsection (1) of this section or with whom an agreement is made under the last foregoing subsection may be used by them for the purposes of those functions or of that agreement, subject to the terms of the delegation or agreement.

(6) Nothing in this section shall be construed as limiting the power of the Minister to enter into and carry into effect agreements with any person for any purpose connected with the construction, improvement or maintenance of, or other dealing with, a trunk road or otherwise connected with his functions relating to trunk roads under this or any other Act:

Provided that no such agreement shall provide for the delegation of powers or duties of the Minister except in accordance with the provisions of this section.

Special roads

11.—(1) A highway authority may be authorised by means of a scheme under this section to provide, along a route prescribed by the scheme, a special road for the use of traffic of any class prescribed thereby. Schemes for provision of special roads.

(2) A highway authority authorised by means of a scheme under this section to provide a special road is in this Act referred to in relation to that road as the special road authority:

Provided that, in relation to a special road provided or to be provided in pursuance of a scheme such as is mentioned in subsection (8) of this section, or any part of such a road, references in this Act to a special road authority shall be construed as references to the highway authority who are by virtue of that scheme the special road authority for that road or part.

(3) A special road authorised by a scheme under this section may be provided—

- (a) by means of the construction by the special road authority of a new highway along the route prescribed by the scheme or any part thereof;
- (b) by means of the appropriation under subsequent provisions in that behalf of this Part of this Act of a highway comprised in that route for which the special road authority are the highway authority;

PART II
—cont.

(c) by means of the transfer to the special road authority under subsequent provisions in that behalf of this Part of this Act of a highway comprised in that route for which they are not the highway authority.

(4) A scheme under this section authorising the provision of a special road shall—

(a) in the case of a road to be provided by the Minister, be made by the Minister ; and

(b) in the case of a road to be provided by a local highway authority, be made by that authority and confirmed by the Minister.

(5) Part II of the First Schedule to this Act shall have effect as to the making of a scheme under this section ; and the Second Schedule to this Act shall have effect as to the validity and date of operation of any such scheme.

(6) Before making or confirming a scheme under this section, the Minister shall give due consideration to the requirements of local and national planning, including the requirements of agriculture.

(7) If objection to a scheme under this section is duly made in accordance with Part II of the said First Schedule by the highway authority for a highway comprised in the route of the special road authorised by the scheme and is not withdrawn, the scheme shall be subject to special parliamentary procedure.

(8) A scheme under this section may be submitted to the Minister jointly by any two or more local highway authorities, and any such scheme may determine which of those authorities shall be the special road authority for the special road or any part thereof, and may provide—

(a) for the performance by that authority, in relation to the road or that part thereof, of any of the highway functions of any other authority who are party to the application, and

(b) for the making of contributions by that other authority to the special road authority in respect of expenditure incurred in the performance of those functions.

Classification
of traffic for
purposes of
special roads.

12.—(1) Different classes of traffic may be prescribed by a scheme under section eleven of this Act in relation to different parts of the special road to which the scheme relates.

(2) The classes of traffic prescribed by any such scheme shall be prescribed by reference to the classes set out in the Fourth Schedule to this Act.

(3) The Minister may by order amend the said Fourth Schedule by varying the composition of any class of traffic specified therein or adding a further class of traffic to those so specified, and references in schemes under the said section

eleven made (whether by the Minister or a local highway authority) before the date on which the order comes into operation to any class of traffic to which the order relates shall be construed as references to that class as varied by the order or, if the order so provides, as including references to an additional class created thereby, as the case may be.

PART II
—cont.

13.—(1) At any time after a scheme under section eleven of this Act authorising the provision of a special road has come into operation, provision may be made by an order under this section for any of the following purposes, that is to say—

Supplementary
orders
relating to
special roads.

- (a) for appropriating as part of the special road, as from such date as may be specified in the order, a highway comprised in the route prescribed by the scheme for which the special road authority are the highway authority ;
- (b) for transferring to the special road authority, as from such date as may be specified in the order, a highway comprised in that route for which they are not the highway authority ;
- (c) for authorising the special road authority—
 - (i) to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the special road or is or will be otherwise affected by the construction or improvement of the special road ;
 - (ii) to construct a new highway for purposes connected with any such alteration as aforesaid or for any other purpose connected with the special road or its construction, and to close after such period as may be specified in the order any new highway so constructed for temporary purposes ;
- (d) for transferring to such highway authority as may be specified in the order, as from such date as may be so specified, a highway constructed by the special road authority in pursuance of the order or any previous order made under this section ;
- (e) for authorising or requiring the special road authority to exercise, either concurrently with or to the exclusion of any local authority, any functions which, apart from the order, would be exercisable by that local authority in relation to the special road other than functions of that authority as local planning authority ;
- (f) for any other purpose incidental to the purposes aforesaid or otherwise incidental to the construction or maintenance of, or other dealing with, the special road.

PART II
—cont.

(2) An order under this section making provision in connection with a special road shall—

- (a) in the case of a special road to be provided by the Minister, be made by the Minister; and
- (b) in the case of a special road to be provided by a local highway authority, be made by that authority and confirmed by the Minister.

(3) Part I of the First Schedule to this Act shall have effect as to the making of an order under this section; and the Second Schedule to this Act shall have effect as to the validity and date of operation of any such order.

(4) No order providing for the appropriation by or transfer to the special road authority of a highway comprised in the route prescribed by a scheme under section eleven of this Act shall be made or confirmed by the Minister under this section unless either—

- (a) he is satisfied that another reasonably convenient route is available for traffic other than traffic of the class authorised by the scheme, or will be provided before the date on which the appropriation or transfer takes effect, or
- (b) he is satisfied that no such other route is reasonably required for any such other traffic;

and no order authorising the stopping up of a highway shall be made or confirmed by the Minister under this section unless the Minister is satisfied that another reasonably convenient route is available or will be provided before the highway is stopped up.

(5) An order under this section may provide for the payment of contributions—

- (a) by the special road authority to any other highway authority in respect of any additional liabilities imposed on that other authority in consequence of the provisions of the order or of any previous order made under this section,
- (b) to the special road authority by any other authority in respect of any liabilities so imposed on the special road authority, being liabilities which would otherwise have fallen to be discharged by the other authority,

and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

(6) In this section “local authority” means the council of a county (including the county of London), the Common Council of the City of London, the council of a county borough, metropolitan borough or county district, and the council of a parish,

and includes the parish meeting of a rural parish not having a separate parish council.

PART II
—cont.

14.—(1) A special road to be provided by the Minister in pursuance of a scheme under section eleven of this Act shall, except so far as it is provided by means of the appropriation or transfer of a highway, become a trunk road on such date as may be specified in the scheme.

Certain special roads and other highways to become trunk roads.

(2) A highway (not being a trunk road) which, by means of an order under section thirteen of this Act is appropriated as, or as part of, a special road to be provided by the Minister, and a highway which, by means of such an order, is transferred to the Minister, shall become a trunk road on the date on which it is so appropriated or is so transferred, as the case may be.

15.—(1) Subject to the provisions of this section, the powers conferred on statutory undertakers by or under any enactment to lay down or erect any apparatus under, in, over, along or across any land shall not be exercisable in relation to any land comprised in the route of a special road except with the consent of the special road authority:

Restriction on laying of mains, etc., in special roads.

Provided that the consent of the special road authority shall not be required under this section for the laying down or erection by statutory undertakers of any apparatus by way of renewal of any apparatus for the time being belonging to or used by them for the purpose of their undertaking.

(2) A consent of a special road authority under this section may be given subject to conditions, but those conditions shall not include a condition requiring any payment to be made by the undertakers to the special road authority in respect of the exercise of the powers to the exercise of which the consent is given.

(3) Where any apparatus in respect of which the consent of a special road authority is required under this section is to be laid down or erected along a line crossing the route of the special road but not running along that route, that authority—

- (a) shall not withhold their consent under this section unless there are special reasons for doing so; and
- (b) may, if they give their consent subject to conditions, make contributions to the statutory undertakers in respect of any expenses incurred by them in complying therewith.

(4) Any dispute between a special road authority and any statutory undertakers in respect of—

- (a) the withholding of the consent of that authority in respect of apparatus to be laid down or erected as mentioned in the last foregoing subsection, or

PART II
—cont.

- (b) the imposition of any condition on the grant of such consent, or
- (c) the making of any contributions under paragraph (b) of the last foregoing subsection,

shall be determined by arbitration; and where the Minister is the special road authority the arbitrator shall be a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

(5) Where the consent of a special road authority is required under this section in respect of apparatus to be laid down or erected otherwise than as mentioned in subsection (3) of this section, and the special road authority are a local highway authority, then—

- (a) if the apparatus is to be laid under a carriageway, the authority shall not give their consent except with the approval of the Minister;
- (b) if the consent of the authority is refused (otherwise than in consequence of the withholding of the Minister's approval under the foregoing paragraph) or is granted subject to conditions (other than conditions approved by the Minister under that paragraph) the statutory undertakers may appeal to the Minister, and the Minister may make such order as he thinks fit.

(6) The provisions of this section shall have effect in addition to and not in substitution for the provisions of sections one hundred and thirty-six and one hundred and thirty-eight of this Act and of any other enactment restricting or regulating the powers of any statutory undertakers to break up or open streets or enter upon land for the purpose of laying down or erecting apparatus.

Application
of Town and
Country
Planning Act,
1944, s. 25,
etc.

16.—(1) Without prejudice to the provisions of the last foregoing section, section twenty-five of the Town and Country Planning Act, 1944 (which, as incorporated with Part IV of the Town and Country Planning Act, 1947, provides for the extinguishment of certain subsisting rights of statutory undertakers over land acquired under the said Part IV), shall apply—

- (a) in relation to land acquired or appropriated by a special road authority for the purpose of carrying out any works in pursuance of a scheme under section eleven of this Act, or of an order under section thirteen thereof, and
- (b) in relation to land forming the site of any part of a highway which is appropriated by or transferred to a

special road authority by means of an order under the said section thirteen,

PART II
—cont.

as it applies in relation to land acquired under the said Part IV ; and sections twenty-six and twenty-seven of the said Act of 1944 (which contain provisions consequential upon the extinguishment of any right under the said section twenty-five) shall have effect accordingly.

(2) The enactments mentioned in subsection (1) of this section shall have effect, as applied for the purposes of this section, subject to the following modifications, that is to say—

- (a) for references therein to the purchasing authority there shall be substituted references to the special road authority ; and
- (b) for references therein to the Minister of Housing and Local Government there shall be substituted references to the Minister.

(3) Where any apparatus of public utility undertakers is removed in pursuance of a notice or order given or made under section twenty-five of the Town and Country Planning Act, 1944, as applied for the purposes of this section, any person being the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the special road authority compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(4) In this section “ owner ”, in relation to any premises, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the premises under a lease the unexpired term whereof exceeds three years.

17.—(1) The provisions of sections fifteen and sixteen of this Act (including the enactments applied by the said section sixteen) shall, so far as applicable, apply in relation to the sewers and sewage disposal works of any sewerage authority as they apply in relation to the apparatus of statutory undertakers.

Restriction
of powers
of sewerage
authorities.

(2) In the enactments specified in subsection (1) of the said section sixteen, as applied for the purposes of this section, references to the appropriate Minister shall be construed, in relation to a sewerage authority, as references to the Minister of Housing and Local Government.

(3) Where a public sewer is removed in pursuance of a notice or order given or made under section twenty-five of the Town

PART II
—cont.

and Country Planning Act, 1944, as applied for the purposes of this section, any person being the owner or occupier of any premises the drains of which communicated with that sewer, or the owner of any private sewer which communicated with that sewer, shall be entitled to recover from the special road authority compensation in respect of expenditure reasonably incurred by him, in consequence of the removal, for the purpose of making his drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

(4) In this section “owner” has the same meaning as in the said section sixteen.

Private rights
of access to
premises on or
near special
roads.

18.—(1) An order under section thirteen of this Act may authorise the special road authority—

- (a) to stop up any private means of access to premises adjoining or adjacent to land comprised in the route of the special road or forming the site of any works authorised by the order or by any previous order made under the said section thirteen,
- (b) to provide new means of access to any such premises as aforesaid:

Provided that no order authorising the stopping up of any private means of access to the premises shall be made or confirmed by the Minister by virtue of paragraph (a) of this subsection unless the Minister is satisfied either that no access to the premises is reasonably required or that other reasonably convenient means of access to the premises are available or will be provided in pursuance of an order made by virtue of paragraph (b) of this subsection.

(2) Where access to any premises has been stopped up in pursuance of an order made by virtue of this section, or is limited by virtue of any restrictions imposed on the use of the special road under this Part of this Act, or by section twelve of the Special Roads Act, 1949, or by regulations made under that section, and any person has suffered damage in consequence thereof by the depreciation of any interest in the premises to which he is entitled or by being disturbed in his enjoyment of the premises, he shall be entitled to recover from the special road authority compensation in respect of that damage.

(3) In this section “use” includes crossing.

Certain trunk
roads to be
treated as
special roads.

19.—(1) The provisions of this Act (except section fourteen) and of the Special Roads Act, 1949, (except subsection (2) of section nine) shall apply in relation to the trunk roads described in the Fifth Schedule to this Act (being trunk roads which are trunk roads by virtue of orders made under section one of the Trunk Roads Act, 1946) as if they were special roads to be

provided by the Minister in pursuance of schemes made under section eleven of this Act for the use of traffic of the classes specified in the third column of that Schedule.

PART II
—cont.

(2) Without prejudice to the generality of the foregoing subsection, the power conferred by this Act to revoke or vary schemes or orders made thereunder shall include power to revoke or vary any such order as is mentioned in that subsection and to vary the provisions of the third column of the Fifth Schedule to this Act.

Construction of bridge or tunnel as part of trunk road or special road

20.—(1) Provision may be made by an order made by the Minister under this section or section seven of this Act for the construction as part of a trunk road—

(a) of a bridge over any navigable waters specified in the order (whether the sea, a river or other navigable waters), or

(b) of a tunnel under any such waters.

Construction as part of a trunk road or special road of bridge or tunnel over or under navigable waters.

(2) Provision may be made by a scheme under section eleven of this Act for the construction as part of a special road—

- (a) of a bridge over any navigable waters specified in the scheme (whether the sea, a river or other navigable waters), or
- (b) of a tunnel under any such waters.

(3) Before making an order providing for the construction of any such bridge or tunnel, or making or confirming a scheme so providing, the Minister shall take into consideration the reasonable requirements of navigation over the waters affected by the order or scheme, as the case may be.

(4) An order or scheme which provides for the construction of such a bridge shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed bridge including the spans, headways and waterways thereof, and, in the case of a swing bridge, shall contain such provisions as the Minister considers expedient for regulating its operation.

(5) An order or scheme which provides for the construction of such a tunnel shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed tunnel, including the depth thereof below the bed of the navigable waters.

PART II
—cont.

(6) Part I of the First Schedule to this Act shall have effect as to the making of an order under this section ; and the Second Schedule to this Act shall have effect as to the validity and date of operation of any such order.

(7) If objection to an order proposed to be made under this section, or under section seven of this Act, or to a scheme proposed to be made or confirmed under section eleven of this Act, is duly made in accordance with the provisions of the said First Schedule by any navigation authority or river board on whom notice is required to be served under paragraph 3 or, as the case may be, paragraph 8 of that Schedule, on the ground that the bridge or tunnel is likely to obstruct or impede the performance of their functions under any enactment, or to interfere with the reasonable requirements of navigation over the waters affected by the order or scheme, as the case may be, and the objection is not withdrawn, the order or scheme, as the case may be, shall be subject to special parliamentary procedure.

County roads and county bridges

County roads. **21.**—(1) Subject to the provisions of the next following section, all such highways as were immediately before the commencement of this Act county roads for the purposes of the Local Government Act, 1929, shall continue to be, and to be known as, county roads.

(2) Where after the commencement of this Act—

- (a) a new highway is constructed by a county council as a special road in pursuance of a scheme under section eleven of this Act,
- (b) a new highway is constructed by a county council and an advance in respect of its construction is made by the Minister under this Act,
- (c) a new highway is constructed by a county council on land transferred to or acquired by them under the New Towns Act, 1946,
- (d) a new highway is constructed by a county council on land defined by a development plan as the site of a proposed road or on any land not so defined which is acquired by or transferred to them under Part IV of the Town and Country Planning Act, 1947,
- (e) a highway (not being a county road) is appropriated by or transferred to a county council by means of an order under section nine or section thirteen of this Act,
- (f) a highway vested in the council of a county, non-county borough or urban district becomes a classified road,

- (g) a county council become the highway authority for a highway by virtue of section two of this Act or section three thereof,
- (h) the property in, or the responsibility for the maintenance of, a highway (other than a bridge) is transferred to a county council under Part V or Part X of this Act,
- (i) any other highway in a rural district becomes a highway maintainable at the public expense by a county council,

that highway (except any county bridge comprised therein) shall become a county road.

(3) Where an area which is or forms part of a borough or urban district becomes, or becomes part of, a rural district, all highways in that area which are highways maintainable at the public expense and for which a county council become the highway authority by virtue of section one of this Act (except any county bridges comprised in such highways) shall become county roads.

(4) If the council of a non-county borough or urban district consider that a highway in their area, being a highway maintainable at the public expense by them, ought to become a county road, regard being had to—

- (a) the nature, volume, origin and destination of the traffic thereon, or
- (b) the fact that it is situated in a part of the area which is of a rural character,

they may apply to the council of the county comprising that area to make an order declaring the highway in question to be a county road.

(5) If on an application made under the last foregoing subsection the county council are satisfied that there is reasonable ground for the application, they shall cause the highway to be inspected, and, if satisfied after such inspection that the highway ought to be a county road and is in proper condition, they shall make an order accordingly.

Any question arising under this subsection whether a highway is in proper condition shall, if either council so require, be determined by the Minister.

(6) A copy of an order made by a county council under the last foregoing subsection shall be deposited forthwith with the clerk of the county council and may be inspected by any person free of charge at all reasonable hours.

PART II
—cont.

(7) If on an application made under subsection (4) of this section a county council—

- (a) refuse to make an order declaring the highway which is the subject of the application to be a county road, or
- (b) fail for a period of six months from the date of the application to make such an order,

the applicant council may appeal to the Minister who, after considering any representations made by the county council and, if the county council so require, after holding a local inquiry, may make an order declaring the highway to be a county road.

(8) An order of the Minister under the last foregoing subsection shall come into operation on such date as may be provided thereby and subsection (6) of this section shall have effect as if it were an order made by the county council under subsection (5) of this section.

Provisions whereby county roads may cease to be county roads.

22.—(1) If a county council consider that a county road (not being a classified road) situated in a non-county borough or urban district within their county ought to cease to be a county road, they may apply to the Minister for an order to that effect, and the Minister, if satisfied that there is reasonable ground for the application, shall cause the road to be inspected, and if satisfied after such inspection that it ought to cease to be a county road, shall, subject to the provisions of the next following subsection, make an order accordingly.

(2) Before making an order under the foregoing subsection as respects a county road situated in a non-county borough, the Minister shall consider any representation which the council of the borough may make to him with reference thereto and shall, if so requested by the council of the borough, hold a local inquiry.

(3) The expenses of, and incidental to, the making of an order under the foregoing provisions of this section shall be defrayed by the county council who applied for the order.

(4) Where by virtue of an order made or confirmed by the Minister of Housing and Local Government an area which is or forms part of a rural district becomes an urban district or becomes part of a non-county borough or of an urban district, all county roads in that area shall cease to be county roads:

Provided that—

- (a) all classified roads in that area shall continue to be county roads; and
- (b) the order may declare that any other highway maintainable at the public expense in that area shall continue to be a county road, and may further provide for such

contributions being made by the council of the borough or of the urban district, as the case may be, to the county council towards the cost of its maintenance as may be agreed between the councils or, in default of agreement, determined by the Minister.

PART II
—cont.

(5) Without prejudice to subsections (1) and (4) of this section, a county road shall cease to be a county road if—

- (a) a highway authority other than a county council become the highway authority for it otherwise than by virtue of section four of this Act, or
- (b) it is transferred from a county council to some other highway authority, not being a county council, to become part of a special road provided by that authority, or
- (c) being a claimed county road, it is transferred from the council of a non-county borough or urban district to some other highway authority, not being a county council, to become part of a special road provided by that authority, or is appropriated by a highway authority, being the council of such a borough or district, to become part of such a road, or
- (d) being a road in a non-county borough or urban district and being a county road by reason only of its being a classified road, it ceases to be a classified road.

23.—(1) Subject to the provisions of this section, the following County bridges shall be county bridges, that is to say—

- (a) a bridge which, immediately before the commencement of this Act, a county council were liable to maintain except a bridge which they were liable to maintain by virtue only of subsection (4) of section twenty-nine of the Local Government Act, 1929 ;
- (b) a bridge constructed after the commencement of this Act by a county council otherwise than on behalf of some other person ;
- (c) a bridge adopted by a county council under the next following subsection ;
- (d) a bridge the maintenance of which is undertaken by a county council under section forty of this Act ; and
- (e) a bridge the property in which, or the responsibility for the maintenance of which, is transferred to a county council under Part V or Part X of this Act or the Bridges Act, 1929.

(2) The council of a county may by agreement with the council of a non-county borough or urban district within the county adopt as a county bridge, on such terms as may be specified in

PART II
—cont.

the agreement, a bridge being a highway maintainable at the public expense by the council of that borough, or of that district, as the case may be.

(3) If a county bridge is transferred from a county council to some other highway authority, not being a county council, it shall cease to be a county bridge.

Delegation to district councils of functions of county councils as respects county roads and county bridges.

24.—(1) The council of a county district may apply to the council of the county comprising the district for the delegation to them, so far as any delegation for the time being in force does not extend, of the functions of the county council with respect to the maintenance and improvement of, and other dealing with—

- (a) all the highways within the district which are highways maintainable at the public expense by the county council, other than classified roads, but exclusive of county bridges,
- (b) all or any of the highways within the district which are such highways, being classified roads, but exclusive of county bridges, or
- (c) all or any of the county bridges within the district:

Provided that an application under this subsection shall not, without the consent of the Minister, be made except in the year nineteen hundred and sixty-four, the year nineteen hundred and sixty-nine, or any subsequent year being the fifth year after the last year in which such an application might have been made, and shall not in any case be made during the last three months of a calendar year.

(2) In so far as an application relates to classified roads or county bridges, the county council may grant or refuse to grant the application, as they think fit.

(3) In so far as an application relates to highways other than classified roads or county bridges, the county council shall grant the application unless they are satisfied that having regard to the best means of promoting economy and efficiency in highway administration throughout the county and to the particular circumstances of the district in respect of which the application is made it ought not to be granted.

(4) If the county council refuse to grant any such application as is referred to in the last foregoing subsection, or fail to grant it within three months from the date on which it was made, the council of the district may, in the case of a refusal, within one month from the refusal, or, in the case of a failure, within one month from the expiration of three months from the

date on which the application was made, appeal to the Minister who may by order direct the county council to grant it and the county council shall comply with any direction so given.

PART II
—cont.

(5) A delegation to the council of a county district under the foregoing provisions of this section may be determined by notice given by the county council to the council of the district, or the functions so delegated may be relinquished by notice given by the council of the district to the county council, so, however, that notice for the purposes of this subsection shall not be given during the last three months of a calendar year.

(6) If and so far as a notice given by a county council under the last foregoing subsection relates to highways other than classified roads or county bridges the council of the district may within one month from the date of receipt of the notice appeal to the Minister and, if the Minister is satisfied that the delegation of functions by the county council as respects those highways should not be determined, he may by order cancel the notice so far as it relates to those highways.

(7) Subject to the provisions of the last foregoing subsection, any such delegation, determination or relinquishment as aforesaid shall take effect as from the first day of April in the calendar year next following that in which the application was made or the notice was given.

25.—(1) Where by virtue of the last foregoing section functions stand delegated to the council of a county district, that council shall, in the discharge of those functions, act as agents for the county council and it shall be a condition of any such delegation—

Conditions
and effect of
delegation
of functions
under s. 24.

- (a) that the works to be executed and the expenditure to be incurred by the council of the district in the discharge of the delegated functions shall be subject to the approval of the county council ; and
- (b) that the council of the district shall comply with any requirement of the county council as to the manner in which, and the persons by whom, any works are to be carried out, and with any general directions of the county council as to the terms of contracts to be entered into for the purposes of the discharge of the delegated functions ; and
- (c) that any such works shall be completed to the satisfaction of the county council.

If at any time the county council are satisfied on the report of their surveyor or other person appointed by them for the purpose that a highway with respect to which functions are so delegated is not in proper repair and condition, they may

PART II
—cont.

give notice to the council of the district requiring them to place it in proper repair and condition, and, if the notice is not complied with within a reasonable time, the county council may do anything that seems to them necessary to place it in proper repair and condition.

(2) Where by virtue of the last foregoing section functions stand delegated to the council of a county district, then, so long as the delegation is in force, but subject to the following subsection,—

- (a) if the council are that of a rural district, they shall discharge as agents for the county council the functions of the county council within the district under the provisions of this Act which are specified in Part I of the Sixth Schedule thereto, and the functions of the county council within the district under section one hundred and forty-eight of the Public Health Act, 1875, and
- (b) if the council are that of an urban district, or of a non-county borough, they shall discharge as agents for the county council the functions of the county council within the district, or the borough, as the case may be, under the provisions of this Act which are specified in Part II of the said Schedule,

except so far as the functions of the county council mentioned in paragraph (a) or paragraph (b), as the case may be, of this subsection relate to highways maintainable at the public expense with respect to which functions are not delegated to the council of the county district.

(3) Where by virtue of the last foregoing subsection the council of a county district are discharging functions of a county council, the county council may impose on the council of the district such conditions as they think fit with respect to any action to be taken by that council in the discharge of those functions and with respect to any work being completed to their satisfaction.

PART III

CREATION OF HIGHWAYS

Construction of new highways and provision of road-ferries.

26.—(1) The Minister may, with the approval of the Treasury, construct new highways:

Provided that where he proposes to construct a new highway, other than a trunk road, a special road or a highway the construction of which is authorised by an order under section nine of this Act or by an order under section thirteen thereof, he shall give notice of his proposals to the council of every county, borough and urban district through which the highway will pass and shall consider any representations made by any such council.

(2) A local highway authority may construct new highways:

PART III
—cont.

Provided that where a new highway to be constructed by such an authority will communicate with a highway for which the Minister is the highway authority, the communication shall not be made unless the manner in which it is to be made has been approved by the Minister.

(3) The Minister may provide and maintain new road-ferries, and a local highway authority may, with the approval of the Minister, provide and maintain new road-ferries.

27.—(1) A local authority shall have power to enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a footpath or bridleway over land in their area:

Creation of
footpath or
bridleway by
agreement.

Provided that the powers conferred by this section shall not be exercisable—

- (a) by the council of a rural district except with the consent of the council of the county comprising the district and, if the county council are not the local planning authority, the consent of that authority,
- (b) by the council of any other county district except with the consent of the local planning authority, and
- (c) by the council of a county borough, not being the local planning authority, except with the consent of that authority.

(2) An agreement made under the foregoing subsection (in this Act referred to as a “public path creation agreement”) shall be on such terms as to payment or otherwise as may be specified in the agreement, and may, if it is so agreed, provide for the dedication of the footpath or bridleway subject to limitations or conditions affecting the public right of way thereover.

(3) Where a public path creation agreement has been made it shall be the duty of the local authority who are a party to it to take all necessary steps for securing that the footpath or bridleway is dedicated in accordance therewith.

28.—(1) Where it appears to a local authority that there is need for a footpath or bridleway over land in their area and they are satisfied that, having regard to—

Compulsory
powers for
creation of
footpaths and
bridleways.

- (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

PART III
—cont.

- (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 thirty-one of this Act,

it is expedient that the path or way should be created, the authority may by order (in this Act referred to as a “public path creation order”) made by them and submitted to and confirmed by the Minister of Housing and Local Government create a footpath or bridleway over the land.

(2) 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.

(3) Subject to the provisions of the next following section, the powers conferred by this section shall not be exercisable—

- (a) by the council of a rural district except with the consent of the council of the county comprising the district and, if the county council are not the local planning authority, the consent of that authority,
- (b) by the council of any other county district except with the consent of the local planning authority, and
- (c) by the council of a county borough, not being the local planning authority, except with the consent of that authority.

(4) A public path creation order shall be in such form as may be prescribed by regulations made by the Minister of Housing and Local Government, and shall contain a map, on such scale as may be so prescribed, defining the land over which a footpath or bridleway is thereby created.

(5) The Seventh Schedule to this Act shall have effect as to the making, confirmation, validity and date of operation of public path creation orders.

Exercise by
other
authorities of
powers under
ss. 27 and 28.

29.—(1) The Minister of Housing and Local Government, on the application of the council of a county, may direct, either generally or as respects the creation of a particular footpath or bridleway, that the powers conferred by the two last foregoing sections or either of them on the council of a county district specified in the direction, being a district in the county in question, shall be exercisable by the county council and shall not be exercisable by the council of the county district:

Provided that, in relation to land in a National Park, this subsection shall have effect as if—

- (a) references to the council of a county included references to a local planning authority whose area consists of or includes a part of the Park, and

- (b) references to a county district in the county included references to a county borough or county district a part of which is comprised in the area of such a local planning authority.

PART III
—cont.

(2) A county council exercising a power by virtue of a direction under the foregoing subsection shall consult the local planning authority, where that authority is a joint board, but shall not be required to obtain the consent of the board to the exercise of the power.

(3) Where it appears to the Minister of Housing and Local Government in a particular case that there is need for a footpath or bridleway as mentioned in subsection (1) of the last foregoing section, and he is satisfied as mentioned in that subsection, the said Minister, after consultation with the appropriate authority, may direct the authority to make and submit to him a public path creation order creating the footpath or bridleway or may himself make the order; and where the said Minister gives a direction under this subsection, the provisions of subsection (3) of the last foregoing section shall not apply.

(4) In this section “the appropriate authority”, in relation to the making of a public path creation order, means the authority upon whom power to make the order (whether the power is exercisable with the consent of any other authority or not) is conferred by the last foregoing section or by that section as modified by a direction given under subsection (1) of this section.

30.—(1) On the dedication of a footpath or bridleway in pursuance of a public path creation agreement, or on the coming into operation of a public path creation order, being—

Making up of
new footpaths
and bridleways.

- (a) an agreement or order made by a local authority who are not the highway authority for the path in question,
or

- (b) an order made by the Minister of Housing and Local Government under subsection (3) of the last foregoing section where, in relation to the making of a public path creation order creating the footpath or bridleway in question, the appropriate authority for the purposes of the said subsection (3) are such a local authority,

the highway authority shall survey the path or way and shall certify what work, if any, appears to them to be necessary to bring it into a fit condition for use by the public as a footpath or bridleway, as the case may be, and shall serve a copy of the certificate on the local authority mentioned in paragraph (a) or paragraph (b) of this subsection, as the case may be.

PART III
—cont.

(2) An authority on whom a copy of a certificate is served under the foregoing subsection may apply to the Minister of Housing and Local Government on the ground that the work specified in the certificate, or any part thereof, is unnecessary or unduly expensive or is undesirable in the interests of amenity; and where such an application is made, the said Minister shall either cause a local inquiry to be held or shall give to the applicants and to the highway authority an opportunity of being heard by a person appointed by him for the purpose and, after considering the report of the person appointed to hold the inquiry or the person so appointed as aforesaid, shall make such order confirming, quashing or varying the certificate as he may think fit.

(3) Where the certificate of a highway authority in respect of a footpath or bridleway is quashed under the last foregoing subsection, the path or way shall not be required to be maintained in a better condition than the condition in which it was at the date of the certificate; and where under the last foregoing subsection such a certificate is varied, the path or way shall not be required to be maintained in a better condition than the condition in which it is immediately after the completion of the work specified in the certificate as so varied.

(4) Subject to the provisions of subsection (2) of this section, it shall be the duty of the highway authority to carry out any work specified in a certificate under subsection (1) thereof, and where the authority have carried out the work they may recover from the authority on whom a copy of the certificate was served any expenses reasonably incurred by them in carrying out that work, including any expenses so incurred in the discharge of any liability for compensation in respect of the carrying out thereof.

(5) Where a public path creation order—

- (a) is made in compliance with a direction of the Minister of Housing and Local Government under subsection (3) of the last foregoing section and is so made by the local authority who, on the coming into operation of the order, become the highway authority for the path or way in question, or
- (b) is made by the said Minister under the said subsection (3) in a case where, in relation to the making of a public path creation order creating the path or way in question, the appropriate authority for the purposes of the said subsection (3) are that local authority,

the following provisions shall have effect, that is to say—

- (i) the local authority specified in paragraph (a) or paragraph (b) of this subsection, as the case may be, shall

survey the path or way and shall certify what work (if any) appears to them to be necessary to bring it into a fit condition for use by the public as a footpath or bridleway, as the case may be, and shall furnish the said Minister with a copy of the certificate ;

- (ii) if the said Minister is not satisfied with a certificate made under the foregoing paragraph, he shall either cause a local inquiry to be held or shall give to the local authority an opportunity of being heard by a person appointed by him for the purpose and, after considering the report of the person appointed to hold the inquiry or the person so appointed as aforesaid, shall make such order either confirming or varying the certificate as he may think fit ; and
- (iii) subject to the provisions of the last foregoing paragraph, it shall be the duty of the highway authority to carry out the work specified in a certificate made by them under paragraph (i) of this subsection.

(6) In this section “local authority” means a local planning authority, the council of a county or county borough not being a local planning authority, or the council of a county district.

31.—(1) Subject to the following provisions of this section, if, on a claim made in accordance with this section, it is shown that the value of an interest of a person in land is depreciated, or that a person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a public path creation order, the authority by whom the order was made shall pay to that person compensation equal to the amount of the depreciation or damage.

Compensation
for loss caused
by public path
creation order.

(2) A claim for compensation under this section shall be made within such time and in such manner as may be prescribed by regulations made by the Minister of Housing and Local Government, and shall be made to the authority by whom the order was made.

(3) For the purposes of the application of this section to an order made by the Minister of Housing and Local Government under subsection (3) of section twenty-nine of this Act, references in this section to the authority by whom the order was made shall be construed as references to the authority who, immediately before the making of the order, were, for the purposes of the said subsection (3), the appropriate authority in relation to the making of a public path creation order in respect of the footpath or bridleway in question.

(4) Nothing in this section shall confer on any person, in respect of a footpath or bridleway created by a public path

PART III
—cont.

creation order, a right to compensation for depreciation of the value of an interest in land, or for disturbance in his enjoyment of land, not being in either case land over which the path or way was created or land held therewith, unless the creation of the path or way would have been actionable at his suit if it had been effected otherwise than in the exercise of statutory powers.

(5) In this section “interest”, in relation to land, includes any estate in land and any right over land, whether the right is exercisable by virtue of the ownership of an interest in land or by virtue of a licence or agreement, and in particular includes sporting rights.

Protection for
agriculture
and forestry.

32. In the exercise of their functions under this Part of this Act relating to the making of public path creation agreements and public path creation orders it shall be the duty of councils to have due regard to the needs of agriculture and forestry.

Dedication of
highway by
agreement
with parish
council.

33.—(1) The council of a parish shall have power to enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a highway over land in the parish or an adjoining parish in any case where such a dedication would in the opinion of the council be beneficial to the inhabitants of the parish or any part thereof.

(2) Where the council of a parish have entered into an agreement under the foregoing subsection for the dedication of a highway they shall have power to carry out any works (including works of maintenance or improvement) incidental to or consequential on the making of the agreement or to contribute towards the expense of carrying out such works, and may agree or combine with the council of any other parish to carry out such works or to make such a contribution.

Dedication
of way as
highway
presumed after
public use for
twenty years.

34.—(1) Where a way over any land, not being a way of such a character that user thereof by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of twenty years, the way shall be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

(2) The period of twenty years referred to in the foregoing subsection shall be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in the next following subsection or otherwise.

(3) Where the owner of the land over which any such way as aforesaid passes—

(a) has erected in such manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway, and

(b) has maintained the notice after the first day of January, nineteen hundred and thirty-four, or any later date on which it was erected,

the notice shall, in the absence of proof of a contrary intention, be sufficient evidence to negative the intention to dedicate the way as a highway.

(4) Where a notice erected as mentioned in the last foregoing subsection is subsequently torn down or defaced, a notice given by the owner of the land to the council of the county borough, or, as the case may be, to the council of the county and of the county district, in which the way is situated that the way is not dedicated as a highway shall, in the absence of proof of a contrary intention, be sufficient evidence to negative the intention of the owner of the land to dedicate the way as a highway.

(5) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) of this section, so, however, that no injury is done thereby to the business or occupation of the tenant.

(6) An owner of land may at any time deposit with the council of the county borough, or, as the case may be, with the council of the county and of the county district, in which that land is situated—

(a) a map of that land on a scale of not less than six inches to one mile, and

(b) a statement indicating what ways (if any) over that land he admits to have been dedicated as highways,

and, in any case in which such a deposit has been made, statutory declarations made by that owner or by his successors in title and lodged by him or them with such councils as aforesaid at any time within six years from the date of the deposit, or within six years from the date on which any previous declaration was last lodged under this section, to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgment of such previous declaration, as the case may be, shall, in the absence of proof of a contrary intention, be sufficient evidence to negative the intention of the

PART III
—cont.

owner or his successors in title to dedicate any such additional way as a highway.

(7) For the purposes of the foregoing provisions of this section “owner”, in relation to any land, means a person who is for the time being entitled to dispose of the fee simple in the land.

(8) Nothing in this section shall affect any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over that land as a highway if the existence of a highway would be incompatible with those purposes.

(9) Nothing in this section shall operate to prevent the dedication of a way as a highway being presumed on proof of user for any less period than twenty years, or being presumed or proved under any circumstances under which it might have been presumed or proved immediately before the commencement of this Act.

(10) Nothing in this or the next following section shall be taken to affect the provisions of subsection (4) of section thirty-two of the National Parks and Access to the Countryside Act, 1949 (which provides that a map and statement prepared under that section shall be conclusive evidence as to the existence of the highways shown on the map and as to certain particulars contained in the statement), or of the said subsection (4) as applied by subsection (1) of section thirty-four of that Act.

(11) For the purposes of this section “land” includes land covered with water.

Evidence of
dedication of
way as
highway.

35. A court or other tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

Protection
of rights of
reversioners.

36. The person entitled to the remainder or reversion immediately expectant upon the determination of a tenancy for life, or pour autre vie, in land shall have the like remedies by action for trespass or an injunction to prevent the acquisition by the public of a right of way over that land as if he were in possession thereof.

Conversion
of private
street into
highway.

37. Without prejudice to the foregoing provisions of this Part of this Act, a street which is not a highway and land to which section two hundred and six of this Act applies may become a highway by virtue of a declaration made by the council of a county, borough or urban district in accordance with the provisions in that behalf contained in Part IX of this Act.

PART IV

MAINTENANCE OF HIGHWAYS

Highways maintainable at public expense

38.—(1) After the commencement of this Act no duty with respect to the maintenance of highways shall lie on the inhabitants at large of any area. Highways maintainable at public expense.

(2) Without prejudice to any other enactment (whether contained in this Act or not) whereby a highway may become for the purposes of this Act a highway maintainable at the public expense, and subject to the provisions of this section and of subsection (6) of section two hundred and six of this Act, and to any order of a magistrates' court made under section fifty of this Act, the following highways shall for the purposes of this Act be highways maintainable at the public expense, that is to say—

- (a) a highway which immediately before the commencement of this Act was maintainable by the inhabitants at large of any area or maintainable by a highway authority ;
- (b) a highway constructed by a highway authority after the commencement of this Act, otherwise than on behalf of some other person not being a highway authority ;
- (c) a highway constructed by the council of a borough or urban district within their own area under Part V of the Housing Act, 1957, and a highway constructed by a local authority outside their own area under the said Part V, being, in the latter case, a highway the liability to maintain which is, by virtue of the said Part V, vested in the council of the county, borough or district in which the highway is situated ;
- (d) a highway being a trunk road or a special road ; and
- (e) a highway, being a footpath or bridleway, created after the commencement of this Act in consequence of a public path creation order or a public path diversion order or dedicated after the said commencement in pursuance of a public path creation agreement.

(3) Paragraph (a) of the last foregoing subsection shall not be construed as referring to a highway maintainable by the council of a county, borough or urban district under a contract or otherwise than in their capacity as a highway authority.

(4) Paragraph (d) of subsection (2) of this section shall not be construed as referring to a part of a trunk road or special road being a bridge or other part which a person is liable to maintain under a charter or special enactment, or by reason of tenure, enclosure or prescription.

PART IV
—cont.

(5) Where, under any rule of law relating to the duty of maintaining a highway by reason of tenure, enclosure or prescription, and apart from any enactment (whether contained in this Act or not), a highway would, on the happening of any event after the commencement of this Act, become, or cease to be, maintainable by the inhabitants at large of any area, the highway shall become, or cease to be, a highway which for the purposes of this Act is a highway maintainable at the public expense :

Provided that a highway shall not by virtue of this subsection become a highway which for the purpose of this Act is a highway maintainable at the public expense unless either—

- (a) it was a highway before the thirty-first day of August, eighteen hundred and thirty-five ; or
- (b) it became a highway after that date and has at some time been maintainable by the inhabitants at large of any area or a highway maintainable at the public expense ;

and a highway shall not by virtue of this subsection cease to be a highway maintainable at the public expense if it is a highway which under any rule of law would become a highway maintainable by reason of enclosure but is prevented from becoming such a highway by section fifty-four of this Act.

(6) The council of every borough and urban district shall cause to be made, and shall keep corrected up to date, a list of the streets within their area which are highways maintainable at the public expense ; and every list made under this subsection shall be kept deposited at the offices of the council by whom it was made and may be inspected by any person free of charge at all reasonable hours.

Methods whereby highways may become maintainable at public expense

Provisions whereby highway created by dedication may become maintainable at public expense.

39.—(1) A person who proposes to dedicate a way as a highway and who desires that the proposed highway shall become maintainable at the public expense by virtue of this section shall give notice of the proposal, not less than three months before the date of the proposed dedication, to the council of the county, borough or urban district who would, if the way were a highway, be the highway authority therefor, describing the location and width of the proposed highway and the nature of the proposed dedication.

(2) If the council consider that the proposed highway will not be of sufficient utility to the public to justify its being maintained at the public expense, they may make a complaint to a magistrates' court for an order to that effect.

(3) If the council certify that the way has been dedicated in accordance with the terms of the notice and has been made up in a satisfactory manner, and if—

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—cont.

(a) the person by whom the way was dedicated or his successor keeps it in repair for a period of twelve months from the date of the council's certificate, and

(b) the way has been used as a highway during that period, then, unless an order has been made in relation to the highway under the last foregoing subsection, the highway shall, at the expiration of the period specified in paragraph (a) of this subsection, become for the purposes of this Act a highway maintainable at the public expense.

(4) If the council, on being requested by the person by whom the way was dedicated or his successor to issue a certificate under the last foregoing subsection, refuse to issue the certificate, that person may appeal to a magistrates' court against the refusal, and the court, if satisfied that the certificate ought to have been issued, may make an order to the effect that the last foregoing subsection shall apply as if the certificate had been issued on a date specified in the order.

(5) Where a certificate has been issued by a council under subsection (3) of this section, or an order has been made under the last foregoing subsection, the certificate or a copy of the order, as the case may be, shall be deposited with the clerk of the council and may be inspected by any person free of charge at all reasonable hours.

40.—(1) Where any person is liable under a special enactment or by reason of tenure, enclosure or prescription to maintain a highway, the Minister, in the case of a trunk road, or a local highway authority, in any other case, may agree with that person to undertake the maintenance of that highway; and where an agreement is made under this subsection the highway to which the agreement relates shall, on such date as may be specified in the agreement, become for the purposes of this Act a highway maintainable at the public expense and the liability of that person to maintain the highway shall be extinguished:

Power of
highway
authorities to
adopt by
agreement.

Provided that a local highway authority shall not have power to make an agreement under this subsection with respect to a highway with respect to which they or any other highway authority have power to make an agreement under Part V of this Act or Part X thereof.

(2) Subject to the following provisions of this section, a local highway authority may agree with any person to undertake the maintenance of—

(a) a private carriage or occupation road which that person, being a person having the necessary power in that behalf, is willing to dedicate as a highway; or

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- (b) a way which is to be constructed by that person, or by a highway authority on his behalf, and which he proposes to dedicate as a highway ;

and where an agreement is made under this subsection the road or way to which the agreement relates shall, on such date as may be specified in the agreement, become for the purposes of this Act a highway maintainable at the public expense.

(3) Without prejudice to the provisions of the last foregoing subsection and subject to the following provisions of this section, a local highway authority may, by agreement with railway, canal or tramway undertakers, undertake to maintain as part of a highway maintainable at the public expense a bridge or viaduct which carries the railway, canal or tramway of the undertakers over such a highway or which is intended to carry such a railway, canal or tramway over such a highway and is to be constructed by those undertakers or by the highway authority on their behalf.

(4) Where—

- (a) any such highway as is referred to in paragraph (b) of subsection (2) of this section will be situated in a non-county borough or urban district and is intended to become a county road, or

- (b) any such bridge or viaduct as is referred to in subsection (3) of this section crosses or will cross a county road in such a borough or district,

the powers conferred by the said subsections (2) and (3) shall, as respects that highway, bridge or viaduct, be exercisable by the council of the county comprising that borough or district and not by the council of that borough or district, as the case may be.

(5) An agreement under this section may contain such provisions as to the dedication as a highway of any road or way to which the agreement relates, the bearing of the expenses of the construction, maintenance or improvement of any highway, road, bridge or viaduct to which the agreement relates and other relevant matters as the authority making the agreement think fit.

Adoption
of certain
highways in
livestock
rearing areas.

41. Where under section one of the Agriculture (Improvement of Roads) Act, 1955 (which enables certain councils to submit to the Minister of Agriculture, Fisheries and Food proposals for effecting improvements in certain roads situated in, or affording access to, livestock rearing areas), the council of a county, borough or urban district submit proposals to the Minister of Agriculture, Fisheries and Food for effecting an improvement to which that Act applies in respect of a highway, not being a highway maintainable at the public expense, and the said Minister approves those proposals, then, without prejudice to any other enactment (whether contained in this Act or not) whereby the highway may become such a

highway, the council submitting the proposals shall have power, by notice exhibited on or near the highway, to declare it to be for the purposes of this Act a highway maintainable at the public expense, and thereupon—

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- (a) the highway shall become such a highway, and
- (b) if, apart from this section, any person would be liable to maintain the highway under a special enactment or by reason of tenure, enclosure or prescription, that liability shall be extinguished.

42.—(1) Notwithstanding any repeal made by this Act the Bridges Act, 1929, shall continue to apply, and sections ninety-nine to one hundred and one of this Act shall not apply, to a bridge which is situated partly in London and partly in some other local government area, being a bridge to which that Act applies.

Certain bridges and highways may become maintainable at public expense by virtue of agreement or order.

For the purposes of this subsection the reference to the bridge shall be construed as including a reference to the highway carried by the bridge and to the approaches thereto, being approaches for the maintenance of which the owners of the bridge are responsible and which connect the bridge with a highway maintainable at the public expense or with a highway for the maintenance of which a local highway authority whose area of jurisdiction is in London are responsible.

(2) Where—

- (a) the responsibility for the maintenance of, or the property in, a bridge or highway to which the Bridges Act, 1929, continues to apply by virtue of the foregoing subsection is, by virtue of an order, or in pursuance of an agreement, made under that Act, transferred to the Minister or to a local highway authority whose area of jurisdiction lies outside London, or
- (b) the responsibility for the maintenance of, or the property in, a bridge or highway is by virtue of an order made under section ninety-nine of this Act, or in pursuance of an agreement made under section one hundred thereof, transferred to a highway authority, or
- (c) a right to charge tolls in respect of the use of a highway is transferred to a highway authority under section two hundred and thirty-three of this Act,

the bridge or highway shall, on the date on which the responsibility for the maintenance thereof, the property therein, or the right to charge tolls, as the case may be, is so transferred, become for the purposes of this Act a highway maintainable at the public expense, and if apart from this subsection the highway authority who are a party to the transfer would not be the

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highway authority for that bridge or highway they shall, notwithstanding anything in section one of this Act, be the highway authority therefor.

Adoption of
private streets.

43. Without prejudice to the foregoing provisions of this Part of this Act, the council of a county, borough or urban district may adopt a private street as a highway which for the purposes of this Act is a highway maintainable at the public expense in accordance with the provisions in that behalf contained in Part IX of this Act or shall, in accordance with those provisions, adopt such a street as a highway which for the purposes of this Act is a highway so maintainable.

*Maintenance of highways maintainable at public expense*Duty to
maintain
highways
maintainable
at public
expense.

44.—(1) The authority who are for the time being the highway authority for a highway maintainable at the public expense shall, subject to the following subsection, be under a duty to maintain the highway.

(2) An order made by the Minister under section seven of this Act directing that a highway proposed to be constructed by him shall become a trunk road may direct that—

- (a) a part of a highway maintainable at the public expense by some other highway authority being a part which crosses the route of the highway to be so constructed, or
- (b) any highway so maintainable which becomes a trunk road by virtue of the order,

shall, notwithstanding anything in the foregoing provisions of this section, be maintained by that authority until such date, not being later than the date on which the new route is opened for the purposes of through traffic, as may be specified in a notice given by the Minister to that authority.

Rights of
certain
councils to
maintain
county roads.

45.—(1) Subject to the provisions of this section, the council of a non-county borough or urban district shall be entitled to maintain any county road in the borough or district, being a county road—

- (a) as respects which the council have made a claim under this section, or
- (b) which became a county road at a time, or is within an area transferred to the borough or district at a time, when the council were entitled under this section to maintain all the county roads in the borough or district.

(2) Where a non-county borough or urban district has a population exceeding twenty thousand, the council of the borough or district may, within the period specified in that behalf in Part I

of the Eighth Schedule to this Act, claim to undertake the maintenance of any county road within the borough or district, not being a county road with respect to which they might have made such a claim under section thirty-two of the Local Government Act, 1929, but failed to do so within the time limited by that section.

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(3) A council shall not become entitled to maintain a county road by virtue of a claim under this section until the date specified in that behalf in Part II of the Eighth Schedule to this Act.

(4) The council of a non-county borough or urban district who are for the time being entitled to maintain a county road by virtue of this section may at any time, with the consent of the county council, relinquish their right to maintain that road, and, as from the first day of April next after the date of the notice of relinquishment, they shall cease to be entitled to maintain that road.

If a county council withhold consent under this subsection, the council of the non-county borough or urban district may appeal to the Minister, who may make such order thereon as he thinks fit and the order shall be binding on the county council and the council by whom the appeal was made.

(5) For the purposes of this section—

(a) “ county road ” does not include—

- (i) any part of a special road, or
- (ii) a county bridge, or
- (iii) the highway carried by a bridge, or the approaches to a bridge situated within one hundred yards of either end of the bridge, being, in either case, a bridge (other than a bridge constructed, or deemed for the purposes of subsections (1) and (2) of section six of this Act to have been constructed, after the thirty-first day of August, eighteen hundred and thirty-five) which on completion became, and has since its completion continued to be, a county bridge; and

(b) the population of a non-county borough or urban district shall be ascertained according to the last published census for the time being.

46. The council of a parish shall have power, subject to the restrictions for the time being imposed by any enactment on their expenditure, to undertake the maintenance of any footpath or bridleway within the parish, being in either case a highway maintainable at the public expense:

Right of parish councils to maintain footpaths and bridleways.

Provided that nothing in this section shall affect the duty of any highway authority or other person to maintain the footpath or bridleway.

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Person liable to maintain highway may agree to maintain publicly maintainable highway.

47. Where any person is liable under a special enactment or by reason of tenure, enclosure or prescription to maintain a highway, he shall have power to enter into an agreement with the highway authority for that highway for the maintenance by him of any highway maintainable at the public expense by the highway authority:

Provided that nothing in this section shall affect the duty of the highway authority to maintain the highway as respects which the agreement is made.

Power to get materials for repair of publicly maintainable highways.

48.—(1) For the purpose of repairing highways maintainable at the public expense by them, a highway authority may exercise such powers with respect to the getting of materials as are mentioned in this section.

(2) The authority may search for, dig, get and carry away gravel, sand, stone and other materials in and from any waste or common land (including the bed of any river or brook flowing through such land):

Provided that the authority—

- (a) shall not in the exercise of their powers under this subsection divert or interrupt the course of any river or brook, or dig or get materials out of any river or brook within fifty yards above or below a bridge, dam or weir ;
- (b) shall not in the exercise of those powers remove such quantity of stones or other materials from any sea beach as to cause damage by inundation or increased danger of encroachment by the sea ;
- (c) shall not exercise those powers in a place outside the rural district, urban district or borough within which the materials are to be used unless sufficient materials cannot conveniently be obtained by the exercise of those powers in that district, or in that borough, as the case may be, and unless sufficient materials for the repair of highways in the district or borough in which that place is will remain after the exercise of those powers in that place ; and
- (d) shall not exercise those powers in any land forming part of a common to which section twenty of the Commons Act, 1876, applies, except in accordance with the provisions of that section.

(3) The authority may gather and carry away stones lying upon any land in the rural district, urban district or borough within which the stones are to be used:

Provided that the authority—

- (a) shall not exercise the powers conferred by this subsection in a garden, yard, avenue to a house, lawn, park, paddock or inclosed plantation, or in an inclosed wood not exceeding one hundred acres in extent ;
- (b) shall not in the case of any other inclosed land exercise those powers unless either they have obtained the consent of the owner and of the occupier of that land, or a magistrates' court has made an order authorising them to exercise those powers in the case of that land ; and
- (c) shall not in the exercise of those powers remove such quantity of stones or other materials from any sea beach as to cause damage by inundation or increased danger of encroachment by the sea.

(4) If the authority cannot get sufficient materials by the exercise of their powers under the foregoing provisions of this section, a magistrates' court may make an order authorising them to search for, dig, get and carry away materials in and from any inclosed land in the rural district, urban district or borough within which the materials are to be used, not being such land as is mentioned in proviso (a) to the last foregoing subsection.

(5) For the purpose of repairing—

- (a) a trunk road bridge, and so much of a trunk road as is carried by a trunk road bridge or forms the approaches to a trunk road bridge up to one hundred yards from each end of the bridge, or
- (b) a county bridge, and so much of a highway maintainable at the public expense by a county council as is carried by a county bridge or forms the approaches to a county bridge up to one hundred yards from each end of the bridge,

the authority may take and carry away the rubbish or refuse stones from any quarry in the county or county borough within which the materials are to be used.

(6) For the purpose of repairing or reconstructing a trunk road bridge or a county bridge, the authority may be authorised by an order of a magistrates' court to quarry stone from any quarry in the county or county borough in which the bridge is:

Provided that—

- (a) no order shall be made under this subsection in relation to a quarry which has not been worked at any time during the three years immediately preceding the date on which a complaint for such an order is made ; and

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(b) no stone shall be taken from a quarry situated in a garden, yard, avenue to a house, lawn, paddock or inclosed plantation, or in land on which ornamental timber trees are growing, except with the consent of the owner of the quarry.

(7) An authority who exercise any of the powers conferred by this section shall pay compensation to persons interested in any land for any damage done thereto by the carriage of the materials obtained by the authority, and also in cases falling within subsection (4) or subsection (6) of this section, for the value of those materials.

(8) At least one month before making a complaint to a magistrates' court for an order under subsection (3) or subsection (4) of this section an authority shall give notice of their intention to make such a complaint to the owner, and to the occupier, of the land from which they propose, if authorised so to do by such an order, to get materials.

(9) For the purposes of this section,—

“trunk road bridge” means a bridge, being a highway maintainable at the public expense, the highway over which is a trunk road or partly a trunk road; and

“inclosed land” includes any land in the exclusive occupation of one or more persons for agricultural purposes, though not separated by a fence or otherwise from adjoining land of another person, or from a highway.

Supplemental provisions with respect to the getting of materials under s. 48.

49.—(1) Where an excavation is made by a highway authority in the exercise of powers conferred by the last foregoing section, the authority shall—

- (a) while work is in progress, and thereafter so long as the excavation remains open, keep the excavation sufficiently fenced to prevent accidents to persons or animals,
- (b) if no materials are found therein, fill up the excavation within three days from the date on which the excavation was made,
- (c) if materials are found, then within fourteen days from the date on which sufficient materials have been obtained, fill up the excavation or slope it down and fence it off, if the owner or occupier of the land in question so requires, and thereafter keep it so fenced, and
- (d) when filling up an excavation, make good and level the ground and cover it with the turf or clod dug therefrom.

(2) An authority who fail to comply with any of the provisions of the foregoing subsection shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding the following amount, that is to say—

- (a) in a case where notice of the default had previously been given to them by a justice of the peace or by the owner or occupier of the land in question, or any person having right of common thereover, and they failed to remedy the default within six days from the date on which they received the notice, ten pounds, and
- (b) in any other case, ten shillings.

(3) If in the exercise of powers conferred by the last foregoing section materials are dug so as to damage or endanger a highway, occupation road, ford, dam, mine, building, works or apparatus, the highway authority shall be guilty of an offence and shall, without prejudice to any civil proceedings which may be available against them, be liable in respect thereof to a fine not exceeding five pounds.

(4) A person who, without the consent of the highway authority,—

- (a) takes away any materials purchased, gotten or gathered by them for the repair of highways, or
- (b) takes away any materials from a quarry or excavation opened by the authority before their workmen have ceased working thereat for six weeks,

shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding ten pounds:

Provided that, in the case of a quarry or excavation in private grounds, nothing in this subsection shall prevent the owner or occupier from getting materials therefrom for his own private use and not for sale.

50.—(1) Where a highway authority are of opinion that a highway maintainable at the public expense by them is unnecessary for public use and therefore ought not to be maintained at the public expense, they may, subject to the two next following subsections, apply to a magistrates' court for an order declaring that the highway shall cease to be so maintained.

(2) No application shall be made under this section for an order relating to a trunk road, special road, footpath or bridleway.

(3) If a highway authority propose to make an application under this section for an order relating to a highway situated in

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a rural parish they shall give notice of the proposal to the parish council or, in the case of a parish not having a separate parish council, to the chairman of the parish meeting, and the application shall not be made if, within two months from the date of service of the notice by the highway authority, notice is given to the highway authority by the parish council or the chairman of the parish meeting, as the case may be, that the council or meeting have refused to consent to the making of the application.

(4) Where an application is made to a magistrates' court under this section, two or more justices of the peace acting for the petty sessions area for which the court acts shall together view the highway to which the application relates, and no further proceedings shall be taken on the application unless they are of opinion, after viewing the highway, that there was ground for making the application.

(5) The clerk to the justices who view a highway in accordance with the provisions of the last foregoing subsection shall, as soon as practicable after the view, notify the highway authority by whom an application under this section relating to the highway was made of the decision of the justices, and, if the justices decide that there was ground for making the application, of the time, not being less than six weeks from the date of the notice, and place, at which the application is to be heard by a magistrates' court.

(6) A magistrates' court shall not hear an application under this section unless it is satisfied that the highway authority making the application have—

- (a) not less than one month before the date on which the application is to be heard by the court, given notice to the owners and occupiers of all lands adjoining the highway to which the application relates of the making of the application, and the purpose thereof, and of the time and place at which the application is to be heard by the court, and
- (b) given public notice in the terms and manner required by the next following subsection.

(7) A highway authority making an application under this section shall publish, once at least in each of the four weeks immediately preceding the week in which the application is to be heard, in a local newspaper circulating in the area in which the highway to which the application relates is situated, a notice—

- (a) stating that an application has been made to a magistrates' court under this section and the purpose of the application,

(b) describing the highway, and

(c) specifying the time and place at which the application is to be heard,

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and shall cause a copy of the notice to be fixed, at least fourteen days before the date on which the application is to be heard by the court, to the principal doors of every church and chapel in the parish in which the highway is situated, or in some conspicuous position near the highway.

(8) On the hearing of an application for an order under this section, a magistrates' court shall hear any person who objects to the order being made and may either dismiss the application or make an order declaring that the highway to which the application relates shall cease to be maintained at the public expense.

(9) Where an order is made under this section the highway to which the order relates shall cease to be a highway maintainable at the public expense.

(10) The highway authority on whose application an order is made under this section shall give notice of the making of the order to any public utility undertakers having apparatus under, in, upon, over, along or across the highway to which the order relates.

51. If it appears to a magistrates' court that, in consequence of any change of circumstances since the time at which an order was made under the last foregoing section, the highway to which the order relates has again become of public use and ought to be maintained at the public expense, the court may by order direct that the highway shall again become for the purposes of this Act a highway maintainable at the public expense:

Power of magistrates' court to order a highway to be again maintainable at public expense.

Provided that an order under this section shall not be made except on the application of a person interested in the maintenance of the highway to which the application relates, and on proof that not less than one month before making the application he gave notice to the highway authority for the highway of his intention to make an application under this section.

Maintenance of privately maintainable highways

52. Where a person is liable to maintain the approaches to a bridge by reason of the fact that he is liable to maintain the bridge by reason of tenure or prescription, his liability to maintain the approaches shall extend to one hundred yards from each end of the bridge.

Maintenance of approaches to certain privately maintainable bridges.

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Maintenance of privately maintainable footpaths and bridleways.

53.—(1) Where apart from section forty-four of this Act a person would under a special enactment or by reason of tenure, enclosure or prescription be under an obligation to maintain a footpath or bridleway, the operation of subsection (1) of the said section forty-four shall not release him from the obligation.

(2) The council of a parish shall have power, subject to the restrictions for the time being imposed by any enactment on their expenditure, to undertake by virtue of this subsection the maintenance of any footpath or bridleway within the parish (other than a footpath or bridleway the maintenance of which they have power to undertake under section forty-six of this Act) whether or not any other person is under a duty to maintain the footpath or bridleway:

Provided that nothing in this subsection shall affect the duty of any other person to maintain the footpath or bridleway.

No liability to maintain by reason of enclosure if highway fenced with consent of highway authority.

54. If a person across whose land there is a highway maintainable at the public expense erects a fence between the highway and the adjoining land, and the fence is erected with the consent of the highway authority for the highway, he shall not thereby become liable to maintain the highway by reason of enclosure:

Provided that nothing in this section shall be construed as imposing on any person a liability to maintain a highway by reason of enclosure.

Power to get materials for repair of privately maintainable highways.

55.—(1) A person liable to maintain a highway by reason of tenure, enclosure or prescription shall, for the purpose of repairing it, have the like powers with respect to the getting of materials as are conferred on a highway authority by subsections (2), (3) and (4) of section forty-eight of this Act for the purpose of repairing highways maintainable at the public expense by them.

(2) A person on whom powers are conferred by this section shall, with respect to the exercise of those powers, be subject to the like duties and liabilities under subsections (7) and (8) of the said section forty-eight and under subsections (1), (2) and (3) of section forty-nine of this Act as are a highway authority with respect to the exercise of the powers conferred on them by the said section forty-eight.

56.—(1) Where a person is liable by reason of tenure, enclosure or prescription to maintain a highway, a magistrates' court may, on a complaint made either by that person or by the highway authority for the highway, make an order that the liability of that person to maintain the highway shall be extinguished, and on the extinguishment of that liability the highway, if it is not then a highway maintainable at the public expense, shall become for the purposes of this Act a highway maintainable at the public expense.

Power of magistrates' court to extinguish liability to maintain privately maintainable highway.

(2) Where a complaint is made to a magistrates' court under this section by a person liable as aforesaid to maintain a highway—

- (a) the highway authority for the highway shall have a right to be heard by the court at the hearing of the complaint, and
- (b) the court shall not make an order on the complaint unless it is satisfied that not less than twenty-one days before the date on which the complaint is heard by the court the complainant gave notice to the highway authority for the highway of the making of the complaint and of the time and place at which it was to be heard by the court.

(3) Where by virtue of an order under this section the liability of a person to maintain a highway is extinguished, that person shall be liable to pay to the highway authority for the highway such sum as may be agreed between him and that authority or, in default of agreement, as may be determined by arbitration to represent the value to him of the extinguishment of his liability, and any sum payable by him under this subsection shall, at his option, be paid—

- (a) as a lump sum, or
- (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between him and that authority or, in default of agreement, as may be determined by arbitration.

(4) Any matter which by the last foregoing subsection is to be determined by arbitration shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the Minister.

(5) Nothing in this section shall affect any exemption from rating under section thirty-three of the Highway Act, 1835, or under any other enactment, as continued by section sixty-four of the Rating and Valuation Act, 1925, or section thirty-eight of the Local Government Act, 1929.

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—cont.

Extinguishment of liability to maintain privately maintainable highway diverted by order of magistrates' court.

57.—(1) Where a highway which a person is liable to maintain under a special enactment or by reason of tenure, enclosure or prescription is diverted in accordance with an order made under section one hundred and eight of this Act, the substituted highway shall become for the purposes of this Act a highway maintainable at the public expense, and the person liable as aforesaid to maintain the highway so diverted shall be liable to pay to the highway authority for the substituted highway such sum as may be agreed between him and that authority or, in default of agreement, as may be determined by arbitration to represent the value to him of the extinguishment of his liability, and any sum payable by him under this subsection shall, at his option, be paid—

- (a) as a lump sum, or
- (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between him and that authority or, in default of agreement, as may be determined by arbitration.

(2) Any matter which by the foregoing subsection is to be determined by arbitration shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the Minister.

Extinguishment of liability to maintain or improve bridges comprised in trunk roads and special roads.

58.—(1) Where a highway comprising a bridge becomes a trunk road, and the bridge is transferred to the Minister under this Act, then, if, immediately before the transfer, the bridge was not a highway maintainable at the public expense, any liability of the owners of the bridge for the maintenance or improvement thereof or of the highway carried thereby shall thereupon be extinguished.

(2) Where the liability of the owners of a bridge is extinguished under the foregoing subsection, the owners shall pay to the Minister such sum as may be agreed between them and the Minister or, in default of agreement, as may be determined by arbitration to represent the value to the owners of the extinguishment of their liability, and that sum shall, in so far as it exceeds any sum payable by the Minister to the owners under this Act, be paid, at the option of the owners—

- (a) as a lump sum, or
- (b) by annual instalments of such amount, and continuing for such number of years, as may be agreed between the owners and the Minister or, in default of agreement, as may be determined by arbitration, or
- (c) by perpetual annual payments of such amount as may be so agreed or determined.

(3) The foregoing provisions of this section shall apply where a highway comprising a bridge is included in the route prescribed by a scheme under section eleven of this Act authorising the provision of a special road by a local highway authority and the bridge is transferred to the special road authority as they apply where such a highway becomes a trunk road, and accordingly shall have effect as if for references therein to the Minister and to the trunk road there were substituted references to the special road authority and to the special road.

PART IV
—cont.

(4) In this section—

“bridge” includes so much of the approaches thereto as supports or protects the surface of the trunk road or special road;

“owners” in relation to a bridge, means the persons who, immediately before the transfer of the bridge to the Minister or the special road authority, were responsible for the maintenance thereof, and includes any persons who, in pursuance of any agreement with the persons so responsible, were then discharging that responsibility on their behalf.

Enforcement of liability for maintenance

59.—(1) After the commencement of this Act, no indictment shall be preferred in respect of neglect to maintain a highway.

Enforcement
of liability
to maintain
highway.

(2) A person (in this and the next following section referred to as “the complainant”) who alleges that a way or bridge—

(a) is a highway maintainable at the public expense or a highway which a person is liable to maintain under a special enactment or by reason of tenure, enclosure or prescription, and

(b) is out of repair,

may serve a notice on the highway authority or other person alleged to be liable to maintain the way or bridge (in this and the next following section referred to as “the respondent”) requiring the respondent to state whether he admits that the way or bridge is a highway and that he is liable to maintain it.

(3) If, within one month from the date of service on him of a notice under the last foregoing subsection, the respondent does not serve on the complainant a notice admitting both that the way or bridge in question is a highway and that the respondent is liable to maintain it, the complainant may apply to a court of quarter sessions for an order requiring the respondent, if the court finds that the way or bridge is a highway which the respondent is liable to maintain and is out of repair, to put it in proper repair within such reasonable period as may be specified in the order.

PART IV
—cont.

(4) If, within one month from the date of service on him of a notice under subsection (2) of this section, the respondent serves on the complainant a notice admitting both that the way or bridge in question is a highway and that the respondent is liable to maintain it, the complainant may, within six months from the date of service on him of that notice, apply to a magistrates' court for an order requiring the respondent, if the court finds that the highway is out of repair, to put it in proper repair within such reasonable period as may be specified in the order.

(5) A court, in determining under this section whether a highway is out of repair, shall not be required to view the highway unless it thinks fit, and such a view may be made by any two or more of the members of the court.

(6) Where an application under this section relates to a footpath or bridleway in respect of which a highway authority have made a certificate under section thirty of this Act, the court by whom the application is heard shall, in deciding whether the footpath or bridleway is out of repair, have regard to the provisions of subsection (3) of that section.

(7) If at the expiration of the period specified in an order made under subsection (3) or subsection (4) of this section a magistrates' court is satisfied that the highway to which the order relates has not been put in proper repair, then, unless the court thinks fit to extend the period, it shall by order authorise the complainant (if he has not the necessary power in that behalf) to carry out such works as may be necessary to put the highway in proper repair.

(8) Any expenses which a complainant reasonably incurs in carrying out works authorised by an order under the last foregoing subsection shall be recoverable from the respondent summarily as a civil debt.

(9) Where any expenses authorised by an order under subsection (7) of this section to be incurred in carrying out the works necessary to put a highway in proper repair are recovered from the respondent, then, if the respondent would have been entitled to recover from some other person the whole or part of the expenses of repairing the highway in question if he had repaired it himself, he shall be entitled to recover from that other person the whole or the like part, as the case may be, of the expenses recovered from him.

(10) Where an application is made under this section for an order requiring the respondent to put a highway maintainable at the public expense, being a footpath or bridleway, in proper repair and some other person is liable to maintain the highway under a special enactment or by reason of tenure, enclosure or

prescription, that other person shall have a right to be heard by the court which hears the application, but only on the question whether the highway is in proper repair.

PART IV
—cont.

60.—(1) An application to a court of quarter sessions for an order under the last foregoing section shall be made to a court of quarter sessions having jurisdiction in the county or borough in which the way or bridge to which the application relates is situated. Applications to quarter sessions under s. 59.

(2) The complainant for the order shall give notice in writing of the application to the clerk of the peace and the notice shall specify—

- (a) the situation of the way or bridge to which the application relates,
- (b) the name of the respondent,
- (c) the part of the way or bridge which is alleged to be out of repair, and
- (d) the nature of the alleged disrepair ;

and the complainant shall serve a copy of the notice on the respondent.

(3) The clerk of the peace shall enter the application and shall in due course give notice to the complainant and to the respondent of the date, time and place fixed for the hearing of the application.

(4) A court of quarter sessions may from time to time adjourn the hearing of any such application and may make such order as to costs to be paid by either party to the application as it thinks fit.

61.—(1) Where a person is liable under a special enactment or by reason of tenure, enclosure or prescription to maintain a footpath or bridleway, being in either case a highway maintainable at the public expense, and the highway authority for the highway repair it in performance of their duty to maintain it, they may, subject to subsection (3) of this section, recover the necessary expenses of doing so from that person in any court of competent jurisdiction. Further provisions for enforcement of liability to maintain privately maintainable highways.

(2) Where a person is liable as aforesaid to maintain a highway, not being such a footpath or bridleway as is referred to in the foregoing subsection, the highway authority for the highway may, if in their opinion the highway is not in proper repair, repair it and, subject to the next following subsection, recover the necessary expenses of doing so from that person in any court of competent jurisdiction.

PART IV
—cont.

(3) The right of recovery conferred by the foregoing provisions of this section shall not be exercisable—

- (a) in a case where a highway authority repair a footpath or bridleway in obedience to an order of a court made under section fifty-nine of this Act unless not less than twenty-one days before the date on which the application was heard by the court the authority gave notice to the person liable to maintain the path or way of the making of an application with respect to it and of the time and place at which the application was to be heard by the court, so however that the obligation to give notice to him imposed by this paragraph shall not operate if he was the person on whose application the order of the court was made ;
- (b) in any other case, unless the highway authority, before repairing the highway, have given notice to the person liable to maintain it that the highway is not in proper repair, specifying a reasonable time within which he may repair it, and he has failed to repair it within that time.

(4) Where a highway authority exercise a right of recovery under the foregoing provisions of this section from the person liable to maintain the highway in question, then, if that person would have been entitled to recover from some other person the whole or part of the expenses of repairing the highway if he had repaired it himself, he shall be entitled to recover from that other person the whole or the like part, as the case may be, of the expenses recovered from him by the highway authority.

Recovery by highway authorities, etc., of certain expenses incurred in maintaining highways

Recovery of expenses due to extraordinary traffic.

62.—(1) Where, in the case of a highway maintainable at the public expense, it appears to the highway authority for the highway, by a certificate of their surveyor, that, having regard to the average expense of maintaining the highway or other similar highways in the neighbourhood, extraordinary expenses have been or will be incurred by the authority in maintaining the highway by reason of the damage caused by excessive weight passing along the highway, or other extraordinary traffic thereon, the highway authority may recover from any person (in this section referred to as “the undertaker”) by or in consequence of whose order the traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the court having cognizance of the case to have been or to be likely to be

incurred by the highway authority by reason of the damage arising from the extraordinary traffic :

PART IV
—cont.

Provided that, if before traffic which may cause such damage commences the undertaker admits liability in respect of such traffic, the undertaker and the highway authority may agree for the payment by the undertaker to the highway authority of a sum by way of a composition of such liability, or either party may require that the sum to be so paid shall be determined by arbitration, and where a sum has been so agreed or determined as aforesaid the undertaker shall be liable to pay that sum to the highway authority, and shall not be liable to proceedings for the recovery of such expenses as aforesaid.

(2) The sums recoverable under this section shall be recoverable in the High Court, or, if the claim does not exceed five hundred pounds, in the county court in the district whereof the highway or any part thereof is situated :

Provided that proceedings for the recovery of any such sums shall be commenced within twelve months from the time at which the damage has been done, or, where the damage is the consequence of any particular building contract or work extending over a long period, shall be commenced not later than six months from the date of completion of the contract or work.

(3) References in this section to expenses incurred by a highway authority in maintaining a highway shall include references to expenses incurred by them in maintaining a cattle-grid provided for the highway under this Act, but this subsection shall not be construed as affecting the application of this section to a by-pass provided under this Act for use in connection with a cattle-grid.

(4) In the application of this section to highways for which the Minister is the highway authority the words in subsection (1) thereof " by a certificate of their surveyor " shall be omitted.

63.—(1) Where by reason of undertakers' works (other than works for purposes of a railway undertaking or a tramway undertaking) the use of a highway is restricted or prohibited under section forty-seven of the Road Traffic Act, 1930, or under any other enactment, and the traffic restricted or prohibited uses as an alternative route a highway of a lower classification, the person executing the works shall pay to the highway authority (if the latter highway is a highway maintainable at the public expense) or to the street managers (if it is not) an amount equal to any cost reasonably incurred by the authority or managers of—

Liability of certain persons for cost of use of alternative route where highway closed by reason of their works.

(a) strengthening the latter highway, in so far as the strengthening is done with a view to, and is necessary for, the use thereof by the traffic in question ; or

PART IV
—cont.

(b) making good any damage to the latter highway occurring in consequence of the use thereof by the traffic in question.

(2) For the purposes of the foregoing subsection the order of classification of highways, from higher to lower, shall be taken to be the following, that is to say, trunk roads, classified roads (in the order of the Classes I, II and III respectively subsisting at the commencement of this Act, or, if other classes are constituted thereafter, in such order as the Minister may declare) and highways being neither trunk roads nor classified roads.

(3) If any question arises, in relation to a claim made for a payment under subsection (1) of this section, whether the cost in respect of which the claim is made was in fact incurred, or was incurred in such circumstances as are mentioned in that subsection or in respect of works such as are therein mentioned, or as to the amount of any cost so incurred or whether any cost so incurred was reasonably incurred, the question shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

(4) The reference in this section to works for purposes of a railway undertaking or a tramway undertaking includes a reference to works executed primarily for those purposes but for other purposes also.

(5) In this section “classified road”, “railway”, “street managers”, “tramway” and “undertakers’ works” have the same meanings respectively as in the Public Utilities Street Works Act, 1950.

PART V

IMPROVEMENT OF HIGHWAYS

General power of improvement

General
power of
improvement.

64.—(1) The provisions of this Part of this Act shall have effect for the purpose of empowering or requiring highway authorities and other persons to improve highways.

(2) Without prejudice to the powers of improvement specifically conferred on highway authorities by the following provisions of this Part of this Act, any such authority shall have power to carry out, in relation to a highway maintainable at the public expense by them, any work (including the provision of equipment) for the improvement of the highway, other than work for lighting it:

Provided that, without prejudice to any enactment not contained in this Part of this Act, work of any of the following

descriptions shall be carried out only under the powers specifically conferred as aforesaid and not under this section, that is to say—

PART V
—cont.

- (a) the division of carriageways, provision of roundabouts and variation of the relative widths of carriageways and footways ;
- (b) the construction of cycle tracks ;
- (c) the provision of subways, refuges, pillars, walls, rails, fences or posts for the use or protection of persons using a highway ;
- (d) the construction and reconstruction of bridges and alteration of level of highways ;
- (e) the planting of trees, shrubs and other vegetation and laying out of grass verges ;
- (f) the provision, maintenance, alteration, improvement or other dealing with cattle-grids, by-passes, gates and other works for use in connection with cattle-grids ;
- (g) the execution of works for the purpose of draining a highway or of otherwise preventing surface water from flowing on to it.

(3) A highway authority may alter or remove any works executed by them under this section.

Dual carriageways, roundabouts and cycle tracks

65.—(1) A highway authority may, in relation to a highway maintainable at the public expense by them, being a highway which consists of or comprises a made-up carriageway, construct and maintain works in that carriageway—

Dual
carriageways
and
roundabouts.

- (a) along any length of the highway, for separating a part of the carriageway which is to be used by traffic moving in one direction from a part of the carriageway which is to be used (whether at all times or at particular times only) by traffic moving in the other direction ;
- (b) at cross roads or other junctions, for regulating the movement of traffic.

(2) The powers conferred by the foregoing subsection shall include power to light any such works as aforesaid, to pave, grass or otherwise cover them or any part of them, to erect pillars, walls, rails or fences on, around or across them or any part of them, and to plant on them trees, shrubs and other vegetation either for ornament or in the interests of safety.

(3) A highway authority may alter or remove any works constructed by them under this section.

(4) As respects any highway in a borough or urban district, being a highway for which the council of the borough or district

PART V
—cont.

are not the highway authority, and as respects any highway in a rural district, the powers of a highway authority under this section may be exercised with that authority's consent by the council of the borough or urban or rural district, as the case may be.

(5) In relation to any works done in the exercise of the powers conferred by the foregoing provisions of this section, being works to which, apart from this subsection, the provisions contained in Part II of the Public Utilities Street Works Act, 1950 (which regulate the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) would not apply, the said provisions shall apply as if the works were executed for road purposes by an authority mentioned in subsection (1) of section twenty-one of that Act and were included in the works mentioned in paragraph (a) of the said subsection (1).

Cycle tracks.

66.—(1) Without prejudice to section twenty-six of this Act, a highway authority may, in or by the side of a highway maintainable at the public expense by them, being a highway which consists of or comprises a made-up carriageway, construct a cycle track as part of the highway; and a highway authority may light any cycle track provided by them under this section.

(2) A highway authority may alter or remove a cycle track constructed by them under this section.

*Safety provisions*Footways and
guard-rails.

67.—(1) It shall be the duty of a highway authority to provide, in or by the side of a highway maintainable at the public expense by them, being a highway which consists of or comprises a made-up carriageway, a proper and sufficient footway as part of the highway in any case where they consider the provision thereof necessary or desirable for the safety or accommodation of pedestrians; and a highway authority may light any footway provided by them under this subsection.

(2) A highway authority may provide and maintain in a highway maintainable at the public expense by them, being a highway which consists of or comprises a carriageway, such raised paving, pillars, walls, rails or fences as they think necessary for the purpose of safeguarding persons using the highway.

(3) The powers conferred by the foregoing provisions of this section to provide any works shall include power to alter or remove them.

(4) As respects any highway in a borough or urban district, being a highway for which the council of the borough or district are not the highway authority, the powers of a highway authority

under subsection (2) of this section may be exercised with that authority's consent by the council of the borough or urban district, as the case may be.

PART V
—cont.

(5) As respects any highway in a rural district, the powers of a highway authority under subsection (2) of this section may be exercised with that authority's consent—

- (a) in the case of a highway for which the Minister is the highway authority, by the council of the rural district or by the council of the county comprising that district; and
- (b) in the case of any other highway, by the council of the rural district.

(6) A highway authority or council shall pay compensation to any person who has sustained damage by reason of the execution by them of works under subsection (2) of this section.

68.—(1) A highway authority may, in relation to a highway maintainable at the public expense by them, being a highway which consists of or comprises a made-up carriageway, construct and maintain works in that carriageway for providing places of refuge for the protection of pedestrians crossing the carriageway. Refuges.

(2) The provisions of subsections (2) to (5) of section sixty-five of this Act shall apply in relation to works mentioned in the foregoing subsection as they apply in relation to works mentioned in subsection (1) of that section.

69.—(1) For the purpose of protecting traffic along a highway to which this subsection applies from danger, or of making the crossing of it less dangerous to pedestrians, the highway authority for the highway may construct, light and maintain subways under the highway for the use of pedestrians, and may alter or remove any such subway and may close it temporarily. Subways.

This subsection applies to any highway in a borough or urban district and to any highway maintainable at the public expense in a rural district, being in any case a highway which consists of or comprises a made-up carriageway.

(2) As respects any highway in a borough or urban district, being a highway for which the council of the borough or district are not the highway authority, the powers of a highway authority under this section may be exercised with that authority's consent by the council of the borough or urban district, as the case may be.

PART V
—cont.

(3) Subsection (1) of this section shall have effect in relation to a road in a borough or urban district, being a road to which the public has access other than a highway, as if it were a highway to which that subsection applies and as if the council of the borough or urban district in which the road is situated were the highway authority therefor.

Margins for
horses and
livestock.

70.—(1) It shall be the duty of a highway authority to provide in or by the side of a highway maintainable at the public expense by them, being a highway which consists of or comprises a made-up carriageway, adequate grass or other margins as part of the highway in any case where they consider the provision thereof necessary or desirable for the safety or accommodation of ridden horses and driven livestock; and a highway authority may light a margin provided by them under this section.

(2) A highway authority may alter or remove a margin provided by them under this section.

*Widths*Widening of
highways.

71.—(1) A highway authority may widen any highway for which they are the highway authority and may for that purpose agree with a person having power in that behalf for the dedication of adjoining land as part of the highway.

(2) A local authority shall have the like power to enter into a public path creation agreement under section twenty-seven of this Act, or to make a public path creation order under section twenty-eight of this Act, for the purpose of securing the widening of an existing footpath or bridleway as they have for the purpose of securing the creation of a footpath or bridleway, and references in those sections and in section twenty-nine of this Act to the dedication or creation of a footpath or bridleway shall be construed accordingly.

(3) The council of a parish shall have the like power to enter into an agreement under section thirty-three of this Act for the purpose of securing the widening of an existing highway in the parish or an adjoining parish as they have for the purpose of securing the dedication of a highway, and references in that section to the dedication of a highway shall be construed accordingly.

Power to
prescribe
improvement
line for
widening
street.

72.—(1) Where in the opinion of a highway authority—

(a) a street, being a highway maintainable at the public expense by them, is narrow or inconvenient, or without any sufficiently regular boundary line, or

(b) it is necessary or desirable that such a street should be widened,

the authority may prescribe in relation to either one side or both sides of the street, or at or within a distance of fifteen yards from

any street corner, a line to which the street is to be widened (in this section referred to as an “improvement line”).

(2) Where an improvement line prescribed under this section in relation to any street is in force, then, subject to the next following subsection, no new building shall be erected, and no permanent excavation below the level of the street shall be made, nearer to the centre line of the street than the improvement line, except with the consent of the authority who prescribed the line, and the authority may give a consent for such period and subject to such conditions as they may deem expedient:

Provided that the prohibition imposed by this subsection shall not affect any right of statutory undertakers to make an excavation for the purpose of laying, altering, maintaining or renewing any main, pipe, electric line, cable, duct or other work or apparatus.

(3) Where an authority have prescribed an improvement line under this section, a person aggrieved by the decision to prescribe the line or by the refusal of consent under the last foregoing subsection or by the period for which the consent is given or any conditions attached thereto may appeal to a court of quarter sessions.

(4) Subject to the provisions of section fifteen of the Land Charges Act, 1925 (which provides that a local land charge shall be void as against a purchaser for money or money's worth unless registered under that section), a condition imposed in connection with the giving of a consent under subsection (2) of this section shall be binding on the successor in title to every owner, and on every lessee and every occupier, of any land to which it relates.

(5) If a person contravenes the provisions of this section, or any condition imposed in connection with the giving of a consent thereunder, he shall, without prejudice to any other proceedings which may be available against him, be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

(6) Where in the opinion of a highway authority an improvement line prescribed by them under this section, or any part of such a line, is no longer necessary or desirable and should be revoked, they may revoke the line or that part thereof.

(7) The Ninth Schedule to this Act shall have effect in relation to the prescription of an improvement line under this section and to the revocation of such a line or any part thereof.

PART V
—cont.

(8) Any person whose property is injuriously affected by the prescribing of an improvement line under this section shall, subject to the following provisions thereof, be entitled to recover from the authority who prescribed the line compensation for the injury sustained.

(9) A person shall not be entitled to compensation on account of any building erected, contract made, or other thing done, after the date on which a plan showing the improvement line was deposited in accordance with the provisions of paragraph 4 of the Ninth Schedule to this Act, not being work done for the purpose of finishing a building the erection of which had begun before that date, or of carrying out a contract made before that date.

(10) Nothing in this section shall, without the consent of the undertakers concerned, apply to or affect—

- (a) any property occupied or used by railway undertakers for the purposes of a railway comprised in the railway undertaking; or
- (b) any property belonging to any of the following undertakers and used by them for the following purposes respectively, that is to say, by canal undertakers for those of a canal comprised in the canal undertaking, by inland navigation undertakers for those of a navigation comprised in the inland navigation undertaking, by dock undertakers for those of a dock comprised in the dock undertaking, or by harbour undertakers for those of a harbour comprised in the harbour undertaking; or
- (c) any land used by gas undertakers for the manufacture or storage of gas, by electricity undertakers for the generation of electricity or by water undertakers as a pumping station or reservoir for water.

A consent required by this subsection shall not be unreasonably withheld, and any question arising under this subsection whether the withholding of a consent is unreasonable shall, except where the street in question is one for which the Minister is the highway authority, be determined by the Minister of Housing and Local Government.

(11) The provisions of the Land Charges Act, 1925, with respect to the registration of local land charges shall apply to any prohibition or restriction on the use of land or buildings imposed by the Minister by the prescription of an improvement line under this section or by virtue of any condition imposed by him in connection with the giving of a consent under subsection (2) of this section as if the prescription or condition were a local land charge, and any such prohibition or restriction shall be registered accordingly by the proper officer of the local authority within whose area the land to which it relates is situated.

(12) In this section "building" includes any erection of whatsoever material and in whatsoever manner constructed and any part of a building, and "new building" includes any addition to an existing building.

PART V
—cont.

73.—(1) Subject to the provisions of this section, a highway authority may prescribe, in relation to either one side or both sides of a highway maintainable at the public expense for which they are the highway authority, a frontage line for building (in this section referred to as a "building line"):

Power to
prescribe a
building line.

Provided that the Minister may by order direct as respects classified roads of any class specified in the order that no building line shall be prescribed under this section until notification of the building line proposed has been sent to him and his observations with respect thereto have been considered.

(2) Where a building line prescribed under this section in relation to any highway is in force, no new building, other than a boundary wall or fence, shall be erected, and no permanent excavation below the level of the highway shall be made, nearer to the centre line of the highway than the building line, except with the consent of the authority who prescribed the line, and the authority may give a consent for such period and subject to such conditions as they may deem expedient:

Provided that the prohibition imposed by this subsection shall not affect any right of light railway, tramway, electricity, gas or water undertakers to make an excavation for the purpose of laying, altering, maintaining or renewing any main, pipe, electric line, duct or other apparatus.

(3) Subject to the provisions of section fifteen of the Land Charges Act, 1925 (which provides that a local land charge shall be void as against a purchaser for money or money's worth unless registered under that section), a condition imposed in connection with the giving of a consent under the last foregoing subsection shall be binding on the successor in title to every owner, and on every lessee and every occupier, of any land to which it relates.

(4) If a person contravenes the provisions of this section, or any condition imposed in connection with the giving of a consent thereunder, he shall, without prejudice to any other proceedings which may be available against him, be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

PART V
—cont.

(5) Where in the opinion of a highway authority a building line prescribed by them under this section, or any part of such a line, is no longer necessary or desirable and should be revoked, they may revoke the line or that part thereof.

(6) The Ninth Schedule to this Act shall have effect in relation to the prescription of a building line under this section and to the revocation of such a line or any part thereof.

(7) Any person whose property is injuriously affected by the prescribing of a building line under this section shall, subject to the following provisions thereof, be entitled to recover from the authority who prescribed the line compensation for the injury sustained.

(8) A person shall not be entitled to compensation under the last foregoing subsection—

- (a) unless he made a claim within six months from the date on which the building line was prescribed or, if the claimant is a person to whom a notice of the prescribing of the line was required to be given by paragraph 7 of the Ninth Schedule to this Act, within six months from the date on which such a notice was given to him; or
- (b) on account of any thing done by him after the date on which a notice of the proposal to prescribe the line was served on him, not being a thing done for the purpose of finishing a building the erection of which had begun before that date, or of carrying out a contract made before that date.

(9) Any two or more authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred thereunder.

(10) Nothing in this section shall, without the consent of the undertakers concerned, apply to or affect—

- (a) any land belonging to any of the following undertakers, and held by them for the following purposes respectively, that is to say, by railway undertakers for those of a railway comprised in the railway undertaking, by canal undertakers for those of a canal comprised in the canal undertaking, by inland navigation undertakers for those of a navigation comprised in the inland navigation undertaking, by dock undertakers for those of a dock comprised in the dock undertaking, or by harbour undertakers for those of a harbour comprised in the harbour undertaking; or

- (b) any land used by gas undertakers for the manufacture or storage of gas, by electricity undertakers for the generation of electricity or by water undertakers as a pumping station or reservoir for water.

PART V
—*cont.*

A consent required by this subsection shall not be unreasonably withheld, and any question arising under this subsection whether the withholding of a consent is unreasonable shall, except where the highway in question is one for which the Minister is the highway authority, be determined by the Minister.

(11) The provisions of the Land Charges Act, 1925, with respect to the registration of local land charges shall apply to any prohibition or restriction on the use of land or buildings imposed by the Minister by the prescription of a building line under this section or by virtue of any condition imposed by him in connection with the giving of a consent under subsection (2) of this section as if the prescription or condition were a local land charge, and any such prohibition or restriction shall be registered accordingly by the proper officer of the local authority within whose area the land to which it relates is situated.

(12) In this section—

- “building” and “new building” have the same meanings respectively as in the last foregoing section ;
 “classified road” means a highway classified by the Minister under the Ministry of Transport Act, 1919 ;
 “light railway undertakers” means persons authorised by any enactment to carry on a light railway undertaking.

74.—(1) Where a building situated in a street, or the front thereof, has been taken down in order to be rebuilt or altered, the local authority in whose area the street is situated may, subject to the following provisions of this section, prescribe the line in which any building, or the front thereof, to be built or rebuilt in the same situation shall be erected, and that building, or the front thereof, shall be erected in accordance therewith.

Power to fix
frontage line
where building
is to be
rebuilt, etc.

(2) The council of a rural district shall not be entitled to exercise the powers conferred by the foregoing subsection unless this section applies in that district by virtue of section two hundred and ninety of this Act.

(3) A person aggrieved by a requirement of a local authority under this section may appeal to a court of quarter sessions.

(4) The authority shall pay compensation to the owner or other person immediately interested in the building for any loss or damage he may sustain in consequence of the building being set back or forward.

(5) This section shall not apply to a building belonging to railway undertakers and used by them for the purposes of a railway comprised in the railway undertaking.

PART V
—cont.
 Buildings in
 street not to
 be brought
 forward
 without
 consent.

75.—(1) It shall not be lawful in any borough or urban district, and, if this section applies in a rural district by virtue of section two hundred and ninety of this Act, it shall not be lawful in that rural district—

- (a) to erect or bring forward a building in a street, or any part of a building therein, beyond the front main wall of the building on either side thereof in the same street, or
- (b) to build any addition to a building beyond the front main wall of the building on either side thereof in the same street,

without the consent of the local authority in whose area the street is situated.

(2) A person aggrieved by the withholding of a consent required under this section may appeal to a court of quarter sessions.

(3) If a person contravenes the provisions of this section and, after receiving a notice from the local authority informing him of the contravention, continues to contravene it, he shall be guilty of an offence and shall be liable to a fine not exceeding forty shillings for each day on which the offence is continued after the day on which he received the notice.

(4) This section shall not apply to a building belonging to railway undertakers and used by them for the purposes of a railway comprised in the railway undertaking.

Variation of
 widths of
 carriageways
 and footways.

76.—(1) Where a highway maintainable at the public expense comprises both a footway or footways and a carriageway, the appropriate authority may vary the relative widths of the carriageway and of any footway.

(2) Not less than twenty-one days before commencing any work under this section which will materially reduce the width of the carriageway or a footway of a classified road the authority shall give notice of the proposed works to the Minister.

(3) Where any part of a highway is carried by a bridge over a railway, canal, inland navigation, dock or harbour or forms the approaches to such a bridge, the powers conferred by this section shall not be exercised in relation to that part without the consent of the railway, canal, inland navigation, dock or harbour undertakers concerned.

A consent required by this subsection shall not be unreasonably withheld, and any question arising under this subsection whether the withholding of a consent is unreasonable shall be determined by the Minister.

(4) In this section "the appropriate authority" means, in relation to a highway in a rural district, the council of the county in which the highway is situated, and, in relation to a highway in a borough or urban district, the council of the borough or district, as the case may be:

PART V
—cont.

Provided that a council shall not exercise a power conferred by subsection (1) of this section in relation to a highway for which they are not the highway authority without the consent of the highway authority therefor.

Levels

77. A highway authority may, in relation to a highway maintainable at the public expense by them, execute works for levelling the highway. Levelling of highways.

78.—(1) Without prejudice to their powers under the last foregoing section, a highway authority may raise or lower or otherwise alter, as they think fit, the level of a highway maintainable at the public expense by them. Alteration of levels.

(2) A highway authority shall pay compensation to any person who has sustained damage by reason of the execution by them of works under this section.

79. A highway authority may construct a bridge to carry a highway maintainable at the public expense: Construction of bridge to carry existing highway.

Provided that the Minister shall not construct such a bridge except with the approval of the Treasury.

Corners

80. A highway authority may, in relation to a highway maintainable at the public expense by them, execute works for cutting off the corners of the highway. Cutting off of corners.

81.—(1) Where, in the case of a highway maintainable at the public expense, the highway authority for the highway deem it necessary for the prevention of danger arising from obstruction to the view of persons using the highway to impose restrictions with respect to any land at or near any corner or bend in the highway or any junction of the highway with a road to which the public has access, the authority may, subject to the provisions of this section, serve a notice, together with a plan showing the land to which the notice relates,— Prevention of obstruction to view at corners.

- (a) on the owner or occupier of the land, directing him to alter any wall (not being a wall forming part of the structure of a permanent edifice), fence, hoarding, paling, tree, shrub or other vegetation thereon so as to cause it to conform with any requirements specified in the notice; or

PART V
—cont.

- (b) on every owner, lessee and occupier of the land, restraining them either absolutely or subject to such conditions as may be specified in the notice from causing or permitting any building, wall, fence, hoarding, paling, tree, shrub or other vegetation to be erected or planted on the land.

A notice under this subsection may at any time be withdrawn by the authority by whom it was given.

(2) A notice restraining the erection of any building on land shall not be served by a highway authority who are not the local authority for the area in which the land is situated, except with the consent of that authority.

(3) A copy of a notice under paragraph (a) of subsection (1) of this section shall be served on the owner or on the occupier of any land according as the notice was served on the occupier or on the owner thereof.

(4) A notice under paragraph (b) of subsection (1) of this section shall not prevent any owner, lessee or occupier of any land from executing or permitting the reconstruction or repair, in such manner as not to create any new obstruction to the view of persons using the adjacent highways, of any building which was on the land before the service of the notice.

(5) A restriction imposed by a notice under subsection (1) of this section shall come into force on the service of the notice and, while in force but subject to the provisions of section fifteen of the Land Charges Act, 1925 (which provides that a local land charge shall be void as against a purchaser for money or money's worth unless registered under that section), shall be binding on the successor in title to every owner, and on every lessee and every occupier, of the land to which it relates.

(6) A person on whom a notice has been served under subsection (1) of this section may, within fourteen days from the date of the receipt thereof by him, give notice to the authority by whom the notice was given objecting to any requirement specified therein, or to any restriction imposed thereby, and stating reasons for his objections, and thereupon the question whether the notice is to be withdrawn as respects any requirement or restriction objected to shall be determined, if the parties so agree, by a single arbitrator appointed by them and, in default of agreement, it shall be determined by a county court.

In determining a question under this subsection the arbitrator or court shall have power to order that the requirement or restriction objected to shall have effect subject to such modifications, if any, as the arbitrator or court may direct.

(7) A person on whom a notice is served under subsection (1) of this section shall have power, notwithstanding anything in

any conveyance, or in any lease or other agreement, to do all such things as may be necessary for complying with the requirements of the notice.

PART V
—cont.

(8) Subject to the provisions of this section, if a person on whom a notice has been served under subsection (1) thereof contravenes the provisions of the notice, he shall, without prejudice to any other proceedings which may be available against him, be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

(9) Any person sustaining loss in direct consequence of any requirement of a notice served under subsection (1) of this section, and any person who proves that his property is injuriously affected by restrictions imposed by a notice served thereunder, shall, if he makes a claim within six months from the date of service of the notice, be entitled to recover from the authority by whom the notice was served compensation for the injury sustained.

(10) A person on whom a notice is served under subsection (1) of this section shall be entitled to recover from the authority by whom the notice was served any expenses reasonably incurred by him in carrying out any directions contained in the notice.

If any question arises whether any expenses were reasonably incurred by any person in carrying out any directions contained in a notice served under the said subsection (1), it shall be determined, if the parties so agree, by a single arbitrator appointed by them and, in default of agreement, it shall be determined by a county court.

(11) Any two or more authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred thereunder.

(12) Nothing in this section shall—

- (a) authorise the service of a notice under this section with respect to any wall forming part of an ancient monument or other object of archaeological interest, except with the consent of the Minister of Works; or
- (b) apply with respect to a wall belonging to any of the following undertakers, that is to say, railway undertakers, canal undertakers, inland navigation undertakers, dock undertakers, or harbour undertakers, where the wall forms part of or is necessary for the maintenance of a

PART V
—cont.

railway comprised in the railway undertaking, a canal comprised in the canal undertaking, a navigation comprised in the inland navigation undertaking, a dock comprised in the dock undertaking, or a harbour comprised in the harbour undertaking.

(13) The provisions of the Land Charges Act, 1925, with respect to the registration of local land charges shall apply to any prohibition or restriction on the use of land or buildings imposed by the Minister by a notice served by him under this section as if the notice were a local land charge, and any such prohibition or restriction shall be registered accordingly by the proper officer of the local authority within whose area the land to which it relates is situated.

(14) In this section—

“building” includes any erection of whatsoever material and in whatsoever manner constructed, and any part of a building;

“wall” includes any partition of whatsoever material constructed, and any bank.

Trees, shrubs and verges

Powers of
highway
and local
authorities
to plant trees,
lay out grass
verges, etc.

82.—(1) Subject to the provisions of this section, a highway authority may, in a highway maintainable at the public expense by them, plant trees and shrubs and lay out grass verges, and may erect and maintain guards or fences and otherwise do anything expedient for the maintenance or protection of trees, shrubs and grass verges planted or laid out by them under this subsection.

A highway authority may alter or remove any grass verge laid out by them under this subsection and any guard, fence or other thing provided, for the purpose of maintenance or protection, by them thereunder.

(2) Subject to the following provisions of this section, a highway authority may exercise the like powers as are conferred by the foregoing subsection on any land acquired in exercise of powers conferred on them by subsection (2), subsection (5), or subsection (6) of section two hundred and fourteen of this Act, or by section two hundred and fifteen thereof, notwithstanding that the land does not form part of a highway.

(3) A local authority, if they are not the highway authority for a highway maintainable at the public expense in their area, may, with the consent of the highway authority therefor, exercise with respect to that highway any of the powers conferred by subsection (1) of this section on the highway authority.

(4) Subject to the restrictions for the time being imposed by any enactment on their expenditure, the council of a parish

may, with the consent of the highway authority for a highway maintainable at the public expense in the parish, exercise with respect to that highway any of the powers conferred by subsection (1) of this section on the highway authority.

PART V
—cont.

(5) No tree, shrub, grass verge, guard or fence shall be planted, laid out or erected under this section, or, if planted, laid out or erected thereunder, allowed to remain, in such a situation as to hinder the reasonable use of the highway by any person entitled to the use thereof, or so as to be a nuisance or injurious to the owner or occupier of premises adjacent to the highway.

(6) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person shall, unless his negligence caused the damage, be entitled to recover compensation therefor from the authority or parish council by whom the powers were exercised:

Provided that if that person by his negligence contributed to the damage the compensation shall be reduced accordingly.

(7) Any two or more highway authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred thereunder.

Lighting

83. If the Minister considers that a trunk road should be lighted or better lighted, he may enter into and carry into effect agreements with a person having power in that behalf for the supply for that purpose of gas, electricity or other means of lighting, and may provide such lamps, lamp-posts and other materials and apparatus as he thinks necessary for the purpose.

Power of
Minister to
light trunk
roads.

84.—(1) If the council of a county consider that a county road within the county should be lighted or better lighted, they may enter into and carry into effect agreements with a person having power in that behalf for the supply for that purpose of gas, electricity or other means of lighting, and may provide such lamps, lamp-posts and other materials and apparatus as they think necessary for the purpose.

Power of
county council
to light county
roads.

(2) Before exercising the power conferred on them by this section, a county council shall give notice to the street lighting authority specifying the road which in the opinion of the county council should be lighted or better lighted and any particular requirement in that behalf which in their opinion ought to be satisfied, and they shall not exercise the said power unless the street lighting authority have, within a reasonable time after receipt of the notice, failed to provide such lighting or better lighting as is requisite for the adequate lighting of the road, or to satisfy a reasonable requirement of the county council in that behalf.

PART V
—cont.

Any question arising under this subsection as to what lighting is adequate, or as to what length of time is reasonable, or whether a requirement is reasonable, shall be determined by the Minister.

(3) Where a county council incur expenses in a financial year in the exercise of the power conferred on them by this section, but none of the expenses is incurred in respect of any of the county roads in the area of a particular street lighting authority within the county, that street lighting authority, if they have in that year provided lighting for the county roads in their area, shall be entitled, on request to the county council, to receive from the county council the amount raised by the county council in the area of the street lighting authority in respect of the said expenses.

(4) Nothing in this section shall be construed as derogating from any power of lighting streets or highways exercisable by a street lighting authority.

(5) In this section “street lighting authority” means, as respects a county road, the council of the county district, or the parish council or parish meeting, according as the one or the other have power to light that road under the Public Health Act, 1875, the Parish Councils Act, 1957, or some other enactment.

Fences and boundaries

Power to
fence
highways.

85.—(1) Subject to the provisions of this section, a highway authority may erect and maintain fences or posts for the purpose of preventing access to—

- (a) a highway maintainable at the public expense by them,
- (b) land on which in accordance with plans made or approved by the Minister they are for the time being constructing or intending to construct a highway shown in the plans which is to be a highway so maintainable, or
- (c) land on which in pursuance of a scheme under section eleven of this Act, or of an order under section nine or section thirteen thereof, they are for the time being constructing or intending to construct a highway.

(2) A highway authority may alter or remove a fence or post erected by them under this section.

(3) The powers conferred by this section shall not be exercised so as to—

- (a) interfere with a fence or gate required for the purpose of agriculture; or
- (b) obstruct a public right of way; or

- (c) obstruct any means of access for the construction, formation or laying out of which planning permission has been granted under Part III of the Town and Country Planning Act, 1947; or
- (d) obstruct any means of access which was constructed, formed or laid out before the first day of July, nineteen hundred and forty-eight, unless it was constructed, formed or laid out in contravention of restrictions in force under section one or section two of the Restriction of Ribbon Development Act, 1935.
- (4) The powers conferred by this section may be exercised—
- (a) as respects a highway being a trunk road situated in a non-county borough or urban district which, immediately before it became a trunk road, was either a claimed county road or a highway other than a classified road, by the council of that borough or of that district, as the case may be, as well as by the Minister, and
- (b) as respects any other highway being a trunk road, by the council of the county or county borough in which that highway is situated as well as by the Minister.
- (5) The powers conferred by this section may be exercised—
- (a) as respects land on which in accordance with plans made by the Minister he is for the time being constructing or intending to construct a highway shown in the plans, being a trunk road, and
- (b) as respects land on which in pursuance of a scheme under section eleven of this Act the Minister is for the time being constructing or intending to construct a highway,

by the council of the county or county borough in which that land is as well as by the Minister.

86. A highway authority may erect and maintain, in a highway for which they are the highway authority, posts or stones to mark the boundary of the highway and may alter or remove any post or stone so erected by them.

PART V
—cont.

Provision of
highway
boundary
posts.

Cattle-grids

87.—(1) Where, whether on the representations of owners or occupiers of agricultural land or otherwise, and after such consultation with any such owners and occupiers as the highway authority consider requisite, it appears to the highway authority for a highway which consists of or comprises a carriageway expedient so to do for controlling the passage of animals along

Provision of
cattle-grids
and by-passes.

PART V
—cont.

the highway, the authority may, subject to the provisions of this section and sections eighty-eight to ninety-seven of this Act, provide for the highway, and maintain, a cattle-grid in the highway, or partly in the highway and partly in adjoining land.

(2) Where a highway authority provide a cattle-grid under this Act they shall also provide, either by means of a gate or other works on the highway or by means of a by-pass, or partly by one of those means and partly by the other, and maintain, facilities for the passage under proper control of animals and all other traffic unable to pass over the cattle-grid, being traffic entitled by law to go along the highway.

(3) The powers conferred by the foregoing provisions of this section do not include power to place any part of a cattle-grid in land not forming part of the highway and not belonging to the highway authority, or to provide a by-pass on land not belonging to the highway authority, except in so far as is authorised by any such agreement as is provided for by section ninety-two of this Act:

Provided that where after complying with the provisions of the Tenth Schedule to this Act the highway authority determine, as respects any common or waste land not forming part of the highway but adjoining the highway or adjacent thereto, that it is expedient so to do, the authority may place any part of a cattle-grid in, or provide a by-pass on, any of that land notwithstanding that it does not form part of the highway and does not belong to the authority.

(4) Without prejudice to the provisions of the last foregoing subsection, a highway authority shall not provide a by-pass along any part of a highway unless, after complying with the provisions of the Tenth Schedule to this Act, the authority determine that it is expedient so to do.

(5) In this Act—

“cattle-grid” means a device designed to prevent the passage of animals, or animals of any particular description, but to allow the passage of all or some other traffic, and includes any fence or other works necessary for securing the efficient operation of the said device ;
and

“by-pass”, in relation to a cattle-grid provided for a highway, means a way, over land not comprised within the limits of the highway, for the traffic for which the by-pass is provided, with a public right of way thereover—

(a) for that traffic, or

(b) if any part of the by-pass is provided along an existing highway, for the said traffic and for any other traffic entitled to use the highway before the by-pass was provided,

subject in either case to the limitation that there may be placed thereon any such gate or other works as may be necessary for the proper control of all or any of such traffic and the efficient operation of the cattle-grid for use in connection with which the by-pass is provided ;

and references in this Act to the provision or maintenance of a by-pass shall include references to the provision or maintenance of any such gate or other works.

(6) A highway authority shall have power to alter or improve—

- (a) a cattle-grid or by-pass provided under this Act for a highway for which they are the highway authority ;
- (b) any works provided for use in connection with such a cattle-grid or provided for the purposes of such a by-pass :

Provided that a highway authority shall not carry out any such alteration or improvement as aforesaid whereby traffic of a description which before the alteration or improvement could lawfully have gone along the highway (either by passing over the cattle-grid or by going through a gate or along a by-pass provided under subsection (2) of this section) will be prevented from so going along the highway.

88.—(1) Where it appears to a highway authority, after such consultation with such owners and such occupiers of agricultural land as the highway authority consider requisite, that a cattle-grid provided under this Act for a highway for which they are the highway authority is no longer required, the authority may remove the cattle-grid and any gate or other works on the highway which have been provided for use in connection therewith, making good the site thereof.

Removal of
cattle-grids and
discontinuance
of by-passes.

(2) Where a by-pass has been provided for use in connection with a cattle-grid and the highway authority remove the cattle-grid, they may direct that the by-pass shall be discontinued ; and—

- (a) if the direction so provides, then as from such date as may be specified in the direction the public right of way over the by-pass shall be extinguished ; and
- (b) in a case where a direction is given under this subsection, the authority may remove all or any of the works provided for the purposes of the by-pass.

PART V
—cont.

(3) Where a by-pass has been provided, as to the whole or any part thereof, along an existing highway, the following provisions shall have effect:—

- (a) notwithstanding anything in paragraph (a) of the last foregoing subsection, a direction under that subsection shall not extinguish any right of way which existed before the by-pass was provided;
- (b) if the cattle-grid for use in connection with which the by-pass was provided is removed, then as soon as may be thereafter the highway authority shall (whether or not they direct that the by-pass shall be discontinued, but without prejudice to their powers under paragraph (b) of the last foregoing subsection if they so direct) remove so much of the works provided for the purpose of the by-pass as obstructs the exercise of the right of way existing before the by-pass was provided.

Maintenance
of cattle-grids
and by-passes.

89.—(1) A cattle-grid provided under this Act for a highway, a gate or other works on a highway provided for use in connection with such a cattle-grid, and any works provided for the purposes of a by-pass provided under this Act, shall be maintainable by the highway authority for the highway; and they shall not be entitled to rely on any exemption from liability for non-repair available to a highway authority as the successor to the inhabitants at large.

(2) For the avoidance of doubt it is hereby declared that a by-pass provided under this Act shall, unless and until the highway authority give a direction discontinuing the by-pass, in all cases be a highway which for the purposes of this Act is a highway maintainable at the public expense for which that authority are the highway authority.

Exercise of
powers by
agreement
between
neighbouring
authorities.

90.—(1) In the case of a highway maintainable at the public expense which is intersected, joined or continued by a highway for which the highway authority are an authority other than the highway authority for the first-mentioned highway, the following provisions shall have effect.

(2) The highway authority for the first-mentioned highway and the other authority may enter into an agreement as to the exercise by the other authority of that authority's powers under sections eighty-seven and eighty-eight of this Act in relation to the highway for which they are the highway authority; and any such agreement may provide for the defraying by the highway authority for the first-mentioned highway of the whole or any part of the expenses incurred by the other authority in consequence of the agreement.

(3) The said other authority shall not unreasonably refuse to enter into an agreement under this section; and if any question arises as to the terms (including terms as to payments) to be included in such an agreement, or if any question arises whether the refusal of that authority to enter into such an agreement is unreasonable, the question shall be determined by arbitration.

PART V
—cont.

91.—(1) Where, after complying with the provisions of the Tenth Schedule to this Act, a highway authority providing or proposing to provide under section eighty-seven of this Act a cattle-grid in a highway, being a highway where any person has the right to instal a gate or gates, determine that the purpose for which that right is exercisable will be adequately achieved by the provision of the cattle-grid, the said right shall not be exercisable, so long as the cattle-grid is provided, except with the approval of the highway authority, and the highway authority may require that a gate or gates installed in the exercise of the said right before the provision of the cattle-grid shall be removed or may themselves remove any such gate or gates.

Supersession
of gates by
cattle-grids.

(2) The highway authority shall on demand repay any expenses reasonably incurred, in removing a gate in compliance with a requirement under this section.

(3) Where in pursuance of subsection (1) of this section a gate has been removed (whether by, or in compliance with a requirement of, the highway authority) and the highway authority subsequently remove the cattle-grid, then, if within twelve months from the date of the removal of the cattle-grid a person reinstals a gate in the exercise of a right of which the exercise was suspended while the cattle-grid was provided, the highway authority shall on demand repay the expenses reasonably incurred in reinstalling the gate.

(4) No objection shall be made or proceedings brought in respect of the purported exercise by a highway authority of their powers under subsection (1) of this section as respects a gate or gates on the ground that no right to instal the gate or gates existed; but the purported exercise by the authority of their powers under the said subsection (1) shall not affect the question whether any such right existed, or prejudice the powers of the highway authority or any other person under any enactment (including an enactment in this Act) or rule of law to protect public rights of way or to prevent or remove obstructions.

92.—(1) A highway authority may, for the purpose of providing, altering or improving a cattle-grid or by-pass under the powers conferred by this Part of this Act, enter into an agreement under this section with persons interested in any land for the use of the land for that purpose; and in particular there

Agreements
for use of land
for cattle-grids
or by-passes.

PART V
—cont.

shall be exercisable by the highway authority and the public such rights over the land as may be specified in the agreement.

(2) An agreement under this section may contain provisions for payment to persons who are parties thereto in consideration of the use of the land or otherwise in respect of their entering into the agreement.

(3) The provisions of an agreement under this section shall bind the interest of any person who is a party to the agreement notwithstanding any devolution of that interest, and shall also bind any interest of any person which is thereafter created (whether immediately or not) out of that interest; but save as aforesaid an agreement under this section shall not operate so as to prejudice the rights of a person not a party thereto or confer upon any other person any right against him.

(4) Section two of the Forestry Act, 1947 (which empowers tenants for life and other limited owners to enter into forestry dedication covenants), shall apply to an agreement under this section as it applies to such a covenant.

(5) As soon as may be after an agreement under this section has become operative—

(a) it shall be registered in the prescribed manner in the register of local land charges by the proper officer of the council of the county borough or county district in which the land, or any part of the land, is situated; and

(b) it shall be the duty of the highway authority to notify the making of the agreement to the proper officer of the council by whom the agreement is required to be registered as aforesaid, and to furnish him with all necessary information relating to the agreement.

The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this subsection, and in this subsection “prescribed” means prescribed by rules made in the exercise of that power.

Contributions
towards
expenditure
of highway
authorities.

93.—(1) A highway authority may enter into an agreement with a person at whose instance a cattle-grid has been or is to be provided by them under this Act, or any other person willing to make a contribution towards expenses of the authority under this Act in connection with a cattle-grid, for the making by the said person of such a contribution (whether by a single payment or by periodical payments) of such amount as may be specified in the agreement and either towards all such expenditure of the authority or towards such description of such expenditure as may be so specified.

(2) An agreement under this section may contain such incidental and consequential provisions as appear to the parties thereto expedient for the purposes of the agreement, and in particular such an agreement providing for a contribution towards the cost of installing a cattle-grid may provide for repayment of the contribution, to such extent as may be specified in the agreement, in the event of the cattle-grid being removed.

PART V
—cont.

(3) In determining whether or not to provide a cattle-grid, a highway authority shall be entitled to have regard to the extent to which persons who in the opinion of the authority will derive special benefit from the provision of the cattle-grid are willing to enter into agreements under this section.

94.—(1) Subsections (1) to (3) of section ten of this Act shall apply, as respects trunk roads, to the functions of the Minister under the foregoing provisions of this Part of this Act relating to cattle-grids, and to his functions under the Tenth Schedule to this Act in so far as they are conferred on him as highway authority.

Delegation
to certain
authorities
of functions
of Minister.

(2) Plant or materials belonging to a council to whom functions are delegated under this section may be used by them for the purposes of those functions, subject to the terms of the delegation.

95. The Minister may make regulations as to the construction or installation of cattle-grids, the provision of by-passes, and the construction of works for purposes connected therewith, and as to the illumination of cattle-grids, by-passes and works provided for those purposes; and in the exercise of their functions under section eighty-seven of this Act a highway authority shall comply with any regulations under this section for the time being in force.

Regulations
as to
construction
of cattle-grids,
etc.

In this section references to construction or provision include references to alteration and improvement and references to illumination shall include references to the provision of reflectors.

96.—(1) The Minister may make regulations authorising a highway authority, in any such case as may be determined by or under the regulations, to provide, for a highway which consists of or comprises a carriageway, being a highway where (in pursuance of the regulations or otherwise) a gate is or is to be provided, a cattle-grid off the highway.

Provision of
cattle-grids
off highway.

(2) As respects the provision of a cattle-grid as aforesaid, the provisions of this Act relating to cattle-grids shall apply subject to such exceptions, modifications and adaptations as may be provided by regulations under this section.

PART V
—cont.
Protection of
bridges and
railways.

97. A highway authority shall not, in the exercise of functions relating to cattle-grids conferred by this Part of this Act, carry out any work in—

- (a) so much of a highway as is carried by a bridge maintainable by a person other than the highway authority or so much of a highway as is comprised within the immediate approaches to such a bridge,
- (b) so much of a highway passing under such a bridge as is within ten feet of any part of the bridge or of the foundations thereof, or
- (c) so much (if any) of a highway passing above a tunnel provided for the purpose of a railway undertaking of railway undertakers as is within ten feet of any part of the tunnel,

except with the consent of the person liable to maintain the bridge or of the railway undertakers, as the case may be:

Provided that where that consent is withheld the highway authority may refer the matter to the Minister, and if, after affording to the highway authority and to the said person, or to the railway undertakers, as the case may be, an opportunity of being heard by a person appointed by the Minister for the purpose, and considering his report, the Minister so directs, the work may be carried out notwithstanding that the consent has been withheld but subject to compliance with any conditions which the Minister may impose.

Reconstruction, improvement, etc., of bridges

Reconstruction
of bridge
maintainable
at public
expense.

98. Without prejudice to any powers vested in them under this Part of this Act, a highway authority may reconstruct a bridge, being a highway maintainable at the public expense by them, either on the same site or on a new site within two hundred yards of the first-mentioned site.

Power to make
orders as to
reconstruction,
improvement,
etc., of
privately
maintainable
bridges.

99.—(1) If the owners of a bridge to which this section applies or a local highway authority entitled by virtue of section one hundred and one of this Act to exercise with respect to such a bridge the powers conferred by this section consider—

- (a) that the bridge is or may be, by reason of its construction, position, or state of repair, dangerous or unsuitable for the requirements of road traffic as then existing or the anticipated development thereof, or
- (b) that the responsibility for the maintenance and improvement of the highway carried by the bridge or of

the approaches thereto should for any reason be transferred from the owners to a highway authority,

PART V
—cont.

the owners or the authority may apply to the Minister for an order to provide for the reconstruction, improvement or maintenance of the bridge, or of the highway carried by the bridge, or of the approaches to the bridge.

(2) Where an application is made to the Minister under the foregoing subsection, he may, subject to the provisions of this section, make an order under this section, but, before making such an order, he shall consult the owners of the bridge and every local highway authority entitled to exercise with respect thereto the powers conferred by this section, and, if either the owners or any such local highway authority request him so to do, shall hold an inquiry.

(3) Subject to the provisions of this section, the Minister may by an order made under this section—

- (a) require the execution, either by the owners or by a highway authority, of such works of reconstruction or improvement as may be specified in the order ;
- (b) determine and direct by whom the bridge, the highway carried by the bridge and the approaches to the bridge shall be maintained ;
- (c) provide for the transfer to and vesting in a highway authority of the property in the bridge, or the highway carried by the bridge, or the approaches to the bridge, and of all or any rights and obligations attaching to the bridge, or to such highway or approaches ;
- (d) in the case of a swing bridge, determine and direct by whom and in what manner it shall be operated ;
- (e) modify, so far as he considers necessary for giving effect to the order, any statutory provisions applicable to the bridge other than the provisions of a public general Act ;
- (f) make such incidental, consequential and supplementary provisions, including provisions authorising the owners of the bridge or a highway authority to construct works which are necessary to enable them to comply with a requirement or direction contained in the order, as may appear to him to be necessary or proper for the purposes of the order.

(4) Subject to the provisions of this section, the Minister may, on his own initiative and without any such application as is referred to in subsection (1) of this section, make an order under this section with respect to a trunk road bridge if, on

PART V
—cont.

such grounds as are referred to in the said subsection (1), it seems to him fit and proper so to do, but, before making such an order, he shall consult the owners of the bridge (unless after diligent inquiry their names and addresses cannot be ascertained), and, if the owners request him so to do, shall hold an inquiry.

In relation to an order made under this section with respect to a trunk road bridge, paragraph (c) of the last foregoing subsection shall have effect with the substitution, for the reference to a highway authority, of a reference to the Minister.

(5) Subject to the provisions of subsection (8) of section one hundred and one of this Act, this section applies to any bridge (not being a highway maintainable at the public expense) which carries a highway consisting of or comprising a carriage-way over a railway, over a canal, river, creek, watercourse, marsh or other place where water flows or is collected or over a ravine or other depression, other than a bridge to which a right to levy tolls is attached.

(6) The Eleventh Schedule to this Act shall have effect in relation to the making and carrying out of orders under this section.

Powers of
highway
authorities and
bridge owners
to enter into
agreements.

100.—(1) A highway authority may agree with the owners of a bridge to which this section applies and with respect to which the highway authority are entitled by virtue of the next following section to exercise the powers conferred by this section—

- (a) for the payment by the highway authority of contributions towards the cost of the reconstruction, improvement or maintenance of the bridge, or of the highway carried by the bridge, or of the approaches to the bridge ;
- (b) for the transfer to the highway authority, on such terms as may be agreed, of the responsibility for the improvement and maintenance of the highway carried by the bridge, or of the approaches thereto ;
- (c) for the transfer to the highway authority, on such terms as may be agreed, of the property in the bridge, the highway carried by the bridge, and the approaches to the bridge, and of all or any rights and obligations attaching to the bridge, or to such highway or approaches ;

and it shall be lawful for the owners of the bridge, notwithstanding that the bridge was constructed under statutory powers, to enter into and carry into effect any such agreement.

(2) Subject to the provisions of subsection (8) of the next following section, this section applies to any bridge (not being

a highway maintainable at the public expense) which carries a highway consisting of or comprising a carriageway over a railway, over a canal, river, creek, watercourse, marsh or other place where water flows or is collected or over a ravine or other depression.

PART V
—cont.

(3) Where an agreement made under this section provides for the transfer to the highway authority of rights or obligations attaching to a bridge, then, as from the date of the transfer, it shall be lawful for the highway authority to exercise the rights transferred, and they shall, to the exclusion of the owners, be subject to the obligations so transferred.

101.—(1) The powers conferred by the last foregoing section on a highway authority shall, in the case of a trunk road bridge, be exercisable by the Minister. Supplemental provisions as to orders and agreements under ss. 99 and 100.

(2) The powers conferred by the two last foregoing sections on a highway authority or on a local highway authority shall be exercisable—

- (a) in the case of a bridge in a county borough, by the council of the borough;
- (b) in the case of a bridge in a rural district, by the council of the county in which the bridge is situated;
- (c) in the case of a bridge in a non-county borough or in an urban district,—
 - (i) if the highway at each end of the bridge is vested in the county council, by that council, and
 - (ii) if the highway at each end of the bridge is not so vested, either by the council of the county in which the bridge is situated, or by the council of the borough or urban district, or by those councils jointly:

Provided that no local highway authority shall be entitled to exercise the said powers with respect to a trunk road bridge.

(3) Where a bridge not being a trunk road bridge is situated partly in one area and partly in another, the powers conferred by the two last foregoing sections on a highway authority or on a local highway authority shall be exercisable by any council who could have exercised those powers if their area had included the whole of the bridge.

(4) For the purposes of the foregoing provisions of this section, the highway carried by a bridge, and the approaches to the bridge, shall be deemed to be part of the bridge.

(5) Where—

- (a) a bridge crossing a railway is owned by railway undertakers and the railway is leased to other such undertakers, or

PART V
—cont.

(b) a bridge crossing a canal is owned by canal undertakers and the canal is leased to other such undertakers, references in the two last foregoing sections and in this section to the owners of the bridge, railway or canal shall include references to those other undertakers.

(6) Nothing in the two last foregoing sections or in this section or in any order made under section ninety-nine of this Act shall be construed as authorising the stoppage of traffic on a canal without the consent of the owners thereof, and a highway authority carrying out works authorised by any of the said sections, or by any such order, with respect to a bridge crossing a canal shall take such steps as may be necessary to prevent, so far as practicable, interference with traffic on the canal :

Provided that the consent of the owners of the canal to the temporary stoppage of traffic thereon shall not be unreasonably withheld, and any question arising under this subsection whether the withholding of a consent is unreasonable shall be determined by the Minister.

(7) In the two last foregoing sections and in this section—

“approaches” in relation to a bridge, means approaches for the maintenance of which the owners of the bridge are responsible and which connect the bridge with a highway maintainable at the public expense ;

“trunk road bridge” means a bridge the highway over which is a trunk road, or partly a trunk road ;

“canal” includes inland navigation ;

and for the purposes of the said sections the towing path of a canal shall be deemed to form part of the canal.

(8) The two last foregoing sections and this section shall not apply to any bridge which crosses the Manchester Ship Canal and is owned by the Manchester Ship Canal Company.

Miscellaneous improvements

Metalling of highways.

102. A highway authority may, in relation to a highway maintainable at the public expense by them, execute works for the conversion of the highway into a metalled highway.

Drainage of highways.

103.—(1) The highway authority for a highway may, for the purpose of draining it or of otherwise preventing surface water from flowing on to it, do all or any of the following, that is to say—

(a) construct or lay, in the highway or in land adjoining or lying near to the highway, such ditches, gutters, drains, watercourses, bridges, culverts, tunnels or pipes as they consider necessary ;

- (b) erect barriers in the highway or in such land as aforesaid to divert surface water into or through any existing ditch, gutter, drain, watercourse, bridge, culvert, tunnel or pipe ;
- (c) scour, cleanse and keep open all ditches, gutters, drains or watercourses situated in the highway, or in such land as aforesaid.

(2) If the owner or occupier of any land, not being waste or common land, suffers damage by reason of the exercise by a highway authority of their powers under the foregoing subsection, the authority shall pay him compensation therefor.

(3) If a person, without the consent of the highway authority, alters, obstructs or interferes with a ditch, gutter, drain, watercourse, bridge, culvert, tunnel, pipe or barrier which has been constructed, laid or erected by the authority in exercise of their powers under subsection (1) of this section, or which is under their control, the authority may carry out any work of repair or reinstatement necessitated by his action and may recover the expenses reasonably incurred by them in so doing from him, and, without prejudice to their right to exercise that power, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding three times the amount of those expenses.

(4) Without prejudice to his powers under the foregoing provisions of this section, the Minister may, for the purpose of the drainage of a trunk road, exercise any powers exercisable by a local authority under the Public Health Act, 1936, for the purposes of the drainage of highways within the area of that authority.

(5) A person who is liable to maintain a highway by reason of tenure, enclosure or prescription shall, for the purpose of draining it, have the like powers as are conferred on a highway authority by subsection (1) of this section for that purpose, and subsections (2) and (3) of this section shall have effect in relation to a highway so maintainable as if references therein to a highway authority and to subsection (1) of this section included references to the person liable to maintain that highway and to this subsection respectively.

(6) In this section "owner," in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease the unexpired term whereof exceeds three years.

104. If, on the application of any person, it appears to a magistrates' court to be desirable for the convenience of users of any highway that a traffic sign be erected on or near the highway giving directions to places served by the highway the court may

Provision
of direction
signs.

PART V
—cont.

order the highway authority for the highway so to erect such a sign:

Provided that nothing in this section shall be taken to affect the power of the Minister under section forty-eight of the Road Traffic Act, 1930 (which makes provision with respect to traffic signs), to direct the removal of a traffic sign.

Provision of posts to indicate depth of flood water.

105.—(1) It shall be the duty of a highway authority to provide, in connection with any highway for which they are the highway authority, being a highway which is subject to flooding to any considerable depth, graduated posts or stones in any case where they consider the provision thereof necessary or desirable for the purpose of indicating the depth of water covering the highway.

(2) A highway authority may alter or remove any post or stone provided by them under this section.

Mitigating nuisance of dust.

106. A highway authority may, in relation to a highway maintainable at the public expense by them, treat the highway for mitigating the nuisance of dust.

Power to improve road-ferries.

107. A highway authority may improve any road-ferry provided by them under this Act.

PART VI

STOPPING UP AND DIVERSION OF HIGHWAYS

Power of magistrates' court to authorise the stopping up or diversion of a highway.

108.—(1) Subject to the provisions of this section, if it appears to a magistrates' court, after a view, if the court thinks fit, by any two or more of the justices composing the court, that a highway (not being a trunk road or a special road) as respects which the appropriate authority have made an application under this section—

(a) is unnecessary, or

(b) can be diverted so as to make it nearer or more commodious to the public,

the court may by order authorise it to be stopped up, or, as the case may be, to be so diverted.

(2) If an authority propose to make an application under this section for an order relating to a highway situated in a rural parish (not being a classified road) they shall give notice of the proposal to the council of the rural district which comprises the parish and to the parish council or, in the case of a parish not having a separate parish council, to the chairman of the parish meeting, and the application shall not be made if, within two months from the date of service of the notice by the authority, notice is given to the authority either by the council of the rural district or by the parish council or the chairman of the parish

meeting, as the case may be, that the council or meeting have refused to consent to the making of the application.

PART VI
—cont.

(3) An application under this section may be made, and an order thereunder may provide, for the stopping up or diversion of a highway for the purposes of all traffic, or subject to the reservation of a footpath or bridleway.

(4) An application or order made under this section may include two or more highways which are connected with each other.

(5) A magistrates' court shall not make an order under this section unless it is satisfied that the applicant authority have given the notices required by Part I of the Twelfth Schedule to this Act.

(6) On the hearing of an application under this section the applicant authority, any person to whom notice is required to be given under paragraph 1 of the said Twelfth Schedule, any person who uses the highway and any other person who would be aggrieved by the making of the order applied for, shall have a right to be heard.

(7) An order under this section authorising the diversion of a highway—

(a) shall not be made unless the written consent of the local planning authority (if not the applicants), and of every person having a legal interest in the land over which the highway is to be diverted, is produced to and deposited with the court; and

(b) except in so far as the carrying out of the diversion may necessitate temporary interference with the highway, shall not authorise the stopping up of any part of the highway until the new part to be substituted for the part to be stopped up (including, where a diversion falls to be carried out under orders of two different courts, any necessary continuation of the new part in the area of the other court) has been completed to the satisfaction of two justices of the peace acting for the same petty sessions area as the court by whom the order was made and a certificate to that effect signed by them has been transmitted to the clerk of the peace.

(8) Every order under this section shall have annexed thereto a plan signed by the chairman of the court and shall be transmitted by the clerk of the court to the clerk of the peace, together with any written consents produced to the court under subsection (7) of this section; and the clerk of the peace shall enrol any documents so transmitted to him, and any certificates transmitted to him under that subsection, among the records of quarter sessions.

PART VI
—cont.

(9) Part II of the Twelfth Schedule to this Act shall apply where, in pursuance of an order made under this section, a highway is stopped up or diverted, and, immediately before the order is made, there is under, in, upon, over, along or across the highway any apparatus belonging to or used by any statutory undertakers for the purpose of their undertaking.

(10) In this section “the appropriate authority” means—

- (a) in relation to a highway which is situated in a non-county borough or in an urban district and for which a county council are the highway authority, the council of the borough or district, as the case may be, acting with the consent of the county council; and
- (b) in relation to any other highway, the highway authority for the highway.

A consent required by this subsection shall not be unreasonably withheld and any question arising under this subsection whether the withholding of a consent is unreasonable shall be determined by the Minister.

Application for order under s. 108 by highway or local authority on behalf of other person.

109. A person who desires a highway to be stopped up or diverted, but who is not authorised to make an application under the last foregoing section for an order authorising the stopping up or, as the case may be, diversion of the highway, may request the highway authority or local authority who, by virtue of that section, are the appropriate authority in relation to the highway to make such an application as aforesaid, and if the authority grant the request they may, as a condition of making such an application, require him to make such provision for any costs to be incurred by them in connection with the matter as they deem reasonable.

Stopping up of footpaths and bridleways.

110.—(1) Where it appears to a local authority as respects a footpath or bridleway in their area (not being a trunk road or a special road) that it is expedient that the path or way should be stopped up on the ground that the path or way is not needed for public use, the authority may by order (in this Act referred to as a “public path extinguishment order”) made by them and submitted to and confirmed by the Minister of Housing and Local Government extinguish the public right of way over the path or way.

(2) The Minister of Housing and Local Government shall not confirm a public path extinguishment order unless he is satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to him that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way, account being

taken of the provisions as to compensation contained in section thirty-one of this Act as applied by subsection (2) of section one hundred and thirteen thereof.

PART VI
—cont.

(3) A public path extinguishment order shall be in such form as may be prescribed by regulations made by the Minister of Housing and Local Government, and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.

(4) The Seventh Schedule to this Act shall have effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.

(5) Where in accordance with regulations made under paragraph 3 of the said Seventh Schedule proceedings preliminary to the confirmation of a public path extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path creation order or of a public path diversion order made under the next following section then, in considering—

(a) under subsection (1) of this section whether the path or way to which the public path extinguishment order relates is needed for public use, or

(b) under subsection (2) of this section to what extent (if any) that path or way would apart from the order be likely to be used by the public,

the local authority or the Minister of Housing and Local Government, as the case may be, may have regard to the extent to which the public path creation order or the public path diversion order would provide an alternative path or way.

(6) For the purposes of subsections (1) and (2) of this section, any temporary circumstances preventing or diminishing the use of a path or way by the public shall be disregarded.

111.—(1) Where an owner, lessee or occupier of land crossed by a footpath or bridleway (not being a trunk road or a special road) satisfies the local authority in whose area the land is situated that for securing the efficient use of the land or of other land held therewith or providing a shorter or more commodious path or way it is expedient that the line of the path or way across his land, or part of that line, should be diverted (whether on to other land of his or on to land of another owner, lessee or occupier), the authority may by order (in this Act referred to as a “public path diversion order”) made by them and submitted to and confirmed by the Minister of Housing and Local Government—

Diversion of
footpaths and
bridleways.

(a) create, as from such date as may be specified in the order, any such new footpath or bridleway as appears to the authority requisite for effecting the diversion, and

PART VI
—cont.

(b) extinguish, as from such date as may be so specified in accordance with the provisions of the next following subsection, the public right of way over so much of the path or way as appears to the authority requisite as aforesaid:

Provided that—

- (i) the order shall not alter a point of termination of the path or way if that point is not on a highway, and
- (ii) the order shall not alter a point of termination of the path or way, being a point on a highway, otherwise than to another point on the same highway or a highway connected therewith, being a point substantially as convenient to the public.

(2) Where it appears to the authority that work requires to be done to provide necessary facilities for the convenient exercise of any such new public right of way as is mentioned in paragraph (a) of the foregoing subsection, the date specified under paragraph (b) of that subsection shall be later than the date specified under paragraph (a) thereof by such time as appears to the authority requisite for enabling the work to be carried out.

(3) A right of way created by a public path diversion order may either be unconditional or may (whether or not the right of way extinguished by the order was subject to limitations or conditions of any description) be subject to such limitations or conditions as may be specified in the order.

(4) Before determining to make a public path diversion order on the representation of an owner, lessee or occupier, the authority may require him to enter into an agreement with them to defray, or to make such contribution as may be specified in the agreement towards—

- (a) any compensation which may become payable under section thirty-one of this Act as applied by subsection (2) of section one hundred and thirteen thereof, or
- (b) where the authority are the highway authority for the path or way in question, any expenses which they may incur in bringing the new site of the path or way into a fit condition for use by the public, or
- (c) where the authority are not the highway authority, any expenses which may become recoverable from them by the highway authority under the provisions of subsection (4) of section thirty of this Act as applied by subsection (8) of this section.

(5) The Minister of Housing and Local Government shall not confirm a public path diversion order unless he is satisfied that the diversion to be effected thereby is expedient as mentioned in subsection (1) of this section, and further that the path

or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which—

PART VI
—cont.

- (a) the diversion would have on public enjoyment of the path or way as a whole,
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way, and
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held therewith,

so, however, that for the purposes of paragraphs (b) and (c) of this subsection the said Minister shall take into account the provisions as to compensation referred to in paragraph (a) of the last foregoing subsection.

(6) A public path diversion order shall be in such form as may be prescribed by regulations made by the Minister of Housing and Local Government, and shall contain a map, on such scale as may be so prescribed, showing the existing site of so much of the line of the path or way as is to be diverted by the order and the new site to which it is to be diverted, and indicating whether a new right of way is created by the order over the whole of the new site or whether some part thereof is already comprised in a footpath or bridleway and, in the latter case, defining the part thereof so comprised.

(7) The Seventh Schedule to this Act shall have effect as to the making, confirmation, validity and date of operation of public path diversion orders.

(8) The provisions of section thirty of this Act shall apply to a footpath or bridleway created by a public path diversion order with the substitution, for references to a public path creation order, of references to a public path diversion order, and, for references to subsection (3) of section twenty-nine of this Act, of references to subsection (5) of the next following section.

112.—(1) Subject to the following provisions of this section, the powers of making public path extinguishment orders and public path diversion orders conferred by the two last foregoing sections shall not be exercisable—

Exercise of powers of making public path extinguishment and diversion orders.

- (a) by the council of a rural district except with the consent of the council of the county comprising the district and, if the county council are not the local planning authority, the consent of that authority,
- (b) by the council of any other county district, except with the consent of the local planning authority,

PART VI
—cont.

- (c) by the council of a county borough, not being the local planning authority, except with the consent of that authority, and
- (d) by a council as respects a footpath or bridleway in a National Park, except after consultation with the National Parks Commission.

(2) Where a footpath or bridleway lies partly within and partly outside the area of a local authority, the powers conferred by the two last foregoing sections on the local authority shall extend to the whole of the path or way as if it lay wholly within their area :

Provided that, in relation to so much of the path or way as lies outside the area of the authority, the said powers shall not be exercisable—

- (a) as respects any part thereof in a rural district, except with the consent of the council of that district and of the council of the county comprising that district, and, if that county council are not the local planning authority, the consent of that authority,
- (b) as respects any part thereof in any other county district, except with the consent of the council of that district and the consent of the local planning authority, and
- (c) as respects any part thereof in a county borough, except with the consent of the council of the county borough and, if that council are not the local planning authority, the consent of that authority.

(3) The Minister of Housing and Local Government, on the application of the council of a county, may direct, either generally or as respects the stopping up or diversion of a particular footpath or bridleway, that the powers conferred by the two last foregoing sections or either of them (including those powers as extended by the last foregoing subsection) on the council of a county district specified in the direction, being a district in the county in question, shall be exercisable by the county council and shall not be exercisable by the council of the county district.

(4) A county council exercising a power by virtue of a direction under the last foregoing subsection shall consult the local planning authority, where that authority is a joint board, but shall not be required to obtain the consent of the board to the exercise of the power :

Provided that a county council shall not exercise any such power as aforesaid as respects so much of a footpath or bridleway as lies in another county except with the consent of the council of that county and, if the last mentioned council are not the local planning authority, the consent of that authority.

(5) Where it appears to the Minister of Housing and Local Government as respects a footpath or bridleway that it is expedient as mentioned in subsection (1) of section one hundred and ten of this Act that the path or way should be stopped up, or where an owner, lessee or occupier of land crossed by a footpath or bridleway satisfies the said Minister that a diversion thereof is expedient as mentioned in subsection (1) of the last foregoing section, then if—

- (a) the appropriate authority have not made and submitted to him a public path extinguishment order or a public path diversion order, as the case may be, and
- (b) the said Minister is satisfied that, if such an order were made and submitted to him, he would have power to confirm the order in accordance with the provisions in that behalf of the two last foregoing sections,

the said Minister, after consultation with the said authority, may direct the authority to make and submit to him a public path extinguishment order or a public path diversion order, as the case may be, or may himself make the order; and where the said Minister gives a direction under this subsection, the restrictions on the making of such an order imposed by the relevant provisions of this section, that is to say, subsection (1), or that subsection and the proviso to subsection (2), or the proviso to the last foregoing subsection, as the case may be, shall not apply.

(6) A council proposing to make a public path diversion order such that the authority who will be the highway authority for a part of the path or way after the diversion will be a different body from the authority who before the diversion are the highway authority for it shall, before making the order, notify the first mentioned authority.

(7) In this section “the appropriate authority”, in relation to the making of a public path extinguishment order or a public path diversion order, means the authority upon whom power to make the order (whether the power is exercisable with the consent of any other authority or not) is conferred by or under the relevant provisions of the two last foregoing sections and of subsections (2) and (3) of this section.

113.—(1) A public path extinguishment order or a public path diversion order affecting in any way the area of more than one authority may contain provisions requiring one of the authorities to defray, or contribute towards, expenses incurred in consequence of the order by another of the authorities; and a public path diversion order diverting a part of the line of a path or way from a site in the area of one local highway authority to a site in the area of another may provide that the first mentioned authority shall continue to be the highway authority for that part of the path or way after the diversion.

Supplementary provisions as to public path extinguishment and diversion orders.

PART VI
—cont.

(2) Section thirty-one of this Act shall apply in relation to public path extinguishment orders and public path diversion orders as it applies in relation to public path creation orders as if the references therein to subsection (3) of section twenty-nine of this Act were references to subsection (5) of the last foregoing section.

(3) Section thirty-two of this Act shall apply in relation to the making of public path extinguishment orders and public path diversion orders as it applies in relation to the making of public path creation agreements and public path creation orders.

(4) The Minister of Housing and Local Government shall not make or confirm a public path extinguishment order or a public path diversion order which extinguishes a right of way over land under, in, upon, over, along or across which there is any apparatus belonging to or used by any statutory undertakers for the purpose of their undertaking unless the undertakers have consented to the making or confirmation of the order, as the case may be; and any such consent may be given subject to the condition that there are included in the order such provisions for the protection of the undertakers as they may reasonably require.

The consent of statutory undertakers to any such order shall not be unreasonably withheld, and any question arising under this subsection whether the withholding of a consent is unreasonable or whether any requirement is reasonable shall be determined by the appropriate Minister.

(5) In the last foregoing subsection the “appropriate Minister” means—

- (a) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Minister of Power;
- (b) in relation to statutory undertakers carrying on an undertaking for the supply of water, the Minister of Housing and Local Government; and
- (c) in relation to any other statutory undertakers, the Minister.

Power to make
temporary
diversion
where
highway
about to be
repaired or
widened.

114.—(1) A highway authority who are about to repair or widen a highway, and a person who is about to repair or widen a highway maintainable by him by reason of tenure, enclosure or prescription, may, subject to the provisions of this section, construct on adjoining land a temporary highway for use while the work is in progress.

(2) Where any damage is sustained by the owner or occupier of any land in consequence of the construction of a highway on that land in exercise of a power conferred by this section

the owner or occupier of the land may recover compensation in respect of that damage from the authority or other person by whom the highway was constructed.

PART VI
—cont.

(3) Nothing in this section shall authorise interference with land which is part of the site of a house, or is a garden, lawn, yard, court, park, paddock, plantation, planted walk or avenue to a house, or is inclosed land set apart for building or as a nursery for trees.

115.—(1) The provisions of any enactment contained in this Part of this Act shall not prejudice any power conferred by any other enactment (whether contained in this Part of this Act or not) to stop up or divert a highway, and shall not otherwise affect the operation of any enactment not contained in this Part of this Act relating to the extinguishment, suspension, diversion or variation of public rights of way.

Saving and
interpretation.

(2) Unless the context otherwise requires, expressions in this Part of this Act, other than expressions to which meanings are assigned by sections two hundred and ninety-four and two hundred and ninety-five of this Act, have the same meanings respectively as in the Town and Country Planning Act, 1947.

PART VII

LAWFUL AND UNLAWFUL INTERFERENCE WITH HIGHWAYS AND STREETS

Protection of public rights

116.—(1) The Minister may assert and protect the rights of the public to the use and enjoyment of any trunk road, including any roadside waste which forms part of it.

Protection of
public rights.

(2) The council of a county or county borough may assert and protect the rights of the public to the use and enjoyment of any county road in the county or, as the case may be, of any highway in the borough, including any roadside waste which forms part of such a road or highway.

(3) Without prejudice to subsections (1) and (2) of this section, it shall be the duty of the council of a county district to assert and protect the rights of the public to the use and enjoyment of all highways in their district and to prevent, as far as possible, the stopping up or obstruction of those highways, and the duty imposed by this subsection on the council of a county district shall extend to a highway in an adjoining county district in the county in which their district is situated if, in the opinion of the council, the stopping up or obstruction

PART VII
—cont.

of that highway would be prejudicial to the interests of their district.

(4) Without prejudice to the foregoing provisions of this section, it shall be the duty of the council of a county district to prevent any unlawful encroachment on any roadside waste comprised in a highway within their district.

(5) Without prejudice to their powers under section two hundred and seventy-six of the Local Government Act, 1933, a council may, in the performance of their functions under the foregoing provisions of this section, institute or defend any legal proceedings and generally take such steps as they deem expedient.

(6) If the council of a parish, or, in the case of a rural parish not having a separate parish council, the parish meeting of the parish, represent to the council of the county district within which the parish is situated—

(a) that a highway, being one as to which the council of the county district have the duty imposed by subsection (3) of this section, has been unlawfully stopped up or obstructed, or

(b) that an unlawful encroachment has taken place on a roadside waste comprised in a highway within the county district,

it shall be the duty of the council of that district, unless satisfied that the allegations are incorrect, to take proper proceedings accordingly.

(7) Where a parish council or a parish meeting have made representations under the last foregoing subsection to the council of a county district, and the council of that district refuse or fail to take proper proceedings in consequence of those representations, the parish council or parish meeting by whom the representations were made may petition the council of the county in which the highway to which the representations relate is situated, and, if that council so resolve, the functions of the district council under this section, as respects the highway in connection with which the representations were made, shall be transferred to the county council.

(8) The provisions of subsection (1) of section sixty-three of the Local Government Act, 1894 (which makes provision for the case where the powers of a district council are by virtue of a resolution under that Act transferred to a county council), shall apply in relation to a resolution passed under the last foregoing subsection as if it were a resolution passed under that Act.

(9) Any proceedings or steps taken by a council in relation to an alleged right of way shall not be treated as unauthorised by reason only that the alleged right is found not to exist.

Damage to highways, streets, etc.

PART VII

—cont.

- 117.**—(1) If a person, without lawful authority or excuse,—
- (a) makes a ditch or excavation in a highway which consists of or comprises a carriageway, or
 - (b) removes any soil or turf from any part of a highway, except for the purpose of improving the highway and with the consent of the highway authority for the highway, or
 - (c) deposits anything whatsoever on a highway so as to damage the highway, or
 - (d) lights any fire, or discharges any firearm or firework, within fifty feet from the centre of a highway which consists of or comprises a carriageway, and in consequence thereof the highway is damaged, or
 - (e) in any other manner wilfully damages a highway, any part of an embankment supporting a highway, any part of a bank which flanks a highway or any retaining wall or flank wall belonging to a highway,

Penalty for
damaging
highway, etc.

he shall be guilty of an offence.

- (2) If a person, without lawful authority or excuse,—

- (a) wilfully damages a post, rail, wall or fence erected on or by the side of a highway, or a tree, hedge or shrub, or grass, planted or laid out in a highway, or
- (b) wilfully destroys or damages a cattle-grid provided under this Act, a gate or other works on a highway for use in connection with such a cattle-grid, or a gate or other works for the proper control of traffic passing over a by-pass for use in connection with such a cattle-grid, or
- (c) pulls down, damages or obliterates a traffic sign placed on or near a highway, or a milestone or direction post (not being a traffic sign) so placed,

he shall be guilty of an offence:

Provided that it shall be a defence in any proceedings brought under paragraph (c) of this subsection to show that the traffic sign, milestone or post was not lawfully so placed.

- (3) A person guilty of an offence under this section shall be liable in respect thereof to a fine not exceeding forty shillings.

118.—(1) If the footway of a street, being a highway maintainable at the public expense, is damaged by or in consequence of any excavation or other work on land adjoining the street, the highway authority for the highway may, subject to the following subsection, make good the damage and recover the expenses reasonably incurred by them in so doing from the owner of

Damage
to footways
of streets by
excavations.

PART VII
—cont.

the land in question or the person causing or responsible for the damage.

(2) The powers conferred by this section shall not be exercisable by a highway authority, being the council of a borough or of an urban district, unless this section applies in the borough or district, as the case may be, by virtue of section two hundred and ninety of this Act.

Ploughing of
footpath or
bridleway.

119.—(1) Where a footpath or bridleway crosses agricultural land or land which is being brought into use for agriculture, then, if—

- (a) it is proposed in accordance with the rules of good husbandry to plough the land, and
- (b) it is convenient, in so ploughing the land, to plough the path or way together with the rest of the land,

the public right of way shall be subject to the condition that the occupier shall have the right, subject to the following provisions of this section, to plough the path or way as well as the rest of the land.

(2) Before ploughing a footpath or bridleway in the exercise of the right conferred by the foregoing subsection the occupier shall give to the highway authority for the path or way not less than seven days' notice of his intention to plough it.

(3) Where a footpath or bridleway is ploughed in the exercise of the said right the occupier of the land shall as soon as may be after the ploughing is completed make good the surface of the path or way so as to make it reasonably convenient for the exercise of the public right of way.

(4) A person who fails to comply with the foregoing provisions of this section shall be guilty of an offence and shall be liable in respect thereof—

- (a) in the case of a failure to comply with the provisions of subsection (2) of this section, to a fine not exceeding forty shillings;
- (b) in the case of a failure to comply with the provisions of the last foregoing subsection, to a fine not exceeding ten pounds;

and where a person is convicted of the offence of failing to comply with the provisions of the last foregoing subsection and the offence in respect of which he was convicted is continued after the conviction he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding twenty shillings for each day on which the offence is so continued.

(5) It shall be the duty of a highway authority to enforce the provisions of subsections (2) to (4) of this section as respects any footpath or bridleway for which they are the highway

authority; and no proceedings in respect of an offence under those provisions shall be brought except by the authority required by this subsection to enforce those provisions as respects the path or way in question.

PART VII
—cont.

(6) Nothing in the provisions of this section shall prejudice any limitation or condition having effect apart from those provisions.

120.—(1) If a highway which consists of or comprises a carriageway is being damaged in consequence of the exclusion therefrom of the sun and wind by a hedge or tree (other than a tree planted for ornament or for shelter to a building, courtyard or hop ground), a magistrates' court may, on a complaint made by the highway authority for the highway, or, in the case of a highway maintainable by reason of tenure, enclosure or prescription, by the person liable to maintain the highway, by order require the owner or occupier of the land on which the hedge or tree is growing, so to cut, prune or plash the hedge or prune or lop the tree as to remove the cause of damage.

Damage to highway consequent on exclusion of sun and wind.

(2) If a person against whom an order under the foregoing subsection is made fails to comply with it within ten days from such date as may be specified in the order, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding forty shillings, and the highway authority or other person on whose complaint the order was made may carry out the work required by the order and may recover the expenses reasonably incurred by them or him in so doing from the person in default.

(3) No person shall be required by an order made under this section, nor shall any person be permitted by the last foregoing subsection, to cut or prune a hedge at any time except between the last day of September and the first day of April.

(4) If it appears to the highway authority for a highway to which this subsection applies that the highway is being damaged in consequence of the exclusion therefrom of the sun and wind by a tree or hedge or other vegetation growing in or near the highway, the highway authority may, at any time, with the consent of the owner and occupier of the land on which it is growing, prune or lop the tree or cut, prune or plash the hedge or other vegetation.

This subsection applies to any highway, being a trunk road or a county road (other than a claimed county road), situated in any of the following counties, that is to say, Wilts, Dorset, Somerset, Devon and Cornwall.

PART VII
—cont.*Obstruction of highways and streets*

Penalty for wilful obstruction.

121.—(1) If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding forty shillings.

(2) A constable may arrest without warrant any person whom he sees committing an offence against this section.

Penalty for erecting building, etc., in or near highway.

122. If a person, without lawful authority or excuse, erects a building or fence, or plants a hedge, in a highway which consists of or comprises a carriageway he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding forty shillings.

Restriction on planting of trees, etc., in or near carriageway.

123.—(1) Subject to the provisions of sections sixty-five and eighty-two of this Act, no tree or shrub shall be planted in a made-up carriageway, or within fifteen feet from the centre of a made-up carriageway.

(2) If a tree or shrub is planted in contravention of this section, the highway authority for the highway, or, in the case of a highway maintainable by reason of tenure, enclosure or prescription, the person liable to maintain the highway, may, by notice given either to the owner or to the occupier of the land in which the tree or shrub is planted, require him to remove it within twenty-one days from the date of service of the notice.

(3) If a person fails to comply with a notice given under the last foregoing subsection he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding ten shillings, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding ten shillings for each day on which the offence is so continued.

Power to remove structures from highways.

124.—(1) Where a structure has been erected or set up on a highway otherwise than under a provision of this Act or some other enactment, the highway authority for the highway may by notice require the person having control or possession of the structure to remove it within such time as may be specified in the notice.

(2) Where a local highway authority serve a notice under this section, the person on whom the notice is served may, within one month from the date of service of the notice, appeal to the Minister, and, if it is shown to the satisfaction of the Minister that the removal of the structure within the time specified in the notice would cause undue hardship to any person, the Minister may extend the time by such period as he thinks just.

(3) If a structure in respect of which a notice has been served under this section is not removed within the time specified in the notice, or, in a case where the Minister has under the last foregoing subsection extended the time so specified, within the time as so extended, the highway authority may remove the structure and recover the expenses reasonably incurred by them in so doing from the person having control or possession of the structure :

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—cont.

Provided that the power of the highway authority under this subsection shall not be exercised until the expiration of one month from the date of service of the notice or, if an appeal has been made to the Minister against the notice, until after the appeal has been determined.

(4) In this section “ structure ” includes any machine, pump, post or other object of such a nature as to be capable of causing obstruction, and a structure may be treated for the purposes of this section as having been erected or set up notwithstanding that it is on wheels.

125.—(1) Where there is a gate of less than the minimum width across so much of a highway as consists of a carriageway, or across a highway being a bridleway, the highway authority for the highway may by notice to the owner of the gate require him to enlarge the gate to that width or remove it.

Powers as to
gates across
highways.

In this subsection “ the minimum width ” means, in relation to a gate across so much of a highway as consists of a carriageway, ten feet, and, in relation to a gate across a bridleway, five feet, measured in either case between the posts of the gate.

(2) If a person on whom a notice under the foregoing subsection is served fails to comply, within twenty-one days from the date of service of the notice on him, with a requirement of the notice, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding ten shillings for each day during which the failure continues.

126.—(1) Where the owner, lessee or occupier of agricultural land, or of land which is being brought into use for agriculture, represents to the highway authority for a footpath or bridleway which crosses the land, that, for securing that the use, or any particular use, of the land for agriculture shall be efficiently carried on, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on the path or way, the highway authority may, subject to such conditions as they may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public, authorise the erection of the stiles, gates or other works.

Power to
authorise
erection of
stiles, etc., in
footpath or
bridleway.

PART VII
—cont.

(2) If, on a representation duly made under the foregoing subsection, the highway authority refuse to grant an authorisation thereunder, or grant such an authorisation subject to conditions, the person who made the representation may appeal to the Minister of Housing and Local Government against the refusal or against the imposition of the conditions, as the case may be; and if the said Minister, after giving to the appellant and to the highway authority an opportunity of being heard by a person appointed by him for the purpose and considering the report of that person, determines to allow the appeal, he shall—

- (a) if the appeal was against a refusal, authorise the erection of the stiles, gates or other works in question, subject to such conditions as he may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public;
- (b) if the appeal was against the imposition of conditions, direct that the authorisation granted by the highway authority shall, as may be specified in the direction, have effect either unconditionally or subject to such modified conditions as may be so specified.

(3) Where in the case of a footpath or bridleway an authorisation is granted by the highway authority under subsection (1) of this section or by the Minister of Housing and Local Government under the last foregoing subsection, the public right of way shall be deemed to be subject to a condition that the stiles, gates or works may be erected and maintained in accordance with the authorisation and so long as the conditions attached thereto are complied with.

(4) For the purposes of section one hundred and twenty-four of this Act, any stile, gate or works erected in pursuance of an authorisation under subsection (1) or subsection (2) of this section shall be deemed to be erected under this section only if the provisions of the authorisation and any conditions attached thereto are complied with.

(5) Nothing in the provisions of this section shall prejudice any limitation or condition having effect apart from those provisions.

Penalty for depositing things, or pitching booths, etc., on highway.

127. If, without lawful authority or excuse,—

- (a) a person deposits on a made-up carriageway, or on any highway which consists of or comprises a made-up carriageway within fifteen feet from the centre of that carriageway, any dung, compost or other material for dressing land, or any rubbish, or
 - (b) a person deposits any thing whatsoever on a highway to the interruption of any user of the highway, or
 - (c) a hawker or other itinerant trader or a gipsy pitches a booth, stall or stand, or encamps, on a highway,
- he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding forty shillings.

128.—(1) If any thing is so deposited on a highway as to constitute a nuisance, the highway authority for the highway may by notice require the person who deposited it there to remove it forthwith and, if he fails to comply with the notice, the authority may make a complaint to a magistrates' court for an order under this section.

PART VII
—cont.
Removal of things so deposited on highways as to be a nuisance.

(2) A magistrates' court may, on a complaint made under this section, make an order authorising the complainant authority to remove the thing in question and to dispose of it and, after payment out of any proceeds arising therefrom of the expenses incurred in the removal and disposal, to apply the balance, if any, of the proceeds to the maintenance of highways maintainable at the public expense by them.

(3) If the thing in question is not of sufficient value to defray the expenses of removing it, the authority may recover from the person who deposited it on the highway the expenses, or the balance of the expenses, reasonably incurred by them in removing it.

(4) A magistrates' court composed of a single justice may hear a complaint under this section.

129.—(1) If an obstruction arises in a highway from accumulation of snow or from the falling down of banks on the side of the highway, or from any other cause, the highway authority for the highway shall cause the obstruction to be removed from time to time, and within twenty-four hours from the date of service of a notice from a justice of the peace acting for the petty sessions area in which the highway is situated requiring the removal of the obstruction.

Duty to remove snow, soil, etc., which has fallen on highway.

(2) A person liable to maintain a highway by reason of tenure, enclosure or prescription shall be subject to the like duty to remove any obstruction arising in that highway from any cause specified in the foregoing subsection as is imposed by that subsection on the highway authority for the highway.

(3) A highway authority or other person who fails to comply with the foregoing provisions of this section shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds.

130.—(1) The appropriate authority may, by notice to the owner or occupier of any land adjoining a street, being a highway maintainable at the public expense, require him, within twenty-eight days from the date of service of the notice, to execute such works as will prevent soil or refuse from that land from falling, or being washed or carried, on to the street or into any sewer or gully in it in such quantities as to obstruct the street or choke the sewer or gully.

Prevention of soil, etc., being washed into street.

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—cont.

(2) A person aggrieved by a requirement of an authority under this section may appeal to a magistrates' court.

(3) Subject to any order made on appeal, if a person on whom a notice is served under this section fails to comply with the notice within the period specified in subsection (1) of this section, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding twenty shillings for each day on which the offence is so continued.

(4) In this section "the appropriate authority" means—

(a) in relation to a street in a borough or in an urban district, either the highway authority for the street or the council of the borough or district, as the case may be ;

(b) in relation to a street in a rural district, either the highway authority for the street or the council of the county in which it is situated.

Powers as to
removal of
projections
from buildings.

131.—(1) The appropriate authority may by notice to the occupier of any building in their area require him to remove or alter any porch, shed, projecting window, step, cellar, cellar door, cellar window, sign, signpost, sign iron, show-board, window shutter, wall, gate, fence or other obstruction or projection which has been erected or placed after the material date against or in front of the building and is an obstruction to safe or convenient passage along a street.

(2) A notice under the foregoing subsection may, at the option of the authority, be served on the owner of the building in question instead of on the occupier or may be served on both the owner and the occupier of that building.

(3) A person aggrieved by a requirement of an authority under subsection (1) of this section may appeal to a magistrates' court.

(4) Subject to any order made on appeal, if a person on whom a notice under subsection (1) of this section is served fails to comply, within fourteen days from the date of service of the notice on him, with a requirement of the notice, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding forty shillings.

(5) Where an authority have served a notice under subsection (1) of this section on any person and he is guilty of an offence by reason of his failure to comply with a requirement of the notice within the time specified in the last foregoing subsection

then, whether or not proceedings are taken against him in respect of the offence, the authority may remove the obstruction or projection to which the notice relates and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the building to which the notice relates if, in either case, he is a person on whom the notice was served.

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—cont.

(6) If any such obstruction or projection as aforesaid was erected or placed before the material date against or in front of a building in a street, the appropriate authority may, on the expiration of thirty days from the date of service on either the owner or the occupier of the building of a notice of their intention so to do, remove or alter the obstruction or projection as they think fit, and, if the obstruction or projection was lawfully erected or placed, the authority shall pay reasonable compensation to every person who suffers damage by reason of its removal or alteration.

(7) Subject to subsection (10) of this section, a projection which is erected or placed against or in front of a building, and which by reason of its being insecurely fixed or of defective construction or otherwise is a source of danger to persons lawfully using a street, shall be deemed for the purposes of this section to be an obstruction to safe or convenient passage along the street.

(8) The Thirteenth Schedule to this Act shall apply in relation to any sum paid by an occupier of premises in complying with a requirement of an authority under subsection (1) of this section or, where the requirement was not complied with, in reimbursing the authority for expenses reasonably incurred by them under subsection (5) thereof:

Provided that the said Thirteenth Schedule shall not so apply if the requirement was made in connection with an obstruction or projection erected or placed by that occupier.

(9) In this section—

“the appropriate authority” means the local authority in whose area the street is situated and, where the street is a highway, includes the highway authority therefor;

“the material date” means the date when section sixty-nine of the Towns Improvement Clauses Act, 1847, first applied in the area in which the building in question is situated.

(10) Subsection (7) of this section shall have effect in relation to a building situated in a street in a rural district which is a trunk road but except as aforesaid it shall not have effect in relation to a building situated in a rural district unless it applies in that district by virtue of section two hundred and ninety of this Act.

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—cont.

Doors, etc.,
not to be put
up in streets
so as to open
outwards.

132.—(1) A door, gate or bar which is put up on any premises in a borough or urban district, or in a rural district in which this section applies by virtue of section two hundred and ninety of this Act, and which opens on a street, shall be so put up as not to open outwards unless, in the case of a door, gate or bar which is put up on a public building, the council of the borough or district in which the building is situated consent to its being otherwise put up.

(2) Where a door, gate or bar is put up on any premises in contravention of the foregoing subsection, the council of the borough or district in which the premises are situated may, by notice to the occupier thereof, require him to alter, so as not to open outwards, the door, gate or bar.

(3) A notice under the last foregoing subsection may, at the option of the local authority, be served on the owner of the premises in question instead of on the occupier or may be served on both the owner and the occupier of those premises.

(4) A person aggrieved by the refusal of a consent under subsection (1) of this section, or by a requirement of a local authority under subsection (2) thereof, may appeal to a magistrates' court.

(5) Subject to any order made on appeal, if a person on whom a notice under subsection (2) of this section is served fails to comply, within eight days from the date of service of the notice on him, with a requirement of the notice, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding forty shillings.

(6) Where a local authority have served a notice under subsection (2) of this section on any person and he is guilty of an offence by reason of his failure to comply with a requirement of the notice within the time specified in subsection (5) of this section, then, whether or not proceedings are taken against him in respect of the offence, the authority may do the work required by the notice and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the premises to which the notice relates if, in either case, he is a person on whom the notice was served.

(7) Where this section applies in a rural district by virtue of an order made after the commencement of this Act under section two hundred and ninety of this Act, and a door, gate or bar was put up on premises situated in that district before the date of the coming into operation of the order, then, subject to the provisions of this section, the council of the district may, after the expiration of eight days from the date of service on either the owner or the occupier of the premises of a notice of their intention so to do, alter, so as not to open outwards, the door, gate or bar.

(8) The Thirteenth Schedule to this Act shall apply in relation to any sum paid by an occupier of premises in complying with a requirement of a local authority under subsection (2) of this section or, where the requirement was not complied with, in reimbursing the authority for expenses reasonably incurred by them under subsection (6) thereof:

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—cont.

Provided that the said Thirteenth Schedule shall not so apply if the requirement was made in connection with a door, gate or bar put up by that occupier.

133.—(1) Byelaws prohibiting gates opening outwards on highways may be made by the council of a county with respect to all or any of the highways in any rural district comprised in the county and by the council of a borough or urban district with respect to all or any of the highways in the borough or district.

Power to prohibit gates opening outwards on highways.

(2) Byelaws made under this section may provide for imposing on persons contravening the byelaws fines not exceeding, for any one offence, the sum of forty shillings.

(3) Byelaws made under this section shall not apply in a case where consent has been given under subsection (1) of the last foregoing section to the putting up of a gate so as to open outwards on a highway.

(4) The Minister shall be the confirming authority as respects byelaws made under this section.

134.—(1) Where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians, or to obstruct or interfere with the view of drivers of vehicles or the light from a public lamp, the appropriate authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is growing, require him within fourteen days from the date of service of the notice so to lop or cut it as to remove the cause of the danger, obstruction or interference.

Lopping of vegetation overhanging highways and certain other roads and paths.

(2) A person aggrieved by a requirement of an authority under the foregoing subsection may appeal to a magistrates' court.

(3) Subject to any order made on appeal, if a person on whom a notice is served under subsection (1) of this section fails to comply with it within the period specified in that subsection, the appropriate authority may carry out the work required by the notice and recover the expenses reasonably incurred by them in so doing from the person in default.

(4) In this section "the appropriate authority" means—

(a) in relation to a highway in a borough or urban district, being a highway for which the Minister is the highway

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—cont.

authority, either the Minister or the council of the borough or district, as the case may be :

- (b) in relation to a highway in a rural district, being a highway for which the Minister is the highway authority, either the Minister or the council of the county in which the highway is situated ;
- (c) in relation to a highway for which a local highway authority are the highway authority, that authority ;
- (d) in relation to a road or footpath not being a highway, the local authority in whose area the road or footpath is situated ;

and “ hedge, tree or shrub ” includes vegetation of any description.

(5) If it appears to the highway authority for a highway to which subsection (4) of section one hundred and twenty of this Act applies that an obstruction is caused in the highway by a hedge or tree, or by a bank, or by any vegetation growing on a bank adjoining the highway, the highway authority may, at any time, with the consent of the owner and occupier of the land on which the hedge or tree is growing or the bank is situated, cut, prune or plash the hedge or vegetation, or prune or lop the tree or remove the obstruction.

Penalties in
connection
with straying
animals.

135.—(1) If any horses, cattle, sheep, goats or swine are at any time found straying or lying on or at the side of a highway their owner shall be guilty of an offence :

Provided that this subsection shall not apply in relation to a part of a highway passing over any common, waste or unenclosed ground.

(2) A person guilty of an offence under this section shall be liable to a fine not exceeding five shillings in respect of each animal so found straying or lying, subject to a maximum of thirty shillings in any one case.

(3) A person guilty of an offence under this section shall also be liable to pay the reasonable expenses of removing any animal so found straying or lying to the premises of the owner thereof or to the common pound or to such other place as may have been provided for the purpose (including in a case where any such animal has been removed to the common pound, the usual fees and charges of the authorised keeper of the pound) ; and any person who has incurred such expenses shall be entitled to recover them summarily as a civil debt.

(4) If a person, without lawful authority or excuse, releases any animal seized for the purpose of being impounded under

this section from the pound or other place where it is impounded, or on the way to or from any such place, or damages any such place, he shall be guilty of an offence, and shall be liable to a fine not exceeding twenty pounds.

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—cont.

(5) Nothing in this section shall prejudice or affect any right of pasture on the side of a highway.

Provisions for mitigating obstruction caused by the execution of works in highways

136.—(1) Subject to the provisions of this section, a statutory power of undertakers to break up or open a highway maintainable at the public expense which consists of or comprises a carriageway, being a power conferred for any purpose other than road purposes or purposes of a railway undertaking or a tramway undertaking, shall not be exercisable in the highway during the twelve months following either—

Restriction on breaking up by undertakers of maintainable highways recently closed or re-surfaced.

- (a) the end of any period during which the use by vehicles of the carriageway has been prohibited, or the width thereof available for vehicular traffic has been reduced to less than two-thirds of its width, for the purposes of the execution of works for road purposes or of such works and other works, or
- (b) the completion of a re-surfacing extending to one-third or more of the width of the carriageway,

if the following conditions are satisfied, that is to say—

- (i) that the highway authority had given to the undertakers, more than three months before the date on which the works for road purposes, or the re-surfacing works, as the case may be, were substantially begun, a notice stating that works for road purposes, or re-surfacing works, relevant for the purposes of this section were in prospect and specifying a date intended for beginning them; and
- (ii) that the works for road purposes, or the re-surfacing works, as the case may be, were substantially begun on, or within one month from, the date so specified, or, if any undertakers' works were in progress in, under, over, across, along or upon the highway on that date, within one month from the completion of those undertakers' works, or in either case within some extended period agreed between the highway authority and the undertakers for the purposes of the operation of this subsection in relation to the works for road purposes, or the re-surfacing works, as the case may be.

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—cont.

(2) The foregoing subsection shall not apply to breaking up or opening for the purposes of emergency works.

(3) Subsection (1) of this section shall not apply to breaking up or opening a part of the highway other than the carriageway for the purposes of—

(a) works relating only to a service pipe or service line or an overhead telegraphic line or an overhead electric line, but, in the case of a placing of a service pipe or a service line, only if it is for affording a supply or service to premises to which it is not already afforded ;
or

(b) works required for satisfaction by the undertakers of an obligation of theirs created by an enactment, or created by an agreement made before the giving of the notice referred to in subsection (1) of this section, which it is not reasonably practicable for them to satisfy without the breaking up or opening in question.

(4) Subsection (1) of this section shall not apply to breaking up or opening done with the consent of the highway authority, and a consent for the purposes of this subsection shall not be unreasonably withheld.

Any question arising under this subsection whether the withholding of a consent is unreasonable shall be determined by the Minister and the Minister of the Crown in charge of the department concerned with the purposes for which the power to break up or open is conferred acting jointly (any question which is the department so concerned being determined by the Treasury), and a determination of the said Ministers shall not be impugned on the ground that either of them is himself the highway authority or the authority by whom the power is exercisable.

(5) Subsection (1) of this section shall not apply to breaking up or opening a highway to which section one hundred and thirty-seven of this Act applies.

(6) If undertakers break up or open a highway in any case in which it is unlawful by virtue of subsection (1) of this section for them so to do—

(a) they shall pay to the highway authority therefor an amount equal to any cost reasonably incurred by the authority of reinstating and making good the highway ;
and

(b) without prejudice to their liability under the foregoing paragraph, they shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding fifty pounds.

If any question arises in relation to a claim made for a payment under paragraph (a) of this subsection, the question shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

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—cont.

(7) Proceedings for the enforcement of the obligation imposed by subsection (1) of this section shall not, without the written consent of the Attorney General, be taken by any person other than a person having an interest in the performance of the obligation.

(8) In so far as any failure of undertakers to satisfy an obligation to which they are subject by virtue of any enactment is attributable to the prohibition by this section of breaking up or opening for which the undertakers have duly sought the consent of the highway authority and for which consent has been withheld and has been determined to have been reasonably withheld, the failure shall not be treated as a contravention of that enactment.

(9) The reference in this section to a power conferred for purposes of a railway undertaking or a tramway undertaking includes a reference to a power conferred primarily for those purposes but for other purposes also.

(10) In this section “emergency works”, “railway”, “reinstatement and making good”, “road purposes”, “service line”, “service pipe”, “telegraphic line”, “tramway”, “undertakers” and “undertakers’ works” have the same meanings respectively as in the Public Utilities Street Works Act, 1950.

137.—(1) With a view to securing that the times for the execution of works of road maintenance and improvement by various highway authorities within the London Traffic Area may be so arranged as to mitigate as far as possible the congestion of traffic due to the closing of highways for the purposes of the execution of such works, it shall be the duty of every highway authority for highways within that area to prepare and, except in the case of the Minister, to submit to the Minister in accordance with the next following subsection statements of works of road maintenance and improvement.

Highway authorities in London Traffic Area to prepare half-yearly programmes of repair and improvement works.

(2) The statements required by the foregoing subsection of highway authorities, other than the Minister, shall be submitted to the Minister, and the statements required of the Minister shall be prepared by him, on or before such half-yearly dates in each year as the Minister may by order fix and shall be in such form and shall contain such particulars as the Minister may require, or in the case of a statement prepared by him, think fit,

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—cont.

of all works of road maintenance and improvement proposed to be begun or continued by the authority during the periods of six months commencing at the expiration of such interval, not being less than two months, from the said half-yearly dates as the Minister may by order fix, being works of such a nature as will involve the closing to vehicular traffic of any part of any highway to which this section applies either absolutely or to the extent of one-third or more of the width of the carriageway.

(3) The Minister shall refer all statements submitted to, or prepared by, him under this section to the Advisory Committee constituted under the London Traffic Act, 1924, and it shall be the duty of that Committee to consider the proposals contained in those statements in relation to one another and report to the Minister thereon; and the Minister, after considering the report, shall draw up schemes prescribing the times during which the several works are to be begun and the order in which they are to be executed, or prohibiting or restricting the execution of any of the works, and shall send copies of each scheme drawn up by him to all highway authorities and undertakers affected thereby, and—

- (a) if, within fourteen days from the date on which copies of any scheme have been so sent, no objection in writing to the scheme has been received by the Minister from any highway authority or undertakers affected thereby, or every objection so made has been withdrawn, the Minister may by order confirm the scheme;
- (b) if any objection so made to a scheme has been received by the Minister within that time and has not been withdrawn, the Minister may, after considering the objection, either by order confirm the scheme, with or without amendments, or revoke the scheme;

and upon the confirmation of a scheme drawn up by the Minister under this section it shall become final and binding on all the highway authorities affected and shall not be subject to appeal to any court:

Provided that the Minister may subsequently by order modify a scheme confirmed by him under this section, in so far as it imposes a prohibition or restriction on the execution of any works, in such manner as he may consider expedient.

(4) Nothing in this section shall—

- (a) prevent a highway authority from carrying out works in a highway in a case of emergency, or
- (b) empower the Minister to impose any obligation on a local highway authority to incur any expenditure on or in connection with the construction or improvement of a highway without the consent of that authority.

(5) The highways to which this section applies are such highways, or highways of such classes, being in either case highways maintainable at the public expense within the London Traffic Area which consist of or comprise a carriageway, as may be prescribed by an order made by the Minister.

(6) In this and the next following section “undertakers” means persons (including persons acting on behalf of the Crown) having powers to break up or open highways in the London Traffic Area for the purposes of any sewerage system, or any water, gas, electricity, tramway or other undertaking.

138.—(1) With a view to securing that, so far as possible, all works involving breaking up or opening of highways to which the last foregoing section applies by undertakers shall be carried out at the same time as or in connection with works of road maintenance and improvement, the Minister shall send to all undertakers copies of—

(a) the proposals of other highway authorities when submitted to him under the last foregoing section, and

(b) the proposals prepared by him under that section,

so far as the proposals relate to highways to which the powers of the undertakers extend and shall consider any representations made to him by those undertakers.

(2) Where works of road maintenance and improvement involving the closing to vehicular traffic of any part of a highway either absolutely or to the extent of one-third or more of the width of the carriageway have been executed in accordance with a scheme confirmed under the last foregoing section, it shall not be lawful for any undertakers during the twelve months following the completion of those works to break up or open the highway so closed without the previous consent of the Minister and unless they prove to the satisfaction of the Minister—

(a) that there were reasonable grounds for their failure or omission to execute, while the highway or part thereof was closed, the works for the execution of which they require to break up or open the highway; and

(b) that it is essential that the works should be executed or begun during the said twelve months.

(3) The Minister may, if he thinks fit, make it a condition of giving his consent under the last foregoing subsection to breaking up or opening a highway that all works in connection therewith shall be carried out at night by beginning them after the hour of eight in the evening and completing them by the

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—cont.

hour of eight in the morning, and if not then completed by carrying on the same continuously by day and night.

(4) Nothing in this section shall prevent any undertakers from carrying out works in a highway in a case of emergency or from making, altering, repairing or disconnecting service connections.

Powers of highway authority where obstruction of highway in London Traffic Area is greater, etc., than necessary.

139.—(1) If it appears to an officer of police authorised for the purpose that, in the exercise of a statutory power to break up or open a highway within the London Traffic Area, any undertakers, by the deposit of excavated matter or other material, or by means of the erection of barriers, or otherwise, have created an obstruction in the highway to a greater extent or for a longer period than is reasonably necessary, he shall report the matter to the highway authority for the highway and that authority shall cause an inspection to be made, and, if on the inspection it appears to them that the allegation is well founded, they may by notice require the undertakers to take such steps as may be necessary to mitigate or discontinue the obstruction, and, if the undertakers fail to do so within twenty-four hours of the receipt of the notice, the highway authority may take the necessary steps and may recover any expenses reasonably incurred by them in connection therewith from the undertakers:

Provided that, where the highway in question is not one for which the Minister is the highway authority, the undertakers may within the said twenty-four hours represent to the Minister that the obstruction to which the notice relates is not greater, or has not been continued for a longer period, than is reasonably necessary, and shall send to the highway authority by whom the notice was given a copy of the representations so made, and in that case the authority shall not take any such steps as aforesaid without the consent of the Minister.

(2) A highway authority may, if they think fit, delegate to an officer of the authority the powers of causing inspection to be made and of making requirements conferred on the authority by this section.

(3) In this section “undertakers” does not include persons acting on behalf of the Crown but, except as aforesaid, has the same meaning as in section one hundred and thirty-seven of this Act.

Danger or annoyance to users of highways and streets

Penalty for causing certain kinds of danger or annoyance.

140.—(1) If a person, without lawful authority or excuse, deposits any thing whatsoever on a highway in consequence whereof a user of the highway is injured or endangered, that person shall be guilty of an offence.

(2) If a person, without lawful authority or excuse, lights any fire, or discharges any firearm or firework, within fifty feet of the centre of a highway which consists of or comprises a carriage-way, and in consequence thereof a user of the highway is injured, interrupted or endangered, that person shall be guilty of an offence.

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—cont.

(3) If a person plays at football or any other game on a highway to the annoyance of a user thereof he shall be guilty of an offence.

(4) If a person, without lawful authority or excuse, allows any filth, dirt, lime or other offensive matter or thing to run or flow on to a highway from any adjoining premises, he shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable in respect thereof to a fine not exceeding forty shillings.

141. A person who for any purpose places any rope, wire or other apparatus across a highway in such a manner as to be likely to cause danger to persons using the highway shall, unless he proves that he had taken all necessary means to give adequate warning of the danger, be guilty of an offence, in respect of which he shall be liable, in the case of a first offence, to a fine not exceeding twenty pounds and, in the case of any subsequent offence, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

Penalty for placing rope, etc., across highway.

142.—(1) The appropriate authority may, by notice to the occupier of premises adjoining a highway, require him within twenty-eight days from the date of service of the notice to construct or erect and thereafter to maintain such channels, gutters or downpipes as may be necessary to prevent—

Prevention of water falling or flowing on to highway.

- (a) water from the roof or any other part of the premises falling upon persons using the highway, or
- (b) so far as is reasonably practicable, surface water from the premises flowing on to, or over, the footway of the highway.

(2) A notice under the foregoing subsection may, at the option of the appropriate authority, be served on the owner of the premises in question instead of on the occupier or may be served on both the owner and the occupier of those premises.

(3) A person aggrieved by a requirement of an authority under this section may appeal to a magistrates' court.

(4) Subject to any order made on appeal, if a person on whom a notice is served under this section fails to comply with a requirement of the notice within the period specified in subsection (1) of this section, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted

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—cont.

is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

(5) In this section “the appropriate authority” means—

- (a) in relation to a highway in a borough or urban district, either the highway authority for the highway or the council of the borough or district, as the case may be ;
- (b) in relation to a highway in a rural district, either the highway authority for the highway or the council of the county in which the highway is situated.

Power to
require
removal of
barbed wire.

143.—(1) Where on land adjoining a highway there is a fence made with barbed wire, or having barbed wire in or on it, and the wire is a nuisance to the highway, the appropriate authority may by notice served on the occupier of the land require him to abate the nuisance within such time, not being less than one month nor more than six months from the date of service of the notice, as may be specified therein.

(2) If at the expiration of the time so specified the occupier has failed to comply with the notice, a magistrates’ court, if satisfied, on complaint made by the appropriate authority, that the wire is a nuisance to the highway, may order the occupier to abate the nuisance, and, if he fails to comply with the order within a reasonable time, the authority may do whatever may be necessary in execution of the order and recover from him the expenses reasonably incurred by them in so doing.

(3) If the appropriate authority are the occupiers of the land in question, proceedings under this section may be taken against them by any ratepayer within the county borough or county district in which the nuisance exists, and the foregoing provisions shall apply accordingly in relation to him and to the authority as they apply in relation to an authority and to an occupier of land.

(4) For the purposes of this section “barbed wire” means wire with spikes or jagged projections, and barbed wire shall be deemed to be a nuisance to a highway if it is likely to be injurious to persons or animals lawfully using the highway.

(5) In this section “the appropriate authority” means—

- (a) in relation to a highway in a borough or urban district, being a highway for which the Minister is the highway authority, either the Minister or the council of the borough or district, as the case may be ;

- (b) in relation to a highway in a rural district, being a highway for which the Minister is the highway authority, either the Minister or the council of the county in which the highway is situated ;
- (c) in relation to a highway other than a highway for which the Minister is the highway authority, the council of the county, borough or urban district in which the highway is situated.

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144.—(1) If, in or on any land adjoining a street, there is an unfenced or inadequately fenced source of danger to persons using the street, the local authority in whose area the street is situated may, by notice to the owner or occupier of that land, require him, within such time as may be specified in the notice, to execute such works of repair, protection, removal or enclosure as will obviate the danger.

Dangerous
land adjoining
street.

(2) A person aggrieved by a requirement of a local authority under the foregoing subsection may appeal to a magistrates' court.

(3) Subject to any order made on appeal, if a person on whom a notice is served under this section fails to comply with the notice within the time specified therein, the local authority by whom the notice was served may execute such works as are necessary to comply with the notice and may recover the expenses reasonably incurred by them in so doing from that person.

145.—(1) If it appears to a local authority that a building or wall situated in their area is in such a condition, or that a building so situated is used to carry such loads, as to be dangerous to persons in a street, the authority may make a complaint to a magistrates' court, and the court may—

Buildings
and other
structures
dangerous to
persons in
street.

- (a) where the danger arises from the condition of the building or wall, make an order requiring the owner thereof to execute such works as will obviate the danger ; and
- (b) where the danger arises from overloading of the building, make an order restricting the use thereof until a magistrates' court, being satisfied that works have been executed to obviate the danger, withdraws or modifies the restriction.

(2) If the person against whom an order is made under paragraph (a) of the foregoing subsection fails to comply with the order within the time therein specified, the local authority may execute the order in such manner as they think fit and may recover the expenses reasonably incurred by them in so doing from that person, and, without prejudice to the right of the authority to exercise those powers, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding ten pounds.

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—cont.

(3) If, in a case where a local authority have power to make a complaint under subsection (1) of this section, the authority are satisfied that immediate action should be taken for the protection of persons in the street, the authority may shore up or fence off the building or wall and may recover from the owner thereof the expenses reasonably incurred by them in so doing.

(4) In this section—

“building” includes any erection of whatsoever material and in whatsoever manner constructed and any part of a building;

“wall” includes a fence or hoarding.

Precautions to be taken in doing works in highways or streets or on adjacent premises

Regulation of deposit of building materials and making of excavations in streets.

146.—(1) A person may, with the consent of the highway authority for a street, being a highway maintainable at the public expense, temporarily deposit building materials, rubbish or other things in the street or make a temporary excavation therein:

Provided that where the council of a borough or urban district are the highway authority for the street, they shall not be entitled to give consent for the purposes of this subsection unless this subsection applies in the borough or district, as the case may be, by virtue of section two hundred and ninety of this Act.

(2) A person aggrieved by the refusal of a consent under the foregoing subsection may appeal to a magistrates' court.

(3) Where a person places any building materials, rubbish or other thing in a street, or makes an excavation therein, he shall cause the obstruction or excavation to be properly fenced and, during the hours of darkness, to be properly lighted and, if required so to do by the highway authority for the street or, in the case of a street not being a highway, by the local authority in whose area the street is situated, shall remove the obstruction or, as the case may be, fill in the excavation, and in any case shall not allow the obstruction or excavation to remain in the street longer than is necessary.

(4) If a person contravenes the provisions of the last foregoing subsection he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

(5) Where an offence under this section has been committed in a street, the highway authority for the street or, in the case of a street not being a highway, the local authority in whose area the street is situated, may remove the obstruction or, as the case

may be, fill in the excavation and recover the expenses reasonably incurred by them in so doing from the person convicted of the offence.

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—cont.

147.—(1) A person proposing to erect or take down a building in a street or court, or to alter or repair the outside of a building in a street or court, shall, before beginning the work, erect a close boarded hoarding or fence to the satisfaction of the local authority in whose area the street or court is situated so as to separate the building from the street or court:

Hoardings
to be set up
during
building, etc.

Provided that the obligation to erect a hoarding or fence imposed by this subsection may be dispensed with if the local authority so consent.

(2) Where a person has in compliance with the foregoing subsection erected such a hoarding or fence as is therein referred to, he shall—

- (a) if the local authority so require, make a convenient covered platform and handrail to serve as a footway for pedestrians outside the hoarding or fence ;
- (b) maintain the hoarding or fence and any such platform and handrail as aforesaid in good condition to the satisfaction of the authority during such time as the authority may require ;
- (c) if the authority so require, sufficiently light the hoarding or fence and any such platform and handrail during the hours of darkness ; and
- (d) remove the hoarding or fence and any such platform and handrail when required by the authority.

(3) A person aggrieved by the refusal of a consent under subsection (1) of this section, or by a requirement of a local authority under subsection (2) thereof, may appeal to a magistrates' court.

(4) Subject to any order made on appeal, if a person contravenes the provisions of this section he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

148.—(1) No person shall use for any purpose a hoarding or similar structure that is in, or adjoins, a street situated in an area in which this section applies by virtue of section two hundred and ninety of this Act, unless it is securely fixed to the satisfaction of the local authority for the area.

Hoardings to
be securely
erected.

(2) If a person contravenes the provisions of this section he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he

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—cont.

shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding twenty shillings for each day on which the offence is so continued.

Precautions to be taken by urban authorities executing works in streets.

149.—(1) Without prejudice to section eight of the Public Utilities Street Works Act, 1950 (which contains requirements as to safety, obstruction and other matters to be observed during and in connection with the execution of certain works in streets and in controlled land within the meaning of that Act), where the council of a borough or urban district, for the purpose of the construction or maintenance of any sewer or drain or for the purpose of the construction or maintenance of any street vested in them, are carrying out works in such a street, they—

- (a) shall erect such barriers for preventing danger to traffic, and for regulating traffic, as may be necessary,
- (b) shall cause the works to be properly guarded and lighted during the hours of darkness, and
- (c) where the nature of the works so requires, shall cause any building adjoining the street to be shored up or otherwise protected.

(2) If a person, without lawful authority or excuse, takes down, alters or removes any barrier erected, or extinguishes any light placed, in pursuance of the foregoing subsection, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds.

Liability of certain persons in respect of materials left on highway.

150. If any officer or servant of the highway authority for a highway, or a person liable to maintain the highway by reason of tenure, enclosure or prescription, causes any heap of materials or any other object to be laid on the highway, he shall, if he allows it to remain there at night to the danger of traffic without taking all reasonable precautions for the prevention of accidents, be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds.

Miscellaneous

Restriction on construction of bridges over highways.

151.—(1) The highway authority for a highway may grant to the owner or occupier of any premises adjoining the highway a licence to construct a way by means of a bridge over the highway on such terms and conditions, and to use it for such period and on such terms and conditions, as the authority think fit:

Provided that—

- (a) no fine, rent or other sum of money, except a reasonable sum in respect of legal or other expenses, shall be payable in respect of the licence ;
- (b) the licence shall not authorise any interference with the convenience of persons using the highway, or affect the rights of the owners of premises adjoining the highway, or the rights of tramway, railway, dock, harbour or electricity undertakers ; and

(c) it shall be a condition of every such licence that the person to whom it is granted shall, at his own expense, remove the bridge or alter it in such manner as the authority may require, if at any time they consider the removal or alteration necessary or desirable in connection with the carrying out of improvements to the highway, and the decision of the authority that the removal or alteration is necessary or desirable in that connection shall be final, and the said condition shall be enforceable by the authority against the owner for the time being of the premises.

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—cont.

(2) A person aggrieved by the refusal of an authority to grant a licence under this section or by the period for which the licence is granted or by a term or condition (other than that mentioned in paragraph (c) of the proviso to the foregoing subsection) of the licence may appeal to a court of quarter sessions:

Provided that no appeal shall lie under this subsection against any term or condition of a licence granted by the Minister under this section, being a term or condition which he declares to be necessary for the purpose of securing the safety of persons using the highway or of preventing interference with traffic thereon.

(3) If a person, except in the exercise of statutory powers, constructs a bridge over a highway without a licence under this section, or constructs or uses a bridge otherwise than in accordance with the terms and conditions of the licence, or fails to remove or alter a bridge when required to do so in accordance with any condition of the licence or within one month from the date of the expiration of the licence, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding twenty pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding five pounds for each day on which the offence is so continued.

152.—(1) No person shall fix or place any overhead beam, rail, pipe, cable, wire or other similar apparatus over, along or across a highway without the consent of the highway authority for the highway, and that authority may attach to their consent such reasonable terms and conditions as they think fit.

Restriction on placing rails, beams, etc., over highways.

(2) A person aggrieved by the refusal of a consent required by this section, or by any terms or conditions attached thereto, may appeal to a magistrates' court:

Provided that no appeal shall lie under this subsection against any term or condition attached by the Minister to a consent given by him under this section, being a term or condition which he declares to be necessary for the purpose of securing the safety of persons using the highway to which the consent relates or of preventing interference with traffic thereon.

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—cont.

(3) If a person contravenes the provisions of subsection (1) of this section, or the terms or conditions of any consent given thereunder, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding twenty shillings for each day on which the offence is so continued.

(4) This section does not apply to any works or apparatus belonging to any statutory undertakers or the Postmaster-General.

Prohibition of
construction
of cellars,
etc., under
carriageway
without
consent.

153.—(1) No person shall construct a vault, arch or cellar under the carriageway of a street without the consent of the local authority in whose area the street is situated, and the authority may by notice served on a person who has constructed a vault, arch or cellar in contravention of this section require him to remove it, or to alter or deal with it in such manner as may be specified in the notice.

(2) A person aggrieved by the refusal of a consent required by the foregoing subsection, or by a requirement of a local authority thereunder, may appeal to a magistrates' court.

(3) A person who constructs a vault, arch or cellar in contravention of this section shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, subject to any order made on appeal, if he fails to comply with a requirement of a notice served on him under subsection (1) thereof, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day during which the failure continues.

(4) The authority may also cause a vault, arch or cellar constructed in contravention of this section to be removed, altered or otherwise dealt with as they think fit, and may recover the expenses reasonably incurred by them in so doing from the offender.

(5) As soon as may be after an authority consent to the construction of a vault, arch or cellar under a street they shall give notice thereof to any public utility undertakers having any apparatus under the street.

(6) The council of a rural district shall, before commencing legal proceedings under this section, obtain the consent of the council of the county comprising the district.

Openings into,
and repair of,
cellars, etc.,
under streets.

154.—(1) It shall not be lawful in any borough or urban district, and, if this subsection applies in a rural district by virtue of section two hundred and ninety of this Act, it shall not be lawful in that rural district, to make an opening in the footway of a street as an entrance to a cellar or vault thereunder without the consent of the local authority in whose area the street is situated, and where the authority give consent under this subsection they shall require the person to whom the consent is

given to provide a door or covering constructed in such manner and of such materials as they direct.

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—cont.

(2) A person aggrieved by the refusal of a consent required by the foregoing subsection, or by a requirement of a local authority thereunder, may appeal to a magistrates' court.

(3) A person who makes an opening in the footway of a street in contravention of subsection (1) of this section, or who fails to comply with a requirement of a local authority made to him under that subsection, shall, subject to any order made on appeal, be guilty of an offence and shall, without prejudice to any other liability to which he may be subject, be liable in respect thereof to a fine not exceeding five pounds.

(4) As soon as may be after an authority consent to the making of an opening in the footway of a street they shall give notice thereof to any public utility undertakers having any apparatus under the street.

(5) Every vault, arch and cellar under a street, and every opening in the surface of any street into any vault, arch or cellar thereunder, and every door or covering to any such opening, and every cellar-head, grating, light and coal hole in the surface of a street, and all landings, flags or stones of the street by which they are supported, shall be kept in good condition and repair by the owner or occupier of the vault, arch or cellar, or of the premises to which it belongs.

(6) If default is made in complying with the provisions of the last foregoing subsection, the local authority may, after the expiration of twenty-four hours from the service of a notice on any person in default of their intention so to do, cause any thing as respects which there has been a default under that subsection to be repaired or put into good condition, and may recover the expenses reasonably incurred by them in so doing from the owner or occupier thereof or of the premises to which it belongs.

The power conferred by this subsection shall not be exercisable by the council of a rural district except with the consent of the council of the county comprising the district.

155.—(1) Where the occupier of any premises adjoining or having access to a highway maintainable at the public expense habitually takes or permits to be taken a horse or horse-drawn or mechanically propelled vehicle (other than a motor-cycle or a vehicle of which the cylinder capacity of the engine does not exceed two hundred and fifty cubic centimetres) across a grass verge or kerbed footway in the highway to those premises, the appropriate authority may give notice to the occupier of the premises—

- (a) that they propose to construct across the verge or footway a carriage crossing formed of such materials

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—cont.

and in such manner as may be specified in the notice ;
or

- (b) in the case of a footway, that they propose to strengthen or adapt it in such manner as may be so specified ; or
- (c) imposing such reasonable conditions on the use of the verge or footway as a crossing as aforesaid as may be so specified :

Provided that this subsection shall not apply in relation to any premises used exclusively for agricultural purposes.

(2) A person aggrieved by a notice of an authority under the foregoing subsection may appeal to a magistrates' court.

(3) Subject to any order made on appeal, an authority by whom a notice for the purposes of paragraph (a) or paragraph (b) of subsection (1) of this section has been given may execute such works as are specified in the notice and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the premises in question.

(4) If a person knowingly uses a grass verge or a footway as a crossing as aforesaid in contravention of any condition imposed under paragraph (c) of subsection (1) of this section, or knowingly permits it to be so used, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding ten pounds.

(5) Any person may request the appropriate authority to carry out such works as are specified in the request for the purpose of forming a carriage crossing across a grass verge or a footway in a highway maintainable at the public expense, or of strengthening or adapting a footway in any such highway for use as a carriage crossing, and the authority may approve the request, with or without modification, or may propose alternative works or reject the request.

(6) An authority to whom a request under the last foregoing subsection is made shall notify the person making the request of their decision and if they approve, with or without modification, the works proposed in the request, or propose alternative works, they shall supply him with an estimate of the cost of the works as approved or proposed by them, and he may, on depositing with them the amount of the estimate, require them to execute the said works.

(7) As soon as practicable after such a deposit has been made with an authority the authority shall execute the works as approved or proposed by them, and—

- (a) if the sum deposited exceeds by any amount the actual cost of the works, the authority shall return that amount to the person by whom the deposit was made, but

(b) if the sum deposited is less by any amount than the actual cost of the works, the authority may recover from that person a further sum equal to that amount.

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—cont.

(8) In relation to works carried out by the appropriate authority in pursuance of a notice under subsection (1) of this section or under powers conferred by the last foregoing subsection, being works to which, apart from this subsection, the provisions contained in Part II of the Public Utilities Street Works Act, 1950 (which regulate the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) would not apply, the said provisions shall apply as if the works were executed for road purposes and were mentioned in paragraph (a) of subsection (1) of section twenty-one of that Act.

(9) The expenses recoverable under subsection (3) of this section and the cost of the works for the purposes of subsections (6) and (7) of this section shall include the cost of any works which are required by the Public Utilities Street Works Act, 1950, to be executed in consequence of the construction of the crossing or the strengthening or adaptation of the footway.

(10) Nothing in this section shall impose on any person, other than a highway authority, any obligation to maintain a carriage crossing or footway.

(11) In this section “the appropriate authority” means, in relation to a highway in a rural district, the council of the county in which the highway is situated, and, in relation to a highway in a borough or urban district, the council of the borough or district, as the case may be:

Provided that a council shall not exercise a power conferred by subsection (1) or subsection (5) of this section in relation to a highway for which they are not the highway authority without the consent of the highway authority therefor.

156.—(1) Subject to the provisions of this section, the appropriate authority may provide and maintain in or under a street orderly bins or other receptacles, of such dimensions and in such positions as the authority may determine, for the collection and temporary deposit of street refuse and waste paper, or the storage of sand, grit or other materials.

Power to instal
refuse or
storage bins
in streets.

(2) An authority shall not have power by virtue of this section to place a bin or other receptacle on a bridge over a railway, or under a bridge carrying a railway over a street, or within ten feet of the abutments of a bridge carrying a railway over a street, except with the consent of the railway undertakers concerned.

(3) An authority shall not exercise the power conferred by this section so as to obstruct or render less convenient the access to, or exit from—

(a) a station or goods yard belonging to railway undertakers; or

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—cont.

(b) premises belonging to canal, inland navigation, dock, harbour, tramway, electricity, gas or water undertakers, or to persons authorised by any enactment to carry on any other public undertaking, and used by those undertakers or persons for the purposes of their undertaking.

(4) Nothing in this section shall be taken as empowering an authority to hinder the reasonable use of a street by the public or any person entitled to use it or as empowering an authority to create a nuisance to the owner or occupier of premises adjacent to a street.

(5) In this section “the appropriate authority” means—

(a) in relation to a street being a highway, either the highway authority for the highway or the local authority in whose area it is situated acting with the consent of the highway authority therefor ;

(b) in relation to any other street, the local authority in whose area the street is situated.

PART VIII

NEW STREETS

New street byelaws

Power of local authority to make new street byelaws.

157.—(1) The council of every borough and of every urban district may, and if required by the Minister of Housing and Local Government shall, make byelaws for regulating all or any of the following matters, that is to say, the level, width and construction of new streets in their area and the provision for the sewerage of such streets :

Provided that no byelaw made under this subsection shall regulate the level, width or construction of a new street in so far as it is to be carried by a bridge or is to form the approaches thereto.

(2) If the council of a borough or of an urban district, when required by the Minister of Housing and Local Government to make byelaws under the foregoing subsection, do not within three months from the date on which the requirement is made to them make in accordance with the requirement byelaws satisfactory to him, the said Minister may himself make the byelaws.

(3) The council of a rural district may, after consultation with the council of the county comprising the district, make with respect to new streets in the district byelaws for regulating any such matter as may be regulated by byelaws made under subsection (1) of this section, and if the rural district council do not, within six months from the date of the service on them of a

notice from the council of the county requiring them to do so, exercise the power conferred by this subsection, the county council may themselves exercise that power, and byelaws made by them under this subsection shall, when confirmed, have effect as if they were byelaws made by the rural district council and confirmed.

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(4) Byelaws for regulating matters that may be regulated under this section are hereafter in this Part of this Act referred to as “new street byelaws”.

(5) New street byelaws may include provision as to—

- (a) the giving of notices and the deposit of plans;
- (b) the inspection of work, the testing of sewers, and the taking by the local authority of samples of the materials to be used in the execution of works.

(6) New street byelaws may require that plans to be deposited in pursuance of the byelaws shall be deposited in duplicate.

(7) The Minister of Housing and Local Government shall be the confirming authority as respects new street byelaws, and any byelaws made by the said Minister under this section shall have effect as if they had been made by the local authority and confirmed by the Minister.

(8) A new street byelaw made under this Act shall cease to have effect on the expiration of ten years from the date on which it was made:

Provided that the Minister of Housing and Local Government may by order extend the period during which any new street byelaw is to remain in force.

158. A continuation of an existing street may be deemed to be a new street for the purpose of the application thereto of new street byelaws.

Continuation
of existing
street to be
a new street.

159.—(1) Where it appears to the appropriate council that an existing highway will be converted into a new street as a consequence of building operations which have been, or are likely to be, undertaken in the vicinity, the council may by order prescribe the centre line of the new street and outer lines defining the minimum width of the new street, which shall be the minimum width required by the relevant byelaw provisions.

Power to
declare
existing
highway to be
a new street.

In this subsection “the relevant byelaw provisions” means the provisions of new street byelaws in force in the area of the appropriate council regulating the width of a new street intended to be the principal means of access to any building and of a length equal to the length of the highway to which the order relates.

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—cont.

(2) Not less than one month before making an order under this section, the appropriate council shall cause notice of the intended order to be displayed at each end of, or in some conspicuous position in, the highway to which the order relates.

(3) Every such notice shall contain a statement that the intended order may be made by the council on or at any time after a day named in the notice, and shall state the right of appeal conferred by the next following subsection.

(4) A person aggrieved by an order under this section may appeal to a court of quarter sessions.

(5) Where an order under this section has effect, no person shall erect a new building on the land situated between the outer lines prescribed by the order (hereafter in this section referred to as “ the prescribed land ”).

(6) If, where an order under this section has effect, work for the erection of a new building is commenced on land adjoining the prescribed land, then, on the commencement of that work—

(a) the appropriate portion of the prescribed land shall become part of the existing highway, and

(b) the owner of that portion shall remove any boundary fence or other obstruction situated thereon and bring the level thereof into conformity with that of the existing highway:

Provided that, if the existing highway is a highway maintainable at the public expense, land which, in accordance with this subsection, becomes part thereof shall not by virtue of this subsection become a highway maintainable at the public expense.

For the purposes of this subsection the appropriate portion of the prescribed land shall be the portion thereof which is situated between the centre line prescribed by the order and the land on which the building is to be erected or which is to be occupied therewith, other than land so situated which forms part of the existing highway.

(7) Nothing in this section shall extend to a building (not being a dwelling house) erected, in pursuance of their statutory powers, by any of the following undertakers and used or occupied, or intended to be used or occupied, by them for the following purposes respectively, that is to say, by railway undertakers for those of a railway comprised in the railway undertaking, by canal undertakers for those of a canal comprised in the canal undertaking, by inland navigation undertakers for those of a navigation comprised in the inland navigation undertaking, by dock undertakers for those of a dock comprised in the dock undertaking, or by harbour undertakers for those of a harbour comprised in the harbour undertaking.

(8) In this section—

“the appropriate council” means—

(a) in relation to a highway in a rural district, the council of the county in which the highway is situated;

(b) in relation to a highway in a borough or urban district, the council of the borough or of the district, as the case may be;

“building” includes a wall.

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—cont.

160. Where a local authority consider that the operation of a new street byelaw in force in their area would be unreasonable in relation to a particular case, they may, with the consent of the Minister of Housing and Local Government, and, in the case of the council of a rural district, after consultation with the council of the county comprising the district, relax the requirements of the byelaw or dispense with compliance therewith:

Provided that the authority shall give notice of any such proposed relaxation or dispensation in such manner and to such persons, if any, as the said Minister may direct, and that the Minister shall not give his consent before the expiration of one month from the date of the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

Power of local authority with consent of Minister of Housing and Local Government to relax requirements of byelaws.

Passing of plans deposited under byelaws

161.—(1) Where plans of any proposed work are, in accordance with new street byelaws, deposited with a local authority, then, subject to the provisions of the last foregoing section and of section one hundred and sixty-three of this Act, the authority shall pass the plans unless they either are defective or show that the proposed work would contravene any of those byelaws, and, if the plans are defective or show that the proposed work would contravene any of those byelaws, they shall reject the plans.

Passing or rejection of plans, etc.

(2) The authority shall within the appropriate period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—

(a) a notice of rejection shall specify the defects on account of which, or the byelaw for non-conformity with which, the plans have been rejected; and

(b) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the byelaws.

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—cont.

(3) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited whether the plans are defective, or whether the proposed work would contravene any of the byelaws, may on the application of that person be determined by a magistrates' court:

Provided that no such application shall be entertained unless it is made before the proposed work has been substantially begun.

Deposit of plans to be of no effect after certain interval.

162.—(1) Where plans of any proposed work have, in accordance with new street byelaws, been deposited with a local authority, and either the plans have been passed by the authority or notice of rejection of the plans has not been given within the appropriate period from the deposit thereof, and the work to which the plans relate has not been begun within three years from the date of the deposit of the plans, the local authority may, at any time before the work is begun, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the land to which the plans relate, declare that the deposit of the plans shall be of no effect, and when such a notice is given, this Part of this Act and the byelaws made thereunder shall as respects the proposed work have effect as if no plans had been deposited.

(2) A local authority shall attach a notice of the provisions of the foregoing subsection to every notice of the passing of plans of proposed work deposited in accordance with new street byelaws.

Requirements and prohibitions as to new streets

Imposition of requirements as to width of new streets in certain cases.

163.—(1) Where, in pursuance of a new street byelaw requiring plans to be deposited with them, application is made to the council of a borough or of an urban district to pass plans of a new street, and that new street will, in the opinion of the council, form—

- (a) a main thoroughfare or a continuation of a main thoroughfare, or means of communication between main thoroughfares in their area ; or
 - (b) a continuation of a main approach, or means of communication between main approaches, to their area ;
- the council—
- (i) may, as a condition of passing the plans, require that the new street shall be formed of such width as they may determine, and
 - (ii) if they make a requirement under the foregoing paragraph, shall, as such a condition, determine how much of the width of the street is to be laid out as a carriage-way and how much as a footway or footways.

(2) Where, in pursuance of a new street byelaw requiring plans to be deposited with them, application is made to the council of a rural district to pass plans of a new street, they shall, within seven days from the receipt of the application, notify the council of the county comprising the district of the making of the application, and if, in the opinion of the county council, the new street will form—

(a) a main thoroughfare or a continuation of a main thoroughfare, or means of communication between main thoroughfares in the district, or

(b) a continuation of a main approach, or means of communication between main approaches, to the district,
the county council—

(i) may, as a condition of the rural district council's passing the plans, make such a requirement as is referred to in paragraph (i) of the foregoing subsection, and

(ii) if they make such a requirement, shall, as such a condition, make such a determination as is referred to in paragraph (ii) of the foregoing subsection.

The council of a county may authorise the county surveyor to discharge on their behalf their functions under this subsection.

(3) If the council of a borough or of an urban district under subsection (1) of this section, or the council of a county under subsection (2) thereof, require a new street to be formed of a width which exceeds the normal maximum width by an amount greater than twenty feet, the council making the requirement shall pay compensation for any loss or injury which may be sustained by reason of the requirement.

(4) Nothing in this section shall empower a council to require any person to defray any greater expenses in the execution of any street works than would have been payable if the street had been of no greater width than the normal maximum width, and the additional expense incurred in the execution of the street works by reason of the street being of such greater width shall be certified by the surveyor of the council, or in the case of dispute shall be determined by a magistrates' court, and shall be borne by the council.

(5) In this section "the normal maximum width" means the maximum width of which, apart from this section, the street could have been required to be formed under any byelaw or enactment with respect to the width of new streets which is in force in the borough, urban district or rural district in question.

(6) A person aggrieved by a condition imposed under this section may appeal to a court of quarter sessions.

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—cont

Power of local authority to vary position or direction, and to fix beginning and end, of new street.

164.—(1) A local authority in whose area this section applies by virtue of section two hundred and ninety of this Act may, on the deposit with them of plans of a new street in pursuance of a new street byelaw, by order vary the intended position, direction, termination or level of the new street so far as is necessary for the purpose of securing—

- (a) more direct, easier or more convenient means of communication with any other street or intended street ; or
- (b) an adequate opening at one or each of the ends of the new street ; or
- (c) compliance with any byelaw in force in their area for the regulation of streets or buildings.

(2) A local authority may by an order made under the foregoing subsection fix the points at which the new street is to be deemed to begin or end, and the limits of the new street as determined by the points so fixed shall be treated as the limits thereof for the purposes of this Part of this Act and of any byelaws made thereunder.

(3) A person aggrieved by an order under this section may appeal to a court of quarter sessions.

(4) If a person lays out or constructs a new street in contravention of an order under this section, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

(5) A local authority shall pay compensation to any person for any loss or injury sustained by him by reason of the exercise by them of their powers under this section.

(6) A local authority shall not make an order under this section in a case in which it is shown to their satisfaction that compliance with the order would entail the purchase of additional land by the owner of the land on which the new street is intended to be laid out, or the execution of works elsewhere than on the last-mentioned land or land held therewith on which building operations associated with the new street are intended to be undertaken.

Construction of bridge carrying new street.

165.—(1) No person shall, except in the exercise of statutory powers, construct a bridge to carry a new street unless the bridge and the approaches thereto are of such width and gradients as are approved—

- (a) in the case of a new street which is, or is to be, situated in a borough or in an urban district, by the council of the borough or district, as the case may be, and

(b) in any other case, by the council of the county in which the new street is, or is to be, situated, and are constructed in accordance with plans so approved.

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—cont.

(2) A person aggrieved by the refusal of an approval required by the foregoing subsection may appeal to a court of quarter sessions.

(3) If a person contravenes the provisions of this section, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding twenty pounds, and the council of the borough, urban district or county, as the case may be, may remove, alter or pull down any work done in contravention of those provisions and may recover the expenses reasonably incurred by them in so doing from him.

166.—(1) Where—

- (a) an owner of land adjoining one side of an existing highway proposes to lay out on that land a new street along the line of the highway, and
- (b) buildings have been or are intended to be erected on that side only,

Power to allow widening of existing street on one side only to less than prescribed width.

the appropriate council may make such an order as the following in a case in which they are empowered to require the owner to widen the existing highway to the width prescribed for a new street by a byelaw with respect to the width of new streets, that is to say, instead of requiring the existing highway to be widened to the width so prescribed, they may by order permit the owner to widen the highway on the said side only to such less width as may be specified in the order, being a width such that the distance between the centre line of the existing highway and the boundary, after the widening, of the highway on the said side shall not be less than one half of the said prescribed width.

(2) Not less than twenty-one days before making an order under this section, the appropriate council shall send notice of the intended order to such owner as aforesaid, and, unless he is the same person, to the owner of land adjoining the highway on the side thereof opposite the land to which the order will relate.

(3) If, where an order under this section has effect, building is begun on the said land on that opposite side, the owner of that land shall widen the existing highway on that opposite side where it adjoins that land so that the distance between—

- (a) the boundary, after widening, of the highway on that opposite side, and
 - (b) the boundary, after widening under the said order, of the highway on the side to which the order relates,
- shall be the said prescribed width.

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—cont.

If a person fails to comply with the provisions of this subsection, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day on which the offence is so continued.

(4) Nothing in the last foregoing subsection shall impose on a person an obligation to pull down a building erected before the date of an order under this section relating to the land in question.

(5) A person aggrieved by an order under this section, or by the refusal to make an order thereunder, may appeal to a court of quarter sessions.

(6) In this section “ the appropriate council ” means—

- (a) in relation to a highway in a rural district, the council of the county in which the highway is situated ;
- (b) in relation to a highway in a borough or urban district, the council of the borough or district, as the case may be.

*Enforcement of byelaws and requirements
of local authority*

Power to
require
removal or
alteration of
work not in
conformity
with byelaws.

167.—(1) If any work to which new street byelaws are applicable contravenes any of those byelaws, the local authority, without prejudice to their right, if any, to take proceedings for a fine, may by notice require any person by whom, or on whose behalf, the work was executed either to remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the byelaws.

(2) If, in any case in which new street byelaws require plans of a new street to be deposited with the local authority, the council of a borough or of an urban district, or where the new street is in a rural district, the council of the county comprising the district, are of opinion that a new street in the borough, urban district or rural district, as the case may be, forms or will form such a way as is referred to in paragraph (a) or paragraph (b) of subsection (1) or of subsection (2) of section one hundred and sixty-three of this Act, and any work to which those byelaws are applicable is executed without plans having been passed, the council may, without prejudice to their right, if any, to take proceedings for a fine, by notice to any person by whom or on whose behalf the work was executed either—

- (a) require him to remove the work or
- (b) require him either to remove the work, or, if he so elects, to comply with any condition specified in the notice, being a condition which they could have imposed under the said section one hundred and sixty-three as a condition of the passing of plans deposited in accordance with the byelaws.

For the purposes of this subsection plans shall be deemed to have been passed if notice of their rejection was not given within the appropriate period from the deposit thereof.

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—cont.

(3) If in a case falling within section one hundred and sixty-three of this Act any work to which new street byelaws are applicable is executed otherwise than in accordance with any condition imposed under the said section one hundred and sixty-three, the council of the borough or urban district or, where the new street is in a rural district, the council of the county comprising the district, may, without prejudice to their right to take proceedings for a fine, by notice to any person by whom or on whose behalf the work was executed either—

- (a) require him to remove the work, or
- (b) require him either to remove the work or, if he so elects, to comply with any other condition specified in the notice, being a condition which they could have imposed under the said section one hundred and sixty-three as a condition of the passing of plans deposited in accordance with the byelaws.

(4) A person aggrieved by a requirement of an authority under the foregoing provisions of this section may appeal to a magistrates' court.

(5) Subject to any order made on appeal, if a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of twenty-eight days from the date of the service of the notice on him, or such longer period as a magistrates' court may on his application allow, the council by whom the notice was given may remove the work in question, or effect such alterations therein as they deem necessary, and may recover the expenses reasonably incurred by them in so doing from him.

(6) No such notice as is mentioned in subsection (1) or subsection (2) or subsection (3) of this section shall be given after the expiration of twelve months from the date of the completion of the work in question, and it shall not be open to an authority to give a notice under subsection (1) of this section in a case where plans have been deposited, if—

- (a) either the plans were passed by the local authority, or notice of their rejection was not given within the appropriate period from the deposit thereof, and
- (b) the work has been executed in accordance with the plans and any condition imposed under subsection (1) or subsection (2) of section one hundred and sixty-three of this Act.

(7) Nothing in this section shall affect the right of a local authority or of the Attorney-General, or of any other person,

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—cont.

to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any byelaw, but if—

- (a) the work is one in respect of which plans were deposited and either the plans were passed by the local authority or notice of their rejection was not given within the appropriate period from the deposit thereof, and
- (b) the work has been executed in accordance with the plans,

the court on granting an injunction shall have power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall, in accordance with rules of court, cause the local authority, if not a party to the proceedings, to be joined as a party thereto.

Fine for executing work otherwise than in accordance with conditions.

168. Where in a case falling within section one hundred and sixty-three of this Act a local authority or county council have imposed a condition on the passing of plans deposited in pursuance of new street byelaws, a person who executes work proposed in the plans otherwise than in accordance with that condition shall be liable to the like fine as if he had executed the work in contravention of a byelaw.

Enforcement of conditions imposed by or under byelaws against owner.

169. Where a local authority have passed plans for a new street subject to conditions imposed or authorised by new street byelaws in force in the area of that authority, then, subject to the provisions of section fifteen of the Land Charges Act, 1925 (which provides that a local land charge shall be void as against a purchaser for money or money's worth unless registered under that section), those conditions may be enforced at any time by the authority against the owner for the time being of the land to which the conditions relate.

In this section "owner" in relation to any land means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease the unexpired term whereof exceeds three years.

Provisions as to regulation of new streets by enactment

Application of certain sections where new streets regulated by enactment.

170.—(1) Section one hundred and fifty-eight of this Act shall apply for the purpose of the application to a continuation of an existing street of a provision in a local Act with respect to the width of a new street as it applies for the purpose of the application to such a continuation of new street byelaws.

(2) Section one hundred and sixty-three of this Act shall apply where application is made to a local authority to pass plans of a new street in pursuance of an enactment requiring plans to be deposited with them as it applies where such an application is made in pursuance of a byelaw making such a requirement.

(3) A local authority in whose area this subsection applies by virtue of section two hundred and ninety of this Act shall have the like power under section one hundred and sixty-four of this Act to vary the position, direction, termination or level of a new street for the purpose of securing compliance with an enactment in force in their area for the regulation of streets or buildings as a local authority in whose area that section is in force have to make such a variation for the purpose of securing compliance with a byelaw for such regulation, and subsections (2) to (6) of the said section one hundred and sixty-four shall have effect accordingly.

PART VIII
—cont.

(4) Section one hundred and sixty-six of this Act shall apply in a case where a council are empowered to require the widening of a highway to the width prescribed by an enactment with respect to the width of new streets as it applies where a council are empowered to require the widening of a highway to a width prescribed by a byelaw.

Supplemental provisions

171.—(1) Where new street byelaws require plans deposited in pursuance of the byelaws to be deposited in duplicate, the local authority may retain one copy of any plans so deposited, whether the plans are passed or not.

Right of local authority to retain deposited plans.

(2) A local authority may retain any plans deposited with and passed by them in pursuance of any enactment regulating the construction of new streets for the time being in force in their area.

172. In this Part of this Act references to plans include references to sections, specifications and written particulars, and references to the passing of plans, in relation to any enactment or byelaw (not being an enactment contained in this Act or a byelaw made thereunder), include references to the approval of plans; and for the purposes of this Part of this Act, “the appropriate period” in relation to the passing or rejection of plans means one month, but new street byelaws for the area of an authority whose meetings are normally held not more frequently than once a month may provide that, in the case of plans deposited less than three clear days before a meeting of the authority, the appropriate period shall be five weeks.

Interpretation of Part VIII.

PART IX

MAKING UP OF PRIVATE STREETS

Introductory

173.—(1) Sections one hundred and seventy-four to one hundred and eighty-eight of this Act (in this Act referred to as “the code of 1892”) shall have effect for the purpose of securing the execution of street works in private streets, and shall apply in all rural districts and in any borough or urban district in which either—

Purposes of the code of 1892, the code of 1875 and the advance payments code, and their application.

PART IX
—cont.

- (a) immediately before the commencement of this Act, the Private Street Works Act, 1892, was in force, or
- (b) after the commencement of this Act, the council of the borough or district adopt the provisions of the code of 1892 for the borough or district in accordance with Part I of the Fourteenth Schedule to this Act.

(2) Sections one hundred and eighty-nine to one hundred and ninety-one of this Act (in this Act referred to as “the code of 1875”) shall have effect for the purpose of securing the execution of street works in private streets, and shall apply in all boroughs and urban districts in which, immediately before the commencement of this Act, there were in force the following enactments, that is to say, sections one hundred and fifty and one hundred and fifty-one of the Public Health Act, 1875, and either section one hundred and fifty-two of that Act or section forty-one of the Public Health Acts Amendment Act, 1890:

Provided that the code of 1875 shall not apply in any borough or urban district in which, after the commencement of this Act, the code of 1892 is adopted under the foregoing subsection.

(3) Sections one hundred and ninety-two to one hundred and ninety-nine of this Act (in this Act referred to as “the advance payments code”) shall have effect for securing payment of the expenses of the execution of street works in private streets adjacent to new buildings, and shall apply in all boroughs and urban districts, and shall apply in any rural district and in any contributory place within a rural district in which either—

- (a) immediately before the commencement of this Act, the New Streets Act, 1951, was in force, or
- (b) after the commencement of this Act, the Minister of Housing and Local Government applies the advance payments code in accordance with Part II of the Fourteenth Schedule to this Act.

The Code of 1892

Street works
in private
streets.

174.—(1) Where a private street is not, to the satisfaction of the street works authority, sewered, levelled, paved, metalled, flagged, channelled, made good and lighted, the authority may from time to time resolve with respect to the street to execute street works and, subject to the provisions of the code of 1892, the expenses incurred by the authority in executing those works shall be apportioned between the premises fronting the street:

Provided that where the authority so resolve with respect to a part only of the street (not being a part extending for the whole of the length of the street), the said expenses shall be apportioned only between the premises fronting the length of the street which constitutes or comprises that part.

(2) When an authority have passed a resolution under the foregoing subsection, the surveyor shall prepare—

PART IX

—cont.

(a) a specification of the street works referred to in the resolution, with any necessary plans and sections, (Code of 1892.)

—cont.

(b) an estimate of the probable expenses of the works, which may include, in addition to the estimated actual cost, a charge not exceeding five pounds per cent. in respect of surveys, superintendence and notices, and

(c) a provisional apportionment apportioning the estimated expenses between the premises liable to be charged therewith under the code of 1892,

and the specification, plans, sections, estimate and provisional apportionment shall comprise the particulars specified in paragraphs 1 to 4 of the Fifteenth Schedule to this Act and shall be submitted to the authority, who may by a further resolution approve them with or without modification or addition as they think fit:

Provided that if the street works referred to in the resolution under the foregoing subsection include the sewerage of a street in a rural district, and the council of that rural district are not discharging the functions of the county council by virtue of subsection (2) of section twenty-five of this Act, the county surveyor shall, when preparing the said specification, consult the council of the rural district.

The resolution of the authority approving the said documents is hereafter in the code of 1892 referred to as “the resolution of approval”.

(3) After the resolution of approval has been passed, a notice containing the particulars specified in paragraph 5 of the said Fifteenth Schedule shall—

(a) be published once in each of two successive weeks in a local newspaper circulating in the area of the street works authority, and

(b) be posted in a prominent position in or near to the street to which the resolution relates once at least in each of three successive weeks, and

(c) within seven days from the date of the first publication under paragraph (a) of this subsection, be served on the owners of the premises shown in the provisional apportionment as liable to be charged,

and, during one month from the said date, a copy of the resolution of approval, and the approved documents or copies thereof certified by the surveyor, shall be kept deposited at the offices of the authority and open to inspection free of charge at all reasonable hours.

PART IX (4) Where a notice is served on an owner of premises under
 (Code of 1892.) paragraph (c) of the last foregoing subsection it shall be accom-
 —cont. panied by a statement of the sum apportioned on those premises
 by the provisional apportionment.

Incidental
works.

175. A street works authority may include in street works to be executed under the code of 1892 with respect to a street any works which they think necessary for bringing the street, as regards sewerage, drainage, level, or other matters, into conformity with any other streets, whether maintainable at the public expense or not, including the provision of separate sewers for the reception of sewage and of surface water respectively.

Provisional
apportionment
of expenses.

176.—(1) In a provisional apportionment of expenses of street works under the code of 1892, the apportionment of expenses between the premises liable to be charged therewith shall, subject to the provisions of this section, be made according to the frontage of the respective premises.

(2) The street works authority may, if they think just, resolve that in settling the apportionment regard shall be had to the following considerations, that is to say—

- (a) the greater or less degree of benefit to be derived by any premises from the street works ;
- (b) the amount and value of any work already done by the owners or occupiers of any premises.

(3) The authority may, if they think just, include in the apportionment any premises which do not front the street, but have access thereto through a court, passage, or otherwise, and which will, in the opinion of the authority, be benefited by the works, and may fix, by reference to the degree of benefit to be derived by those premises, the amount to be apportioned thereon.

Objections
to proposed
works.

177.—(1) Within one month from the date of the first publication of a notice under paragraph (a) of subsection (3) of section one hundred and seventy-four of this Act, an owner of premises shown in a provisional apportionment of expenses as liable to be charged with any part of the expenses of executing street works with respect to a private street or a part of a private street may, by notice to the street works authority, object to their proposals on any of the following grounds, that is to say—

- (a) that the alleged private street is not a private street or, as the case may be, that the alleged part of a private street is not a part of a private street,
- (b) that there has been some material informality, defect or error in, or in respect of, the resolution, notice, plans, sections or estimate,

- (c) that the proposed works are insufficient or unreasonable, PART IX
 (d) that the estimated expenses of the proposed works are excessive, (Code of 1892.)
 —cont.
 (e) that any premises ought to be excluded from or inserted in the provisional apportionment,
 (f) that the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or, where the provisional apportionment is made with regard to other considerations than frontage, in respect of the degree of benefit to be derived by any premises, or of the amount or value of any work already done by the owner or occupier of premises.

(2) Where premises are owned jointly by two or more persons, a notice under the foregoing subsection may be given on behalf of those persons by one of their number, if he is authorised in writing by a majority of them to do so.

178.—(1) If an objection is made under the last foregoing section within the period limited thereby, and is not withdrawn, the street works authority may, after the expiration of that period, apply to a magistrates' court to appoint a time for hearing and determining all objections so made within that period, and shall serve on the objectors notice of the time and place so appointed. Hearing and determination of objections.

(2) At the hearing the court shall hear and determine the objections in the same manner as nearly as may be as if the authority were proceeding summarily against the objectors to enforce payment of a sum of money summarily recoverable.

The court may quash in whole or in part or may amend the resolution of approval, specification, plans, sections, estimate and provisional apportionment, or any of them, on the application either of an objector or of the authority, and may also, if it thinks fit, adjourn the hearing and direct further notices to be given.

(3) The costs of any proceedings before a magistrates' court in relation to objections under the code of 1892 shall be in the discretion of the court, and the court shall have power, if it thinks fit, to direct that the whole or a part of any costs ordered to be paid by an objector or objectors shall be paid in the first instance by the authority, and charged as part of the expenses of the works on the premises of the objector, or, as the case may be, on the premises of the objectors in such proportions as may appear just.

179.—(1) Subject to the provisions of this section, the street works authority may from time to time amend the specification, plans, sections, estimate and provisional apportionment for any street works proposed under section one hundred and seventy-four of this Act. Power to amend specification, apportionment, etc.

PART IX (2) If the street works authority propose to amend the estimate
(Code of 1892.) so as to increase the amount thereof, then, before the amendment
—cont. is made, a notice containing the particulars specified in paragraph 6 of the Fifteenth Schedule to this Act shall—

- (a) be published once in each of two successive weeks in a local newspaper circulating in the area of the street works authority, and
- (b) be posted in a prominent position in or near to the street to which the resolution of approval relates once at least in each of three successive weeks, and
- (c) within seven days from the date of the first publication under paragraph (a) of this subsection, be served on the owners of the premises shown in the provisional apportionment as liable to be charged,

and, during one month from the said date, a document certified by the surveyor giving details of the amendment of the estimate and of the consequential amendment of the provisional apportionment shall be kept deposited at the offices of the authority and open to inspection free of charge at all reasonable hours.

(3) Where a notice is served on an owner of premises under paragraph (c) of the last foregoing subsection it shall be accompanied by a statement of the sum apportioned on those premises by the provisional apportionment as proposed to be amended.

(4) Within one month from the date of the first publication of a notice under paragraph (a) of subsection (2) of this section, objections may be made and, if made, shall be heard and determined in like manner, and subject to the like provisions with respect to the persons entitled to be heard and otherwise, as objections under section one hundred and seventy-seven of this Act.

Final apportionment and objections thereto.

180.—(1) When any street works to be executed under the code of 1892 have been completed, and the expenses thereof ascertained, the surveyor shall make a final apportionment by dividing the expenses in the same proportions as those in which the estimated expenses were divided in the original or amended provisional apportionment, as the case may be, and notice of the final apportionment shall be served on the owners of the premises affected thereby.

(2) Within one month from the date on which the said notice is served on him, the owner of any premises shown in the apportionment as liable to be charged may, by notice to the authority, object to the apportionment on the following grounds, or any of them, that is to say—

- (a) that there has been an unreasonable departure from the specification, plans and sections,

- (b) that the actual expenses have without sufficient reason exceeded the estimated expenses by more than fifteen per cent.,
- (c) that the final apportionment has not been made in accordance with this section.

PART IX
(Code of 1892.)
—cont.

Objections under this section shall be determined in the like manner, and subject to the like provisions with respect to the persons entitled to be heard and otherwise, as objections to the provisional apportionment.

(3) The final apportionment shall, subject to any amendment made therein by a court on the hearing of objections thereto under this section, be conclusive for all purposes.

181.—(1) A street works authority may from time to time recover from the owner for the time being of any premises in respect of which any sum is due for expenses of street works the whole or any portion of that sum together with interest from the date of the final apportionment.

Recovery of
expenses and
charge thereof
on premises.

(2) The sum apportioned on any premises by the final apportionment, or, as the case may be, by that apportionment as amended by a court, together with interest from the date of the final apportionment shall, until recovered, be a charge on the premises and on all estates and interests therein.

(3) Subject to the provisions of the Land Charges Act, 1925, with respect to local land charges, a street works authority shall, for the purpose of enforcing a charge under the last foregoing subsection before it is registered under the Land Charges Act, 1925, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as if they were mortgagees by deed having powers of sale and lease and of appointing a receiver.

(4) A street works authority may by order declare the expenses apportioned on any premises by a final apportionment made by the surveyor, or, as the case may be, by that apportionment as amended by a court, to be payable by annual instalments within a period not exceeding thirty years, together with interest from the date of the final apportionment, and any such instalment and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises.

The Thirteenth Schedule to this Act shall apply in relation to any sum paid by an occupier of premises under this subsection.

(5) The rate of interest chargeable under this section shall be such rate of interest as the Minister of Housing and Local Government may by order fix, and different rates of interest may be fixed in different cases.

PART IX **182.** The owners of any premises, being persons who under
(Code of 1892.) the Lands Clauses Acts are empowered to sell and convey or
—cont. release lands, may charge those premises with—

Power
for limited
owners to
borrow for
expenses.

- (a) such sum as may be necessary to defray the whole or a part of any expenses which the owners of, or any other person in respect of, those premises for the time being are liable to defray under the code of 1892, and
- (b) the expenses of making such a charge,

and, for securing the repayment of that sum with interest, may mortgage the premises to any person advancing that sum, so, however, that the principal due on any such mortgage shall be repaid by equal yearly or half-yearly payments within twenty years.

Financial
provisions.

183.—(1) A street works authority shall keep separate accounts of all moneys expended and recovered by them in the execution of the code of 1892.

(2) A street works authority may from time to time borrow money for the purpose of providing temporarily for expenses of street works in private streets.

(3) If the whole or a part of a loan raised in respect of expenses of street works is outstanding at the date when any sum is recovered in respect of the expenses of those street works under section one hundred and eighty-one of this Act, the sum so recovered shall be applied in repayment of the loan.

Exemption
for place of
public religious
worship.

184.—(1) The incumbent or minister, or trustee, of a place of public religious worship shall not be liable to expenses of street works under the code of 1892 as the owner of that place, or of a churchyard or burial ground attached thereto, and the proportion of expenses in respect of which an exemption is allowed under this section shall be borne by the street works authority.

(2) No such expenses as aforesaid shall be deemed—

- (a) to be a charge on such a place, or churchyard or burial ground, or
- (b) to subject such a place, or churchyard or burial ground, to distress, execution or other legal process.

Certain
railways and
canals not to
be chargeable
with expenses.

185.—(1) No railway undertakers or canal undertakers shall be deemed to be owners or occupiers for the purposes of the code of 1892 of land upon which a street wholly or partly fronts, if the land—

- (a) at the time of the laying out of the street was used solely as part of their line of railway, canal, or siding, station, towing path, or works—

(i) by the undertakers, or

(ii) in a case where the rights of other railway or canal undertakers in respect of the land under section twenty-two of the Private Street Works Act, 1892, are vested in the undertakers, by those other railway undertakers or canal undertakers, and

PART IX

(Code of 1892.)
—cont.

(b) has no direct communication with the street,

and the amount of any expenses incurred by a street works authority under the code of 1892 which, but for this provision, the undertakers would be liable to pay shall be paid to the authority by the owners of the other premises included in the final apportionment in such proportion as may be settled by the surveyor:

Provided that in the event of the undertakers subsequently making a communication with the street, they shall pay to the authority the amount of the expenses which, but for the foregoing provision, the undertakers or such other undertakers as aforesaid would in the first instance have been liable to pay, and the authority shall divide among the owners for the time being of the other premises included in the final apportionment the amount so paid by the undertakers, less the costs and expenses attendant upon the division, in such proportion as may be settled by the surveyor.

(2) This section shall not apply to a street existing at the date when the Private Street Works Act, 1892, first became applicable in the county borough or county district in which the street is situated or the code of 1892 was adopted by the council thereof.

186. No objection which could be made under any provision of the code of 1892 shall be made in any proceeding or manner otherwise than as provided by that code.

Objections only to be made as provided by code of 1892.

187. In the code of 1892, "the surveyor" means the surveyor of the street works authority or, where that authority are a county council of which the council of a rural district are discharging the functions by virtue of subsection (2) of section twenty-five of this Act, means the surveyor of the council of the rural district.

Meaning of "the surveyor".

188. Nothing in the code of 1892 shall affect property or works of the Conservators of the River Thames on the shores of the river Thames, or of the Port of London Authority on those shores, or render those Conservators or that Authority liable to charges in respect of any such property or works.

Saving for Conservators of River Thames and Port of London Authority.

PART IX
—cont.
Street works
in private
streets.

The Code of 1875

189.—(1) Where a private street is not, to the satisfaction of the street works authority, sewered, levelled, paved, metalled, flagged, channelled, made good and lighted, the authority may, by notice to the owners or occupiers of the premises fronting the street, require those owners or occupiers to execute street works with respect to the street within such time as may be specified in the notice:

Provided that where street works are required by the street works authority to be executed with respect to a part only of the street (not being a part extending for the whole of the length of the street), the requirement shall be made only of the owners of the premises fronting the length of the street which constitutes or comprises that part.

(2) A person aggrieved by a requirement made under the foregoing subsection may appeal to a magistrates' court.

(3) Before giving a notice under subsection (1) of this section, the street works authority shall cause to be prepared under the direction of their surveyor plans and sections of any structural works intended to be executed under that subsection and an estimate of the probable cost thereof, and the plans, sections and estimate shall be deposited at the offices of the authority and shall be open to inspection free of charge at all reasonable hours during the time so specified as aforesaid.

The plans and sections shall be on a scale of not less than one inch to eighty-eight feet for a horizontal plan, and one inch to ten feet for a vertical section, and, in the case of a sewer, shall show the depth thereof below the surface of the ground.

(4) A notice given under subsection (1) of this section may contain a reference to a plan or section deposited under the last foregoing subsection without annexation of copies thereof to the notice.

Power of
street works
authority to
execute works.

190.—(1) Subject to any order made on appeal, if a requirement under subsection (1) of the last foregoing section is not complied with within the time specified in the notice containing that requirement, the street works authority may themselves execute the street works so specified, and, subject to the provisions of the code of 1875, may recover, in accordance with the provisions of section two hundred and sixty-four of this Act, from each owner of premises in default such proportion of the expenses reasonably incurred by the authority in executing the works as may be apportioned to him under an apportionment according to the frontage of the premises and settled under the next following subsection.

(2) The amount apportioned to an owner of premises under this section shall be settled by the surveyor of the authority, or, if the owner by notice to the authority or their surveyor within three months from the date of service of notice on the owner of the amount so settled as aforesaid disputes that amount, by arbitration.

PART IX
(Code of 1875.)
—cont.

191.—(1) The incumbent or minister, or trustee, of a place of public religious worship shall not be liable to expenses of street works under the code of 1875 as the owner of that place, or of a churchyard or burial ground attached thereto.

Exemption
for place of
public religious
worship.

(2) No such expenses as aforesaid shall be deemed—

(a) to be a charge on such a place, or churchyard or burial ground, or

(b) to subject such a place, or churchyard or burial ground, to distress, execution or other legal process.

(3) A street works authority may execute any street works from the expenses of which an exemption is allowed under this section.

The Advance Payments Code

192.—(1) Subject to the provisions of this section, where—

(a) it is proposed to erect a building for which plans are required to be deposited with the local authority in accordance with building byelaws, and

(b) the building will have a frontage on a private street in which the street works authority have power under the appropriate private street works code to require works to be executed or to execute works,

Payments to
be made by
owners of new
buildings in
respect of
street works.

no work shall be done in or for the purpose of erecting the building unless the owner of the land on which it is to be erected or a previous owner thereof has paid to the street works authority, or secured to the satisfaction of that authority the payment to them of, such sum as may be required under the next following section in respect of the cost of street works in that street.

(2) If work is done in contravention of the foregoing subsection, the owner of the land on which the building is to be erected and, if he is a different person, the person undertaking the erection of the building shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding one hundred pounds, and any further contravention in respect of the same building shall constitute a new offence and may be punished accordingly:

PART IX
(*Advance
Payments
Code.*)
—cont.

Provided that where the person undertaking the erection of the building, not being the owner of the land on which it is to be erected, is charged with an offence under this subsection, it shall be a defence for him to prove that he had reasonable grounds for believing that the said sum had been paid or secured by the owner of the land in accordance with the foregoing subsection.

Proceedings under this subsection shall not be taken by any person other than the street works authority.

(3) This section shall not apply—

- (a) in a case where the owner of the land on which the building is to be erected will be exempt, by virtue of a provision in the appropriate private street works code, from liability to expenses incurred in respect of street works in the private street in question ;
- (b) in a case where the building proposed to be erected will be situated in the curtilage of, and be appurtenant to, an existing building ;
- (c) in a case where the building is proposed to be erected in a rural district or in a contributory place within a rural district and plans for the building were deposited with the rural district council before the date on which the New Streets Act, 1951, or the advance payments code was applied in the rural district or contributory place ;
- (d) in a case where an agreement has been made by any person with the street works authority under section forty of this Act providing for the carrying out at the expense of that person of street works in the whole of the street or a part of the street comprising the whole of the part on which the frontage of the building will be, and for securing that the street or the part thereof, on completion of the works, will become a highway maintainable at the public expense ;
- (e) in a case where the street works authority, being satisfied that the whole of the street or such a part thereof as aforesaid is not, and is not likely within a reasonable time to be, substantially built-up or in so unsatisfactory a condition as to justify the use of powers under the appropriate private street works code for securing the carrying out of street works in the street or part thereof, by notice exempt the building from this section ;
- (f) in a case where the street works authority, being satisfied that the street is not, and is not likely within a reasonable time to become, joined to a highway maintainable at the public expense, by notice exempt the building from this section ;

- PART IX
(Advance
Payments
Code.)
—cont.
- (g) in a case where the whole street, being less than one hundred yards in length, or a part of the street not less than one hundred yards in length and comprising the whole of the part on which the frontage of the building will be, was on the first day of October, nineteen hundred and fifty-one, built-up to such an extent that the aggregate length of the frontages of the buildings on both sides of the street or part constituted at least one half of the aggregate length of all the frontages on both sides of the street or part ;
- (h) in a case (not falling within the last foregoing paragraph) where the street works authority, being satisfied that the whole of the street was on the first day of October, nineteen hundred and fifty-one, substantially built-up, by notice exempt the building from this section ;
- (i) in a case where the building is proposed to be erected on land belonging to, or in the possession of, the British Transport Commission or any Executive established by or under section five of the Transport Act, 1947, the council of a county (including the county of London), county borough, metropolitan borough or county district, the Common Council of the City of London, or a development corporation established under section two of the New Towns Act, 1946 ;
- (j) in a case where the building is proposed to be erected by a trading or industrial estate company within the meaning of section fifteen of the Distribution of Industry Act, 1945, and the cost thereof is to be defrayed wholly or mainly by a government department ;
- (k) in a case where the street works authority, being satisfied—
- (i) that more than three-quarters of the aggregate length of all the frontages on both sides of the street, or of a part of the street not less than one hundred yards in length and comprising the whole of the part on which the frontage of the building will be, consists, or is at some future time likely to consist, of the frontages of industrial premises, and
 - (ii) that their powers under the appropriate private street works code are not likely to be exercised in relation to the street, or to that part thereof, as the case may be, within a reasonable time,
- by resolution exempt the street, or that part thereof, from this section.

PART IX
*(Advance
 Payments
 Code.)*
 —cont.

(4) Where a sum has been paid or secured under this section by the owner of land in relation to a building proposed to be erected thereon, and thereafter a notice is served under the last foregoing subsection exempting the building from this section, or a resolution is passed under paragraph (k) of that subsection exempting the street or part of a street on which the building will have a frontage from this section, the street works authority shall refund that sum to the person who is for the time being owner of the land or shall release the security, as the case may be.

Where the said sum was paid, and after the payment thereof but before the service of the said notice or the passing of the said resolution, as the case may be, the land in respect of which it was paid was divided into two or more parts each having a frontage on the private street in question, the sum shall be treated for the purposes of this subsection as apportioned between the owners thereof according to their respective frontages.

(5) This section shall apply in relation to a building proposed to be erected in a rural district or in any contributory place within a rural district as if for references therein to the first day of October, nineteen hundred and fifty-one, there were substituted references to the date on which the New Streets Act, 1951, or the advance payments code was applied in the rural district or contributory place.

**Determination
of liability for,
and amount
of, payments.**

193.—(1) In a case to which the last foregoing section applies, the street works authority shall, within one month from the passing of the plans of the building deposited in accordance with building byelaws, serve a notice on the person by or on whose behalf the plans were deposited requiring the payment or the securing under the last foregoing section of a sum specified in the notice.

Where the advance payments code is in force in a rural district or in a contributory place within a rural district and the rural district council are not discharging the functions of the county council under the advance payments code as agents for the county council, the rural district council, in any case to which the last foregoing section may be applicable, shall within one week from the date of the passing of any plans deposited with them relating to the erection of a building inform the county council that the plans have been passed.

(2) Subject to the provisions of this section, the sum to be specified in a notice under the foregoing subsection shall be such sum as, in the opinion of the street works authority, would be recoverable under the appropriate private street works code in respect of the frontage of the proposed building on the private street if the authority were then to carry out such street works in the street as they would require under

that code before declaring the street to be a highway which for the purposes of this Act is a highway maintainable at the public expense.

PART IX
(Advance
Payments
Code.)

—cont.

In this subsection a reference to a street shall not include a reference to a part of a street, except to a part which the street works authority think fit to treat as constituting a separate street for the purposes of this subsection and which comprises the whole of the part on which the frontage of the building will be.

(3) If, at any time after the service of a notice under subsection (1) of this section, the street works authority are of opinion that the sum specified in the notice exceeds such sum as in their opinion would be recoverable as mentioned in the last foregoing subsection if they were then to carry out such street works as are so mentioned, or are of opinion that no sum would be so recoverable, they may, by a further notice, served on the person who is for the time being owner of the land on which the building is to be, or has been, erected, substitute a smaller sum for the sum specified in the notice served under the said subsection (1) or, as the case may be, intimate that no sum falls to be paid or secured:

Provided that this subsection shall not apply where a sum has been paid or secured in compliance with a notice served under the said subsection (1) and the case is one in which the authority have power to make a refund or release under subsection (1) of the next following section.

(4) Where, under a local Act, the erection of buildings on land having a frontage on a new street is prohibited until works for the construction or sewerage of the street have been carried out in accordance with byelaws, the amount of the sum to be specified in a notice served under this section shall be calculated as if those works had been carried out.

(5) Where a notice has been served on any person under this section (other than a notice intimating that no sum falls to be paid or secured) that person or, if he is a different person, the owner of the land on which the building is to be, or has been, erected, may, not later than one month from the date of the service of the notice, appeal to the Minister of Housing and Local Government and that Minister may substitute a smaller sum for the sum specified by the street works authority.

On an appeal under this subsection, the said Minister shall give the appellant an opportunity of being heard before a person appointed by the said Minister.

(6) Where a sum has been paid or secured in compliance with a notice served under subsection (1) of this section and a notice is subsequently served under subsection (3) thereof substituting a smaller sum for the sum specified in the first-mentioned notice

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(Advance
Payments
Code.)
—cont.

or intimating that no sum falls to be paid or secured, the street works authority—

- (a) if the sum was paid, shall refund the amount of the excess or, as the case may be, the whole sum to the person who is for the time being owner of the land on which the building is to be, or has been, erected ;
- (b) if the sum was secured and the person whose property is security for the payment thereof is for the time being owner of that land, shall release the security to the extent of the excess or, as the case may be, the whole security ;
- (c) if the sum was secured and the person whose property is security for the payment thereof is not for the time being owner of that land, shall pay to that owner an amount equal to the excess or, as the case may be, the whole sum, and shall be entitled to realise the security for the purpose of recovering the amount so paid.

Where any land in respect of which a sum has been so paid or secured is subsequently divided into two or more parts so that two or more owners would, if street works were carried out, incur liability in respect thereof, the sum shall be treated as apportioned between those owners according to their respective frontages and, if the sum was secured and the security is the property of one only of those owners, the street works authority shall only be required under paragraph (b) hereof to release the security to the extent of the amount apportioned to that owner and shall be entitled to realise the security for the purpose of recovering the amount or amounts paid to the other owner or owners under paragraph (c) hereof.

(7) Where a security is realised for the purpose of recovering an amount paid by a street works authority under paragraph (c) of the last foregoing subsection, and the sum produced by realising the security exceeds the amount so paid, the amount of the excess shall be held by the authority and dealt with under the advance payments code as if it had been an amount paid under the last foregoing section on the date on which the security was realised.

Refunds,
etc., where
work done
otherwise than
at expense of
street works
authority.

194.—(1) Where a sum has been paid or secured under section one hundred and ninety-two of this Act by the owner of land in respect of the cost of street works to be carried out in the private street on which that land has a frontage, and any street works are subsequently carried out in the private street in respect of that frontage to the satisfaction of but otherwise than at the expense of the street works authority, the authority may refund to the person at whose expense the works are carried out the whole or such proportion of that sum or, as the case may be, release the whole or such part of the security, as in

their opinion represents the amount by which the liability of the owner of that land in respect of street works has been reduced as a result of the carrying out of the said street works:

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(Advance
Payments
Code.)

—cont.

Provided that where the person at whose expense the works are carried out is not the person who is for the time being owner of that land no refund or release shall be made under this subsection unless the owner has been notified of the proposal to make the refund or release and has been afforded an opportunity of making representations to the street works authority in relation thereto.

(2) Where any land having a frontage on a private street, being land in respect of which a sum has been paid or secured under section one hundred and ninety-two of this Act, is subsequently divided into two or more parts each having a frontage on that private street, the sum shall be treated as apportioned between the owners thereof according to their respective frontages, and the foregoing subsection shall have effect accordingly.

(3) Where a sum has been paid or secured under section one hundred and ninety-two of this Act by the owner of land in respect of the cost of street works to be carried out in the private street on which that land has a frontage, and thereafter the street works authority enter into an agreement with any person under section forty of this Act providing for the carrying out at the expense of that person of street works in respect of that frontage, that agreement may also provide for the refund of the said sum or a part thereof either without interest or with interest at such rate as may be specified in the agreement, or for the release of the whole or a part of the security, as the case may be.

195.—(1) Where a sum has been paid or secured under section one hundred and ninety-two of this Act by the owner of land in respect of the cost of street works to be carried out in the private street on which that land has a frontage, the liability of that owner or any subsequent owner of that land in respect of the carrying out of street works in that street under the appropriate private street works code shall, as respects that frontage, be deemed to be discharged to the extent of the sum so paid or secured, and if, when the street is declared to be a highway which for the purposes of this Act is a highway maintainable at the public expense, the said sum is found to exceed the total liability aforesaid in respect of that frontage or there is no liability because the street was not made up at the expense of the street works authority, the street works authority—

Sums paid or
secured to be
in discharge
of further
liability for
street works.

(a) if the sum was paid, shall refund the amount of the excess or, as the case may be, the whole sum to the person who is for the time being owner of the land ;

PART IX
(Advance
Payments
Code.)
—cont.

- (b) if the sum was secured and the person whose property is security for the payment thereof is for the time being owner of the land, shall release the security to the extent of the excess or, as the case may be, the whole security ;
- (c) if the sum was secured and the person whose property is security for the payment thereof is not for the time being owner of the land, shall pay to that owner an amount equal to the excess or, as the case may be, the whole sum, and shall be entitled to realise the security for the purpose of recovering the amount so paid.

Where land in respect of which a sum has been so paid or secured is subsequently divided into two or more parts so that two or more owners incur or would incur the liability aforesaid, the sum shall be treated as apportioned between those owners according to their respective frontages, and, if the sum was secured and the security is the property of one only of those owners, the street works authority shall only be required under paragraph (b) hereof to release the security to the extent to which the amount apportioned to that owner exceeds his liability aforesaid, or, as the case may be, to the extent of the whole of that amount, and shall be entitled to realise the security for the purpose of recovering the amount or amounts paid to the other owner or owners under paragraph (c) hereof.

(2) Where any refund, release or payment has been made under subsection (6) of section one hundred and ninety-three of this Act, or under the last foregoing section, the foregoing subsection shall have effect as if for references therein to a sum paid or secured there were substituted references to any sum remaining paid or secured.

Determination to cease to have effect when plans are not proceeded with.

196.—(1) Where, on the occasion of the deposit of plans for the erection of a building, the amount to be paid or secured under section one hundred and ninety-two of this Act has been determined under section one hundred and ninety-three thereof, and subsequently—

- (a) the local authority declare under section sixty-six of the Public Health Act, 1936, that the deposit of the plans shall be of no effect, or
- (b) before any work has been done in or for the purpose of erecting the building, the owner gives notice to the local authority of his intention not to proceed with the building,

the said determination and any payment made or security given in accordance therewith shall, unless there have already been carried out or commenced in the street under the appropriate private street works code street works in respect of which the owner of the land on which the building was to be erected is liable, be of no effect for the purposes of this Part of this Act.

(2) Where by virtue of the foregoing subsection a determination is of no effect and a sum has been paid or security given in accordance therewith, the street works authority—

PART IX
(Advance
Payments
Code.)
—cont.

- (a) if the sum was paid, shall refund it to the person who is for the time being owner of the land ;
- (b) if the sum was secured and the person whose property is security for the payment thereof is for the time being owner of the land, shall release the security ;
- (c) if the sum was secured and the person whose property is security for the payment thereof is not for the time being owner of the land, shall pay to that owner an amount equal to the said sum, and shall be entitled to realise the security for the purpose of recovering the amount so paid.

Where land in respect of which a sum has been so paid or secured is subsequently divided into two or more parts so that two or more owners would, if street works were carried out, incur liability in respect thereof, the sum shall be treated as apportioned between those owners according to their respective frontages and, if the sum was secured and the security is the property of one only of those owners, the street works authority shall only be required under paragraph (b) hereof to release the security to the extent of the amount apportioned to that owner and shall be entitled to realise the security for the purpose of recovering the amount or amounts paid to the other owner or owners under paragraph (c) hereof.

(3) Where any refund, release or payment has been made under subsection (6) of section one hundred and ninety-three of this Act, or under section one hundred and ninety-four thereof, the last foregoing subsection shall have effect as if for references therein to a sum paid and security given there were substituted references to any sum remaining paid and any remaining security respectively.

(4) Where a person notifies the local authority in accordance with paragraph (b) of subsection (1) of this section of his intention not to proceed with the building and by reason thereof a determination is of no effect, and subsequently notice is given to the local authority by the owner of the land that he intends to proceed with the building in accordance with the plans as originally deposited, the notice to be served under subsection (1) of section one hundred and ninety-three of this Act by the street works authority shall, in lieu of being served as required by that subsection, be served on him within one month from the date of the service of the notice of his intention to proceed with the building, and the said section one hundred and ninety-three shall have effect accordingly.

(5) Where the advance payments code is in force in a rural district or in a contributory place within a rural district and the rural district council are not discharging the functions of

PART IX
(Advance
Payments
Code.)
—cont.

Registration
in local land
charges
register.

the county council under the advance payments code as agents for the county council, the rural district council, in any case to which this section may be applicable, shall within one week inform the county council of the happening of any of the following events, that is to say—

- (a) of the making of any declaration that the deposit of plans relating to the erection of a building is of no effect,
- (b) of the giving of any notice by an owner of his intention not to proceed with a building, and
- (c) of the giving of any notice by an owner of his intention to proceed with the building in accordance with the plans as originally deposited.

197.—(1) The matters specified in subsection (2) of this section shall be registered in the register of local land charges by the proper officer of the appropriate council in such manner as may be prescribed by rules made for the purposes of this section under subsection (6) of section fifteen of the Land Charges Act, 1925.

(2) The matters referred to in the foregoing subsection are:—

- (a) notices served by a street works authority under subsection (1) or subsection (3) of section one hundred and ninety-three of this Act;
- (b) determinations by the Minister of Housing and Local Government under subsection (5) of the said section one hundred and ninety-three;
- (c) payments made and securities given under section one hundred and ninety-two of this Act;
- (d) notices served under paragraph (e), paragraph (f) or paragraph (h) of subsection (3) of the said section one hundred and ninety-two exempting a building from that section;
- (e) resolutions passed under paragraph (k) of subsection (3) of the said section one hundred and ninety-two exempting a street or a part of a street from that section; and
- (f) refunds made and releases of securities granted under any of the three last foregoing sections.

(3) In this section “the appropriate council”—

- (a) where the matter in question relates to a street in a borough or urban district, means the council of that borough or district;
- (b) where the matter in question relates to a street in a rural district, means the council of the county comprising that district or, where the council of a rural district are discharging the functions of the county council under the advance payments code as agents for the county council, means the council of the rural district.

198.—(1) Any sum paid by the owner of land to a street works authority under section one hundred and ninety-two of this Act shall, in so far as it continues to be held by the authority, carry simple interest at the appropriate rate from the date of payment until such time as the sum or a part thereof remaining so held—

PART IX

(Advance Payments Code)

—cont.

Interest on sums paid under advance payments code.

(a) falls to be set off under section one hundred and ninety-five of this Act against the liability of the owner of the land in respect of the carrying out of street works ; or

(b) falls to be refunded in full under the provisions of the advance payments code ;

and the interest shall be held by the authority until that time and dealt with under those provisions as if it formed part of the said sum :

Provided that this subsection shall not apply to any sum in so far as it is repaid under an agreement such as is referred to in subsection (3) of section one hundred and ninety-four of this Act.

(2) In this section “the appropriate rate” means the rate fixed by the Treasury under section one of the Public Works Loans Act, 1897, in respect of loans to local authorities for periods of ten years ; and for the purposes of the advance payments code interest on any sum held by a street works authority shall be calculated in respect of each financial year during which it accrues at the appropriate rate prevailing at the commencement of that financial year.

199. If a security given under section one hundred and ninety-two of this Act consists of a mortgage of or charge on land, the mortgage or charge shall for the purposes of section thirteen of the Building Societies Act, 1894 (which prohibits advances by building societies on second mortgage), be deemed not to be a prior mortgage within the meaning of that section.

Security not to be deemed prior mortgage.

General

200. A street works authority may include in street works to be done in relation to a street under the code of 1892 or the code of 1875 a variation of the relative widths of the carriageway and of the footway or footways of the street :

Power to vary width of carriageway and footway on making up a private street.

Provided that no greater charge shall be imposed on a person by reason of any such variation than could have been imposed in respect of a carriageway or footway of the width prescribed for a new street of the same class by a byelaw or enactment with respect to the width of new streets which applied to the street when it was laid out ; and any sum in excess of that charge shall be borne by the authority.

PART IX
—*cont.*

Widening of highway comprised in private street.

201. Where, in the course of the execution of street works under the code of 1892 or the code of 1875 in a private street which consists of or comprises a highway, the street works authority widen the highway under the powers conferred by Part V of this Act, the widening shall not relieve any person of liability for expenses of the street works, and the amount of that liability shall not be greater or less than it would have been if the highway had not been widened.

Adoption of private street after execution of street works.

202.—(1) When any street works have been executed in a private street, the street works authority may, by notice displayed in a prominent position in the street, declare the street to be a highway which for the purposes of this Act is a highway maintainable at the public expense, and on the expiration of the period of one month from the day on which the notice was first so displayed the street shall become such a highway:

Provided that the street shall not become such a highway by virtue of this subsection if, within the said period, the owner of the street, or, if more than one, the majority in number of the owners thereof, by notice to the authority object.

(2) Where street works have been executed in a part only of a street (not being a part extending for the whole of the length of the street), the foregoing subsection shall have effect as if for references therein to the street there were substituted references to the length of the street which constitutes or comprises that part.

(3) If all street works (whether or not including lighting) have been executed in a private street to the satisfaction of the street works authority, then, on the application of the majority in rateable value of the owners of premises in the street, the street works authority shall, within the period of three months from the date of the application, by notice displayed in a prominent position in the street, declare the street to be a highway which for the purposes of this Act is a highway maintainable at the public expense and thereupon the street shall become such a highway.

In this subsection a reference to a street does not include a reference to a part of a street.

Power of majority of frontagers to require adoption where advance payment made.

203.—(1) Where a majority in number of the owners of land having a frontage on a built-up private street, or as many of those owners as have between them more than half the aggregate length of all the frontages on both sides of the street, by notice request the street works authority to exercise their powers under the appropriate private street works code so as—

(a) to secure the carrying out of such street works in that street as the street works authority require under that code before declaring the street to be a highway which for the purposes of this Act is a highway maintainable at the public expense, and

(b) to declare the street to be such a highway,
the street works authority shall proceed to exercise their powers accordingly:

PART IX
—cont.

Provided that this subsection shall not apply unless, in at least one case, a payment has been made or security has been given under section one hundred and ninety-two of this Act by the owner of land having a frontage on the street and the payment has not been refunded, or the security released or realised, under subsection (4) of the said section one hundred and ninety-two, or under section one hundred and ninety-six of this Act.

(2) For the purposes of this section a street shall be deemed to be built-up if the aggregate length of the frontages of the buildings on both sides of that street constitutes at least one half of the aggregate length of all the frontages on both sides of that street.

(3) This section shall not apply in relation to a part of a street unless it is a part not less than one hundred yards in length which the owners of land having a frontage on that part of the street elect to treat as constituting a street for the purposes of this section.

204.—(1) Where, in the case of a private street situated in a rural district, or in a borough or urban district in which this section applies by virtue of section two hundred and ninety of this Act, repairs are needed to obviate danger to traffic, the street works authority may by notice require the owners of the premises fronting the street to execute, within such time as may be specified in the notice, such repairs as may be so specified:

Urgent repairs
to private
streets.

Provided that where such repairs are needed in a part only of the street (not being a part extending for the whole of the length of the street), such a requirement shall be made only of the owners of the premises fronting the length of the street which constitutes or comprises that part.

(2) A person aggrieved by a requirement of a street works authority under this section may appeal to a magistrates' court.

(3) Subject to any order made on appeal and to the provisions of the next following subsection, if, within the time specified in a notice served under subsection (1) of this section, the repairs required thereby have not been executed, the authority may execute the repairs, and may recover the expenses reasonably incurred by them in so doing from the owners in default, the expenses being apportioned between those owners according to the extent to which their respective premises front the street.

(4) If, within the time so specified, the majority in number or rateable value of owners of premises in the street by notice require the street works authority to proceed in relation to

PART IX
—cont.

the street under the appropriate private street works code, the street works authority shall so proceed, and on the completion of the necessary works shall forthwith declare the street to be a highway which for the purposes of this Act is a highway maintainable at the public expense, and thereupon the street shall become such a highway.

(5) Where a requirement under subsection (1) of this section has been made in respect of a part only of a street (not being a part extending for the whole of the length of the street), the last foregoing subsection shall have effect as if for references therein to the street there were substituted references to the length of the street which constitutes or comprises that part.

Compensation for damage caused by execution of street works.

205. A street works authority shall pay compensation to any person who has sustained damage by reason of the execution of street works by the authority under the code of 1892 or the code of 1875 or by any other person (including the person claiming compensation) in compliance with a requirement made by the authority under the code of 1875.

Power to treat as a private street land designated for purposes of this section by development plan.

206.—(1) The provisions of this section shall apply in relation to land defined by a development plan—

(a) as the site of a proposed road, or

(b) as land required for the widening of an existing road which is of less than byelaw width,

and designated by the plan as land to which this section applies.

(2) Where any land is so defined and designated as aforesaid, the appropriate council may at any time by order declare the land (together with any land forming part of any such existing road as aforesaid) to be a private street, and thereupon the land shall be deemed to have been dedicated to the use of the public as a highway and to be a private street for the purposes of this Part of this Act:

Provided that no such order shall be made by the council in relation to land which has not been acquired by them at the date of the order (other than land forming part of any such existing road as aforesaid) except with the consent of all persons interested in the land.

(3) In relation to land which is deemed to be a private street by virtue of a declaration under the last foregoing subsection, the provisions of the code of 1892, or in the case of land in a district in which that code does not apply, the provisions of the code of 1875, shall apply subject to such exceptions, adaptations and modifications as may be prescribed by regulations made by the Minister of Housing and Local Government.

(4) Regulations made for the purposes of the last foregoing subsection shall make provision for securing—

(a) that the amount of the expenses incurred in the execution of street works charged under the said code on the

owners of adjoining land shall not exceed the amount which would, at the date of the commencement of the works, have been the cost of the execution of street works in the course of the construction, widening or improvement if it had been carried out so as to comply with the provisions of any byelaws, regulations or other enactments in force in the area, and, as respects matters for which no such provision is made, so as to comply with such requirements as would have been imposed by the street works authority at the date of the commencement of the works as a condition of declaring the street to be a highway which for the purposes of this Act is a highway maintainable at the public expense ;

- (b) that as soon as the street has been made up or widened by or to the satisfaction of the appropriate council it shall become a highway maintainable at the public expense ;
- (c) that no expenses incurred in the execution of street works shall be recoverable against agricultural land or buildings until the land or buildings cease to be agricultural land or buildings ; and
- (d) that no expenses incurred in the execution of street works for the purpose of making a new street shall be recoverable in respect of any land (whether the site of a building or not) unless and until access is provided for and used by persons or vehicles from that land to the new street.

(5) Regulations made for the purposes of subsection (3) of this section may provide—

- (a) for the inclusion in the expenses recoverable as aforesaid in respect of street works carried out by the appropriate council of any expenses incurred by a local authority after the date on which the land is defined and designated as mentioned in subsection (1) of this section, and before it is declared to be a private street under subsection (2) of this section, in the construction of sewers in or under the land ; and
- (b) for authorising the appropriate council to enter on any land adjoining the street for the purpose of executing street works on land comprised in the street.

(6) A highway constructed by a local highway authority on land deemed to be a private street by virtue of a declaration under subsection (2) of this section shall not by virtue only of paragraph (b) of subsection (2) of section thirty-eight of this Act be for the purposes of this Act a highway maintainable at the public expense.

(7) For the avoidance of doubt it is hereby declared that the provisions of this section, and any restrictions or powers thereby

PART IX
—cont.

imposed or conferred in relation to land, apply and may be exercised in relation to any land notwithstanding that provision is made by any enactment in force on the sixth day of August, nineteen hundred and forty-seven, or by any local Act passed at any time during the Session of Parliament held during the regnal years 10 and 11 Geo. 6, for authorising or regulating any development of the land.

(8) References in this section to the code of 1875 shall be construed as including references to any local Act making provision corresponding with the provisions of that code or of the code of 1892; and the power of the Minister of Housing and Local Government to make regulations under this section shall include power to make special regulations with respect to any area in which there is in force a local Act making provision corresponding with the provisions of the code of 1892 or a local Act amending or making provision corresponding with the provisions of the code of 1875.

(9) In this section—

“appropriate council”, in relation to any land, means, in the case of—

(a) land in a rural district, or

(b) land in any other county district which is defined by a development plan as the site of a road which is to become a county road, or as land required for the widening of such a road,

the council of the county in which the land is situated; and in any other case means the council of the county borough or county district in which the land is situated;

“byelaw width”, in relation to a road, means the width required by any byelaws, regulations or other enactments relating to the construction of streets in the area in which the road is situated;

“construction” and “improvement”, in relation to a street, include the planting, laying out, maintenance and protection of trees, shrubs and grass verges in and beside the street;

“local authority” has the same meaning as in the Town and Country Planning Act, 1947.

Appeal to
Minister of
Housing
and Local
Government
under codes
of 1892 and
1875.

207.—(1) Subject to the provisions of section one hundred and eighty-six of this Act, a person aggrieved by a decision of a street works authority in a case where the authority are empowered by section one hundred and eighty-one or section one hundred and ninety of this Act to recover any expenses incurred by them shall be entitled to appeal to the Minister of Housing and Local Government, and that Minister may make such decision as to him seems equitable, and the decision shall be final and binding on all parties.

(2) The time within which an appeal may be brought under the foregoing subsection shall be twenty-one days from the date on which a demand for the payment of the expenses, or any part thereof, was first served on the person wishing to appeal.

PART IX
—*cont.*

(3) A person appealing under subsection (1) of this section shall in his appeal state the grounds thereof, and shall serve a copy of his appeal on the street works authority; and any proceedings commenced for the recovery of any such expenses as aforesaid by the street works authority shall, on the service on them of the copy of the appeal, be stayed.

(4) The Minister of Housing and Local Government may, if he thinks fit, by his decision direct the authority to pay to the person so proceeded against such sum as he may consider to be a just compensation for the loss or damage sustained by that person by reason of the proceedings.

208.—(1) In a case where a part only of a private street is within the area of a street works authority, the authority may, with the consent of the street works authority in whose area any other part of the street is situated, resolve to treat that other part for the purposes of this Part of this Act as if it were within their own area; and where the authority so resolve, then, without prejudice to the operation of any enactment not contained in this Part of this Act, this Part of this Act shall apply in relation to that other part of the street as if it, together with the premises fronting it, were within the area of the authority passing the resolution:

Provisions as to private street in area of more than one street works authority.

Provided that a street works authority shall not resolve under this subsection to treat a part of a street as if it were within their own area if that part comprises a length of the street wholly outside that area.

(2) In a case where a private street is within the area of a street works authority but premises fronting the street are wholly or partly outside that area, then, without prejudice to the operation of any enactment not contained in this Part of this Act, this Part of this Act shall apply in relation to that street as if those premises were wholly within the area of that authority.

In this subsection a reference to a street includes a reference to a length of the street but does not include a reference to any other part thereof.

(3) A resolution passed by a street works authority under subsection (1) of this section shall be published by advertisement in one or more local newspapers circulating within the area in which the street is situated and otherwise in such manner as the authority think sufficient for giving notice to all persons interested.

PART IX
—cont.
Evasion of
private street
works expenses
by owners.

209.—(1) Where a street works authority are empowered by section one hundred and eighty-one or section one hundred and ninety of this Act, or by a corresponding provision of a local Act, to recover any sum from the owner of any premises, and the authority are unable by the exercise of their powers (other than powers conferred by this section) to recover that sum, then if—

(a) the said premises were previously transferred by a person (hereafter in this section referred to as “ the transferor ”) who at the time of the transfer was the owner of other premises adjoining those premises, and

(b) a magistrates’ court is satisfied that the transfer was intended for the purpose of evading the payment of expenses of street works,

the court may make an order under this section.

(2) An order under this section shall provide that, to such extent as the court making the order may determine, the street works authority may recover the said sum, and, where that sum is payable under an order made under subsection (4) of section one hundred and eighty-one or subsection (2) of section two hundred and sixty-four of this Act or under a corresponding provision of a local Act, any further sums which may fall due under that order, from the transferor.

(3) In this section “ transfer ” includes any disposal of land whether by way of sale, lease, exchange, gift or otherwise.

Contribution
by street
works
authority to
expenses of
street works.

210.—(1) A street works authority may at any time resolve to bear the whole or a portion of the expenses of any street works in their area under the code of 1892 or the code of 1875, or under a provision in a local Act relating to such works, and where an authority so resolve the liabilities of the owners of premises in respect of those expenses shall be treated as discharged, or as proportionately reduced, accordingly.

(2) Without prejudice to their powers under the foregoing subsection, a street works authority may at any time resolve to bear the whole or a portion of the expenses of any street works in their area under the code of 1892 or the code of 1875 or under a provision in a local Act relating to such works, being expenses which would otherwise be apportioned on, or to the owner of, any premises of which only the rear or a flank fronts the street, and where an authority so resolve the liability of the owner of those premises in respect of those expenses shall be treated as discharged or reduced accordingly.

211.—(1) Where a person—

(a) has paid, or advanced money for, expenses which by section one hundred and eighty-one or section one hundred and ninety of this Act a street works authority are empowered to recover, or

(b) has executed, or advanced money for the execution of, works required by a street works authority to be executed under section one hundred and eighty-nine of this Act,

that person may apply to the authority for a charging order, and the authority, on being satisfied as to the due execution of the works and as to the amount of the expenditure thereon, and, in the case of an advance, as to the sum advanced, may make an order accordingly charging on the premises in respect whereof the advance was made or the works were executed, and on all estates and interests therein, an annuity to repay the sum advanced or expended as the case may be.

(2) The annuity charged shall be such sum as the street works authority may determine in respect of every hundred pounds of the amount of the expenditure and so in proportion in respect of any fraction of that amount, and shall commence from the date of the order and be payable by equal half-yearly payments for a term of thirty years to the person named in the order, his executors, administrators or assigns:

Provided that the Minister of Housing and Local Government may from time to time by order fix the maximum sum to be so charged in respect of a hundred pounds.

(3) A person aggrieved by an order of a street works authority under subsection (1) of this section, or by the refusal of the authority to make an order thereunder, may appeal to a magistrates' court.

(4) The Thirteenth Schedule to this Act shall apply in relation to any sum paid by an occupier of premises in respect of an annuity charged on those premises under this section.

212. The rate of interest chargeable by a local authority under any provision contained in a local Act relating to the execution of street works shall be such rate of interest as the Minister of Housing and Local Government may by order fix, and different rates of interest may be fixed in different cases.

PART IX

—cont.

Power of street works authority to grant charging order.

Rate of interest on expenses recoverable under local Act.

213.—(1) In this Part of this Act “private street” means a street not being a highway maintainable at the public expense, and—

(a) includes any land which is deemed to be a private street by virtue of a declaration made under section two hundred and six of this Act, and

PART IX
—cont.

(b) for the purpose of the application of the advance payments code or section two hundred and three of this Act in relation to any building, includes—

(i) any land shown as a proposed street on plans deposited with respect to that building either under building byelaws or on an application for planning permission under the Town and Country Planning Act, 1947, and

(ii) any land which, if work for the erection of that building had been commenced, would have become part of an existing highway by virtue of subsection (6) of section one hundred and fifty-nine of this Act :

Provided that the fact that a part of a street is a highway maintainable at the public expense shall not prevent any other part thereof from being taken for the purposes of this Part of this Act to be a part of a private street, and shall not prevent the street from being taken for the purposes of the code of 1875 to be a private street.

(2) In this Part of this Act—

“ building byelaws ” has the meaning assigned to it by section three hundred and forty-three of the Public Health Act, 1936 ;

“ contributory place ” has the meaning assigned to it by section three hundred and forty-three of the Public Health Act, 1936 ;

“ fronting ” includes adjoining, and “ front ” shall be construed accordingly ;

“ industrial premises ” means premises used or designed or suitable for use for the carrying on of any industrial process within the meaning of the Distribution of Industry Act, 1945, and includes premises used for purposes ancillary to the carrying on of any such process ;

“ local Act ” includes a provisional order confirmed by Parliament and the confirming Act so far as it relates to that order ;

“ paving, metalling and flagging ” includes all methods of making a carriageway or footway ;

“ place of public religious worship ” means a place of public religious worship which belongs to the Church of England or to the Church in Wales (within the meaning of the Welsh Church Act, 1914), or which is for the time being certified as required by law as a place of religious worship ;

“ street works ” means any works for the sewerage, levelling, paving, metalling, flagging, channelling and making good of a street, and includes the provision of proper means for lighting a street ;

“ street works authority ” means—

(a) as respects a street in a borough or in an urban district, the council of the borough or district ; and

(b) as respects a street in a rural district, the council of the county comprising the district.

PART IX
—cont.

(3) For the purposes of the advance payments code and of sections two hundred and three and two hundred and four of this Act, the appropriate private street works code—

(a) in a county borough or county district in which the code of 1892 is in force, shall be that code ;

(b) in a county borough or county district in which there is in force a local Act which contains provisions regulating the procedure relating to the execution of street works and payments in respect thereof, shall be that local Act ;

(c) in a county borough or county district in which the code of 1875 is in force, shall be that code :

Provided that, if in a county borough or county district there is in force a local Act such as is referred to in paragraph (b) of this subsection and also either the code of 1892 or the code of 1875, the council of that borough or district shall, in the case of a private street in the borough or district, by resolution determine whether the said local Act or such one of the said codes as is so in force is to be the appropriate private street works code for the said purposes in relation to that street, and shall publish any such resolution by advertisement in one or more local newspapers circulating within the borough or district and otherwise in such manner as the council think sufficient for giving notice to all persons interested.

(4) Where the code of 1892 or the code of 1875 applies in a county borough or county district subject to modifications effected by a local Act (whether passed before or after the commencement of this Act), references in this Act to the said code shall, in relation to that borough or district, be construed as references to the code as so modified.

(5) For the purposes of the advance payments code and of section two hundred and three of this Act, the frontage of a building or proposed building on a street shall be deemed to be the frontage that the building itself and any land occupied or, as the case may be, proposed to be occupied, with the building and for the purposes thereof has or will have on the street.

(6) In ascertaining a majority in number of owners for the purposes of any provision of this Part of this Act, joint owners shall be treated as one owner.

PART X

ACQUISITION, VESTING AND TRANSFER OF LAND, ETC.

Acquisition of Land

Acquisition
of land for
construction,
improvement,
etc., of
highway.

214.—(1) The Minister may acquire by agreement, or, subject to subsection (3) of this section, compulsorily, land required for the construction of a trunk road, and any highway authority may acquire by agreement, or, subject to the said subsection (3), compulsorily, land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road.

(2) A highway authority may acquire by agreement, or, subject to the next following subsection, compulsorily, land required for the improvement of a highway, being an improvement which they are authorised by this Act to carry out in relation to the highway.

(3) A highway authority shall not be enabled by virtue of either of the foregoing subsections to acquire otherwise than by agreement land lying more than two hundred and twenty yards from the middle of a highway or proposed highway, and a highway authority shall not, in exercise of the power conferred by subsection (1) of this section, acquire otherwise than by agreement land required for the construction of a highway unless either—

- (a) the highway is to be constructed in pursuance of a scheme under section eleven of this Act, or
- (b) plans for the construction of the highway have been made or approved by the Minister.

For the purposes of this subsection, land on which a highway is to be constructed in pursuance of a scheme under the said section eleven shall be deemed to be a proposed highway.

(4) Where in exercise of the power conferred by subsection (1) or subsection (2) of this section a highway authority have acquired, or propose to acquire, land forming part of a common, open space, or fuel or field garden allotment, and other land is required for the purpose of being given in exchange for the first-mentioned land, the said subsection (1) or the said subsection (2), as the case may be, shall apply to that other land as if it were land required for the purpose of the construction or improvement of a highway.

(5) A highway authority may acquire by agreement, or, subject to subsection (9) of this section, compulsorily, land within two hundred and twenty yards from the middle of any of the following highways, that is to say—

- (a) a highway which is a highway maintainable at the public expense by them, or which is to become such a highway after being widened by them under this Act,

- (b) a highway which is to be a highway maintainable at the public expense by them and which they are for the time being constructing or intending to construct in accordance with plans made or approved by the Minister, and
- (c) a highway which is to be constructed by them in pursuance of a scheme under section eleven of this Act, or of an order under section nine or section thirteen thereof,

PART X
—cont.

being land the acquisition of which is in their opinion necessary for preventing the erection of buildings detrimental to the view from the highway.

(6) A highway authority may acquire, but only by agreement, any other land in the neighbourhood of any such highway as is referred to in the last foregoing subsection, being land which they consider it desirable to acquire for preventing the erection of buildings detrimental to the view from the highway or otherwise preserving the amenities of the locality in which it is, or is to be, situated.

(7) The power to acquire land in relation to a trunk road under the two last foregoing subsections may be exercised—

- (a) in the case of a trunk road in a non-county borough or an urban district which, immediately before it became a trunk road, was either a claimed county road or a highway other than a classified road, by the council of that borough or district, as the case may be, as well as by the Minister, and
- (b) in any other case, by the council of the county or county borough in which the trunk road is situated as well as by the Minister.

(8) A highway authority may acquire by agreement, or, subject to the next following subsection, compulsorily, land required for the improvement or development of frontages to a highway for which they are the highway authority or of the land adjoining or adjacent to that highway:

Provided that this subsection shall not be taken to authorise a highway authority to acquire land for any purpose for which the authority have power to acquire land under subsection (5) or subsection (6) of this section.

(9) The powers conferred by subsections (5), (7) and (8) of this section shall not be exercisable so as to enable land to be acquired compulsorily if that land is required to be retained as part of a park, garden, pleasure ground, or home farm attached to and normally occupied with a mansion house, or is otherwise required for the amenity or convenience of a dwelling-house, being a dwelling-house in existence at the date when the order authorising the compulsory acquisition of the land is made.

PART X
—cont.

(10) In this section “common”, “fuel or field garden allotment” and “open space” have the same meanings respectively as in the Acquisition of Land (Authorisation Procedure) Act, 1946.

Additional powers of acquiring land for trunk roads and special roads.

215.—(1) Subject to the provisions of this section, the Minister may acquire by agreement or compulsorily land which in his opinion is required—

- (a) for the carrying out of any works authorised by an order under section nine of this Act, or
- (b) for the provision of buildings or facilities to be used in connection with the construction or maintenance of a trunk road other than a special road.

(2) Subject to the following provisions of this section, a special road authority may acquire by agreement or compulsorily land which in the opinion of the authority is required—

- (a) for the improvement of a highway which is included in the route of the special road but has not been transferred to the authority by means of an order under section thirteen of this Act,
- (b) for the purposes of any order made in relation to the special road under the said section thirteen, or
- (c) for the provision of service stations or other buildings or facilities to be used in connection with the construction of the special road or with the use or maintenance thereof.

(3) The Minister shall not be enabled by virtue of subsection (1) of this section, and a special road authority shall not be enabled by virtue of the last foregoing subsection, to acquire otherwise than by agreement land lying more than two hundred and twenty yards from the middle of the trunk road or of the special road, as the case may be, or, where the land is required for the improvement, alteration or construction of any other highway, from the middle of that other highway or proposed highway.

(4) Subject as hereinafter provided, the Minister shall not be enabled by virtue of subsection (1) of this section, and a special road authority shall not be enabled by virtue of subsection (2) thereof, to acquire otherwise than by agreement land which is required to be retained as part of a park, garden, pleasure ground, or home farm attached to and normally occupied with a mansion house, or is otherwise required for the amenity or convenience of a dwelling-house, being a dwelling-house in existence at the date when the order authorising the compulsory acquisition of the land is made:

Provided that the limitation contained in this subsection shall not have effect in relation to land required by the Minister or by a special road authority, as the case may be, for the construction or improvement of a highway.

216. Where the boundaries of any highway will be altered in consequence of any improvement proposed to be made under this Act in relation to the highway, then, for the purposes of the two last foregoing sections, the middle of that highway shall be the middle of it as proposed to be improved.

PART X
—*cont.*
Provisions as to middle of highway of which boundaries are to be altered.

217.—(1) Where a highway authority have prescribed an improvement line in relation to any street under section seventy-two of this Act they may acquire by agreement or compulsorily any land, not occupied by buildings, lying between the improvement line and the boundary of the street.

Acquisition of land between improvement line and boundary of street.

(2) Any land acquired under this section shall, at such time or times as the highway authority may determine, be added to and made good as part of the street by the authority, and until it is so added the occupier of the land from which it is severed, and other persons with his permission, shall be entitled to reasonable access across the land so acquired to and from the street, and shall have the same rights in regard to the laying, altering, maintaining and removal of drains, mains, pipes or electric lines in that land as if it were already part of the street.

(3) Subsection (10) of section seventy-two of this Act shall have effect in relation to this section as it has effect in relation to that section.

218.—(1) A highway authority may acquire by agreement, or subject to subsection (3) of this section, compulsorily, land which they require to enable them to comply with a requirement or direction contained in an order made under section ninety-nine of this Act.

Additional powers of acquiring land for execution of works in connection with certain bridges.

(2) The Minister may, subject to the next following subsection, authorise the owners of a bridge to acquire land which they require to enable them to comply with a requirement or direction contained in an order made under the said section ninety-nine.

(3) Nothing in this section shall authorise the compulsory acquisition of land which is the property of a council, or which has been acquired by transport undertakers for the purposes of their undertaking:

Provided that a highway authority may acquire compulsorily a right upon, under or over such land for the purpose of executing any works which they are required or authorised by an order made under the said section ninety-nine to execute or construct; and the Minister may authorise the owners of a bridge to acquire compulsorily a right upon, under or over such land for that purpose.

PART X
—cont.
Acquisition of
land for cattle-
grids, etc.

219. A highway authority may acquire by agreement or compulsorily land which they require for the purpose of providing, altering or improving a cattle-grid or by-pass in the exercise of powers conferred on them by this Act.

Acquisition
of land for
road-ferries.

220. A highway authority may acquire by agreement or compulsorily land which they require for the purpose of providing or improving a road-ferry in the exercise of powers conferred on them by this Act.

Acquisition
of land for
buildings, etc.,
needed for
discharge of
functions of
highway
authority.

221. Without prejudice to the provisions of subsection (2) of section two hundred and fifteen of this Act, a local highway authority may acquire by agreement or, on their being authorised in that behalf by the Minister of Housing and Local Government, compulsorily land, whether situated within or without their area, which in their opinion is required for the provision of any buildings or facilities needed for the purposes of their functions as a highway authority.

General
provisions as
to acquisition
of land.

222.—(1) Any power to acquire land compulsorily conferred by section two hundred and fourteen, section two hundred and fifteen, section two hundred and seventeen, section two hundred and eighteen, section two hundred and nineteen or section two hundred and twenty of this Act on a local highway authority shall be exercisable in any particular case on their being authorised so to do by the Minister.

(2) In relation to the compulsory acquisition of land under any of the said sections or under section two hundred and twenty-one of this Act by a local highway authority, the Acquisition of Land (Authorisation Procedure) Act, 1946, shall, subject to the following provisions of this section, have effect as if this Act had been in force immediately before the commencement of that Act.

(3) In relation to the compulsory acquisition of land under any of the said sections by the Minister, the said Act of 1946 shall, subject to the following provisions of this section, have effect as if this Act had been in force immediately before the commencement of that Act and as if the said sections were included among the enactments specified in paragraph (b) of subsection (1) of section one of that Act.

(4) In relation to the acquisition of land under the said section two hundred and eighteen by the owners of a bridge, the said Act of 1946 shall, subject to the following provisions of this section, have effect as if this Act had been in force immediately before the commencement of that Act, and as if references to a local authority in paragraph (a) of subsection (1) of section one thereof, in section five thereof, in Part I of the First Schedule

thereto, and in the Second Schedule thereto, and to an authority and an acquiring authority in section three thereof, included references to the owners of a bridge.

PART X
—cont.

(5) An order authorising the compulsory acquisition of land by a local highway authority under subsection (5) of the said section two hundred and fourteen shall, in addition to the particulars required by regulations made under the said Act of 1946 to be included therein, specify the purposes for which the land is to be acquired and the manner in which the land is intended to be used for those purposes.

(6) In assessing the compensation payable in respect of the compulsory acquisition of land by a highway authority under powers conferred by the said section two hundred and fourteen (except subsection (8) thereof), or by the said section two hundred and fifteen, the Lands Tribunal—

- (a) shall have regard to the extent to which the remaining contiguous lands belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired ;
 - (b) without prejudice to the generality of the foregoing paragraph, shall, in the case of land authorised to be acquired for widening a highway, set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue to him by reason of the creation of a frontage to the highway as widened ; and
 - (c) shall take into account, and embody in its award, any undertaking given by the highway authority as to the use to which the land, or any part of it, will be put ;
- and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall, in its application to a compulsory acquisition by a highway authority under either of the said sections, have effect subject to the provisions of this subsection.

(7) In assessing the compensation payable in respect of the compulsory acquisition by a highway authority under section two hundred and seventeen of this Act of land lying between an improvement line and the boundary of a street, the Lands Tribunal shall take into account any benefit accruing to the vendor by reason of the improvement of the street except in so far as it may have been previously taken into account in the assessment of compensation payable under subsection (8) of section seventy-two of this Act, and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall, in its application to a compulsory acquisition by a highway authority under the said section two hundred and seventeen, have effect subject to the provisions of this subsection.

(8) The Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply to the owners of a bridge in their capacity as such as it applies to a local authority.

PART X
—cont.

(9) Notwithstanding anything in subsection (2) of section one of the Acquisition of Land (Authorisation Procedure) Act, 1946, or in Part III of the First Schedule thereto, an order authorising a highway authority, or the owners of a bridge, to acquire compulsorily for the purpose specified in subsection (3) of section two hundred and eighteen of this Act a right upon, under or over land which is the property of a council or which has been acquired by transport undertakers for the purposes of their undertaking shall not be subject to special parliamentary procedure by reason only of its authorising the acquisition of any such right, nor shall anything in the said Part III prevent the acquisition of any such right.

(10) A local highway authority who in exercise of the powers conferred on them by subsection (5) or subsection (6) of section two hundred and fourteen of this Act acquire land by agreement shall give to the Minister, in such form and manner as he may direct, particulars of the purposes for which the land is acquired and of the manner in which the land is intended to be used for those purposes.

(11) Where under this Part of this Act a highway authority are authorised to acquire land by agreement, the Lands Clauses Acts, except the provisions relating to the acquisition of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845, shall be incorporated with this Act, and in construing those Acts for the purposes of this subsection this Act shall be deemed to be the special Act, and the highway authority to be the promoters of the undertaking, and the word "land" shall have the meaning assigned to it by section two hundred and ninety-five of this Act.

Compulsory acquisition for certain purposes of rights in land belonging to local authorities and statutory undertakers.

223.—(1) Subject to the provisions of this section, an order made, or made and confirmed, in the like manner and subject to the like conditions as an order authorising the compulsory acquisition of land under section two hundred and fourteen or section two hundred and fifteen of this Act may authorise a highway authority to acquire compulsorily, subject to such conditions (including conditions as to the persons by whom any works are to be constructed or maintained) as may be imposed by the order, a right upon, under or over any land which is the property of a local authority or which has been acquired by statutory undertakers for the purposes of their undertaking, if the acquisition is—

- (a) for the purposes of the construction of a bridge or of the approaches to a bridge (not including the reconstruction or alteration of a bridge or approaches in existence at the date of the order) upon, under or over such land;

(b) for the purposes of the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of a bridge or of the approaches to a bridge transferred to the Minister by virtue of section two hundred and twenty-nine of this Act or transferred to a special road authority other than the Minister by virtue of section two hundred and thirty thereof; or

(c) for the purposes of any system of road drainage;

and, notwithstanding anything in subsection (2) of section one of the Acquisition of Land (Authorisation Procedure) Act, 1946, or in Part III of the First Schedule thereto, an order so made as aforesaid, or so made and confirmed, shall not be subject to special parliamentary procedure by reason only of its authorising the acquisition of any such right, nor shall anything in the said Part III prevent the acquisition of any such right.

(2) The power conferred by the foregoing subsection to acquire compulsorily a right upon, under or over any such land as is mentioned in that subsection may be exercised—

(a) if the acquisition is for a purpose specified in that subsection in connection with a trunk road in a non-county borough or an urban district which, immediately before it became a trunk road, was either a claimed county road or a highway other than a classified road, by the council of that borough or district, as the case may be, as well as by the Minister, and

(b) if the acquisition is for a purpose so specified in connection with any other trunk road, by the council of the county or county borough in which that road is situated as well as by the Minister.

(3) An order authorising the compulsory acquisition under this section of a right for a purpose specified in subsection (1) thereof shall be made subject to such conditions as the Minister, after consultation with the local authority or statutory undertakers from whom the right is to be acquired, considers necessary for securing—

(a) that the bridge or approaches to be constructed, reconstructed or altered, as the case may be, will be so designed, placed and constructed, or so reconstructed or altered, or

(b) that the drainage system to be provided will be so designed, placed and constructed,

as to avoid unreasonable interference with the functions and future development of the local authority or statutory undertakers.

(4) An order authorising the compulsory acquisition under this section of a right for the purposes of a system of road drainage shall be made subject to such conditions as the Minister

PART X
—cont.

considers necessary for securing that no highway shall be drained—

- (a) into any watercourse under the control of a drainage board or river board without the consent of that board, or
- (b) into any reservoir, river, canal, dock, harbour, basin, culvert, syphon or other work which belongs to or is under the jurisdiction of a local authority or statutory undertakers without the consent of that authority or those undertakers.

(5) Nothing in this section shall authorise the compulsory acquisition of a right upon, under or over any land for the purposes of the construction of a bridge under or over the Manchester Ship Canal:

Provided that this subsection shall not prevent the acquisition of such a right if the acquisition is—

- (a) for the purposes of the construction of a bridge for which provision is made by any such order as is mentioned in subsection (1) of section twenty of this Act, or
- (b) for the purposes of the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of a bridge transferred to the Minister by virtue of section two hundred and twenty-nine thereof.

(6) In this and the next following section “local authority” has the same meaning as in the Acquisition of Land (Authorisation Procedure) Act, 1946.

Liability
for certain
expenses
resulting from
order made
under s. 223.

224.—(1) Subject to the provisions of this section, an order authorising the compulsory acquisition by a highway authority under the last foregoing section of a right upon, under or over any such land as is mentioned in subsection (1) of the said section for a purpose specified in paragraph (a) or paragraph (b) of that subsection shall, except so far as may be otherwise agreed, provide that the bridge or approaches to which the order relates shall be constructed, reconstructed, or altered, as the case may be, and maintained, at the expense of the highway authority.

(2) Where an order is made authorising the compulsory acquisition by a highway authority under the last foregoing section of a right upon, under or over any such land as is mentioned in subsection (1) of that section for the purpose of substituting a bridge for a level crossing over a railway, the expenses of the construction and maintenance of the bridge and of the approaches to the bridge shall either be defrayed wholly by the highway authority, or shall be defrayed partly by the highway authority and partly by the persons from whom the right is acquired (hereafter in this section referred to as the “railway owners”) as, in default of agreement, may be determined by arbitration:

Provided that, unless otherwise agreed—

PART X
—cont.

- (a) the railway owners' share of the expenses of such construction and maintenance, except so much of those expenses as is attributable to works executed at the instance of the railway owners for the improvement of their undertaking, shall be an amount equivalent to the saving to the railway owners estimated to result from the substitution of a bridge for the level crossing; and
- (b) any additional expense incurred by the railway owners by reason of any alteration of a railway due to the provisions of the order, not being provisions applied for by the railway owners for the improvement of their undertaking, shall be defrayed by the highway authority.

(3) Where by virtue of an agreement or award made under subsection (2) of this section the railway owners are required to contribute to the expenses of a highway authority, the contribution shall, at the option of the railway owners, be paid—

- (a) as a lump sum, or
- (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between the railway owners and the highway authority, or, in default of agreement, as may be determined by arbitration, or
- (c) by perpetual annual payments of such amount as may be so agreed or determined.

(4) Where by means of an order authorising a compulsory acquisition under the last foregoing section a highway authority have acquired from a local authority or statutory undertakers a right upon, under or over any such land as is mentioned in subsection (1) of the said section for a purpose specified in that subsection, any additional expense which, in consequence of—

- (a) the construction, reconstruction or alteration of the bridge to which the order relates, or of the approaches to that bridge, or
- (b) the construction of the drainage system to which the order relates,

is thereafter incurred by the local authority or statutory undertakers in connection with the widening or alteration, on land which was vested in them before the making or confirmation of the order, of any railway, canal, inland navigation, dock, harbour, works or apparatus belonging to them, shall be defrayed by the highway authority, and any question whether any such additional expense has been so incurred or as to the amount thereof shall, in default of agreement, be determined by arbitration.

PART X
—cont.

(5) An order authorising the compulsory acquisition by a highway authority under the last foregoing section of a right upon, under or over any such land as is mentioned in subsection (1) of that section for the purposes of a system of road drainage shall, except so far as may be otherwise agreed, provide that the system shall be constructed and maintained at the expense of the highway authority.

Restrictions on the use and disposal of land acquired under s. 214 for certain purposes.

225.—(1) Where a local highway authority have acquired land, whether by agreement or compulsorily, for a purpose specified in subsection (5) or subsection (6) of section two hundred and fourteen of this Act, they shall not have power—

- (a) to let, sell or exchange the land acquired, or
- (b) to use it in any manner other than that specified in relation to it—

- (i) in the order authorising its compulsory acquisition in accordance with subsection (5) of section two hundred and twenty-two of this Act (if it has been acquired compulsorily), or

- (ii) in the particulars given to the Minister in accordance with subsection (10) of that section (if it has been acquired by agreement),

unless the Minister of Housing and Local Government makes an order authorising them to do so.

(2) An order made by the said Minister under this section shall be subject to special parliamentary procedure:

Provided that this subsection shall not apply to an order authorising a local highway authority to let land for a term not exceeding seven years for purposes specified in the order, being purposes which, in the opinion of the said Minister, are consistent with the preservation of the amenities of the locality in which the land is.

(3) In relation to land acquired under section two hundred and fifteen of this Act by a special road authority, being a local highway authority, section one hundred and sixty-four of the Local Government Act, 1933 (which enables local authorities to let land subject, in certain cases, to the consent of the Minister of Housing and Local Government), shall have effect as if for references therein to the Minister of Housing and Local Government there were substituted references to the Minister.

Vesting of highways, etc.

Vesting of highways maintainable at public expense.

226.—(1) Subject to the provisions of this section, every highway maintainable at the public expense, together with the materials and scrapings thereof, shall vest in the authority who are for the time being the highway authority for the highway:

Provided that this subsection shall not apply—

- (a) to a highway with respect to the vesting of which, on its becoming or ceasing to be a trunk road, provision is

made by section two hundred and twenty-eight of this Act, or

- (b) to a part of a trunk road with respect to the vesting of which provision is made by section two hundred and twenty-nine thereof, or
- (c) to a part of a special road with respect to the vesting of which provision is made by section two hundred and thirty thereof.

(2) Where a scheme under section eleven of this Act, being a scheme submitted to the Minister jointly by two or more local highway authorities, determines which of those authorities shall be the special road authority for the special road or any part thereof, and that authority are not the highway authority for the road or that part thereof, the road or that part thereof shall vest in the authority who by virtue of the scheme are the special road authority for the road or that part thereof.

(3) Where—

- (a) the responsibility for the maintenance of a bridge or other part of a highway is transferred to a highway authority by means of an order made under section ninety-nine of this Act, but the property therein is not so transferred, or
- (b) the responsibility for the maintenance of a part of a highway is transferred to a highway authority in pursuance of an agreement made under section one hundred of this Act, but the property in that part is not so transferred,

the part of a highway in question shall not by virtue of subsection (1) of this section vest in that highway authority or, in a case where the said part becomes a claimed county road, in the council who are the highway authority therefor.

227.—(1) The drains belonging to a county road, not being a claimed county road, shall vest in the council of the county in which the road is situated and, where any other drain or any sewer was at the material date used for any purpose in connection with the drainage of the county road, that council shall continue to have the right of using that drain or sewer for that purpose. Vesting of drains, etc., of certain county roads.

In this subsection “the material date” means the date on which the highway in question first became a main road for the purposes of the Local Government Act, 1888, or a county road for the purposes of the Local Government Act, 1929, or this Act.

(2) Any difference arising under this section between a county council and the council of a county district as to the council in whom a drain is vested, or as to the use of a drain or sewer, shall, if either council so elect, be referred to and determined by the Minister of Housing and Local Government.

PART X
—cont.*Transfer of property and liabilities on change of
status of highway*

Transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road.

228.—(1) Where a highway becomes a trunk road, then, subject to the provisions of this section, there shall, as from the date on which the highway becomes a trunk road, be transferred to the Minister by virtue of this section—

- (a) the highway, in so far as, immediately before the said date, it was vested in the former highway authority, and
- (b) the property mentioned in the next following subsection, being property which, immediately before the said date, was vested—
 - (i) in the former highway authority for the purposes of their functions in relation to the highway, or
 - (ii) in a council for the purposes of functions in relation to the highway under any enactment to which this section applies, and
- (c) all liabilities incurred by any such authority or council for the purposes of their functions in relation to the highway and not discharged before that date, other than loans and loan charges,

and the highway and other property so transferred shall by virtue of this section vest in the Minister :

Provided that there shall not be transferred to or vest in the Minister by virtue of this section any right or liability in respect of work done, services rendered, goods delivered, or money due for payment, before the said date, or in respect of damages or compensation for any act or omission before that date, or in respect of the price of, or compensation for, any land purchased, or for which a contract to purchase has been concluded, before that date.

(2) The property referred to in paragraph (b) of the foregoing subsection is—

- (a) land, other than land—
 - (i) vested in the former highway authority for the purpose of being used for the storage of materials required wholly or mainly for the maintenance or improvement of other highways, or
 - (ii) acquired for the improvement or development of frontages to the highway, or of land adjoining or adjacent to the highway, and
- (b) all other property, excluding materials to be used for the maintenance or improvement of the highway, but including the unexpended balances of any grants paid by the Minister to the former highway authority, or

to any council for the purposes of their functions in relation to the highway, but not of any loans raised by any such authority or council for those purposes.

(3) Any property vested in the Minister by virtue of this section shall be held by him subject to all covenants, conditions and restrictions subject to which the property was held by the authority or council from whom it was transferred and to all liabilities affecting the property, except liabilities referred to in the proviso to subsection (1) of this section.

(4) The Minister and the former highway authority may agree, on such terms as they think fit,—

(a) that any property or liabilities (except loans and loan charges) acquired or incurred by the former highway authority for the purposes of their functions in relation to a highway which has become a trunk road, not being property or liabilities transferred to him by virtue of this section, shall be transferred to him, or

(b) that any property or liabilities transferred to the Minister by virtue of this section shall be re-transferred to the authority.

(5) Any dispute between the Minister and any person as to the property or liabilities transferred by virtue of this section shall be determined by arbitration.

(6) The foregoing provisions of this section shall apply in a case where a trunk road ceases to be a trunk road (otherwise than by virtue of subsection (7) of section seven of this Act) in like manner as they apply where a highway becomes a trunk road with the substitution, for the references to the former highway authority and to a council, of references to the Minister, and, for references to the Minister, of references to the council who become the highway authority for the road or, so far as relates to property and liabilities vested in or incurred by the Minister for the purposes of any functions under any enactment to which this section applies, to the council who are to exercise those functions in relation to the road.

(7) The former highway authority shall produce to the Minister such documents relating to their functions, property and liabilities in respect of a highway which has become a trunk road, and furnish to him such other information relating to those matters, as he may require.

(8) The provisions set out in the Sixteenth Schedule to this Act shall have effect for the purpose of providing for transitional matters arising where a highway becomes a trunk road or a trunk road ceases to be a trunk road.

(9) The enactments to which this section applies are sections one hundred and fifty-five and two hundred and thirty-three of this Act, section one hundred and forty-eight of the Public

PART X
—cont.

Health Act, 1875, section forty-six of the Road Traffic Act, 1930, and sections one and eighteen of the Road Traffic Act, 1934.

(10) For the purposes of this section—

“former highway authority” means, in relation to a highway which has become a trunk road, the council in whom the highway was vested immediately before it became a trunk road;

“property” includes property, rights and powers of every description.

Transfer to
Minister of
privately
maintainable
bridges
carrying
trunk roads.

229.—(1) Where a highway comprising a bridge to which this section applies becomes a trunk road, the bridge by which that highway is carried shall be transferred to the Minister by virtue of this section on the date on which the highway becomes a trunk road:

Provided that if on the date aforesaid a part of the highway carried by the bridge is not a trunk road, the bridge shall not be transferred to the Minister by virtue of this section unless and until that part becomes a trunk road.

(2) Where a bridge is transferred to the Minister by virtue of this section, then, subject as hereinafter provided, the bridge, including any building or structure comprised therein and the highway carried thereby, shall by virtue of this section vest in the Minister for all the estate or interest of the owners therein, and any statutory provision in force, in relation to the bridge, for the protection or benefit of statutory undertakers shall have effect, subject to any necessary modifications, as if for any reference therein to the owners of the bridge there were substituted a reference to the Minister:

Provided that the Minister and the owners may, by agreement in writing made either before or after the date on which the bridge is so transferred, agree that the provisions of this subsection with respect to the transfer of property shall not apply, or, as the case may be, shall be deemed not to have applied, to such property comprised in the bridge as may be specified in the agreement.

(3) In respect of any bridge which is transferred to the Minister by virtue of this section, the Minister shall pay to the owners such sum as may be agreed between the Minister and the owners, or in default of agreement such sum as may be determined by arbitration to represent the value to the owners of the bridge as an asset productive of revenue.

For the purposes of this subsection, a bridge shall not be treated as an asset productive of revenue unless at the time when the bridge is transferred by virtue of this section—

(a) a contract is in force under which payments have been made or will accrue to the owners in respect of the use of the bridge; or

- (b) the bridge includes a building constructed or adapted for use by the owners for the purposes of their undertaking or for letting to some other person.

(4) Where a bridge transferred to the Minister by virtue of this section carries the highway over a railway, canal, way or other works used for the purposes of an undertaking carried on by the owners, then, so long as those works are so used—

- (a) the Minister shall, before entering on any land of the owners for the purpose of executing works for the maintenance, improvement or alteration of the bridge, give notice to the owners specifying the general nature of the works proposed to be executed; and
- (b) except with the consent of the owners, the Minister shall not reduce the headway or any span of the bridge; and
- (c) if the headway of the bridge is reduced in consequence of subsidence due to mining operations, or of works carried out by the owners for the purpose of raising the railway, canal, way or other works to a level not higher than their level before the subsidence occurred, the Minister shall, if so required by the owners, raise the bridge so far as may be necessary to give the same headway as before the subsidence occurred:

Provided that a consent required for the execution of works by the Minister under this subsection shall not be unreasonably withheld, and any question arising under this subsection whether the withholding of a consent is unreasonable shall be determined by arbitration.

(5) Any dispute between the Minister and any person as to the property or liabilities transferred by virtue of this section, or as to the liability imposed on the Minister by paragraph (c) of the last foregoing subsection to carry out works, shall be determined by arbitration.

(6) This section applies to all bridges (not being highways maintainable at the public expense) which carry the highway over a railway or highway or over a canal, river, watercourse, marsh or other place where water flows or is collected or over a ravine or other depression, other than—

- (a) swing bridges,
- (b) bridges which carry a railway as well as a highway, and
- (c) bridges to which a right to levy tolls is attached:

Provided that this section shall not apply to Rochester Bridge, Bideford Bridge, or Barnstaple Bridge.

(7) In this section—

“bridge” includes so much of the approaches thereto as supports or protects the surface of the trunk road;

PART X
—cont.

“owners”, in relation to a bridge, means the persons who immediately before the transfer of the bridge to the Minister were responsible for the maintenance thereof, and includes any persons who, in pursuance of any agreement with the persons so responsible, were then discharging that responsibility on their behalf.

Transfer to local highway authorities of privately maintainable bridges carrying special roads.

230.—(1) Where the route prescribed by a scheme under section eleven of this Act authorising the provision of a special road by a local highway authority includes a highway carried by a bridge which, if the special road were a trunk road, would be transferred to the Minister by virtue of the last foregoing section, any order under section thirteen of this Act by which the highway is appropriated by or transferred to the special road authority may provide for the transfer of the bridge to that authority.

(2) Where a bridge is so transferred to a special road authority, subsections (2) to (5) of the last foregoing section shall apply as they apply in relation to a bridge transferred by virtue of that section and accordingly shall have effect as if for references therein to the Minister and to the trunk road there were substituted references to the special road authority and to the special road; and no order shall be made by virtue of the next following section in respect of liabilities of the owners of the bridge.

(3) In this section—

“bridge” includes so much of the approaches thereto as supports or protects the surface of the special road;

“owners”, in relation to a bridge, means the persons who, immediately before the transfer of the bridge to the special road authority, were responsible for the maintenance thereof, and includes any persons who, in pursuance of any agreement with the persons so responsible, were then discharging that responsibility on their behalf.

Transfer of property and liabilities in connection with special roads and certain other highways.

231.—(1) Where provision is made by an order under section nine of this Act, or by an order under section thirteen thereof,—

- (a) for transferring a highway from one highway authority to another,
- (b) for enabling a highway authority to alter a highway vested in another, or
- (c) in the case of an order under the said section thirteen, for authorising or requiring any functions of a local authority (within the meaning of that section) to be exercised by a highway authority,

the order may, subject to the provisions of subsection (2) of the last foregoing section and of this section, transfer to the highway authority to whom the highway is transferred, or in

whom it is vested, or by whom those functions are to be exercised, any property, rights or liabilities (other than loans or loan charges) vested in or incurred by the other authority in connection with the highway or the alteration, or for the purpose of those functions, as the case may be; and may for that purpose (whether or not the highway in question is a trunk road) apply any of the provisions of section two hundred and twenty-eight of this Act, subject to such modifications as may be specified in the order.

PART X
—cont.

(2) No order under section nine of this Act shall provide for transferring to any authority (except by agreement with that authority) any bridge over or tunnel under a trunk road, as distinct from the highway carried by the bridge or through the tunnel, and from any approaches to the bridge or tunnel.

(3) The last foregoing subsection shall apply in relation to an order under section thirteen of this Act as it applies in relation to an order under the said section nine, with the substitution, for the reference to a trunk road, of a reference to a special road.

232. Where—

- (a) a highway in a non-county borough or urban district becomes a county road and the council of the borough or district do not become entitled to maintain it by virtue of section forty-five of this Act, or
- (b) the council of such a borough or district, being entitled by virtue of the said section forty-five to maintain a county road in their area, relinquish their right to maintain it,

Transfer to county councils of property and liabilities relating to county roads.

the council of the borough or district, as the case may be, and the council of the county comprising the borough or district may, subject to the provisions of section two hundred and thirty-four of this Act, agree for the transfer to the county council of such property and liabilities of the council of the borough, or of the district, relating to the road, and on such terms and conditions, as may be specified in the agreement.

233.—(1) Where a person has by virtue of a charter or special Act the right to charge tolls in respect of the use of a highway, then, in the case of a trunk road, the Minister, or, in the case of any other highway, the council of the county, borough or urban district within whose area the highway is situated—

Provisions with respect to transfer of toll highways to highway authorities.

- (a) may agree with that person that he shall, on such terms as may be agreed, transfer that right to the Minister or council, as the case may be, or
- (b) subject to the provisions of this section, may by notice to treat require that person to transfer that right to the Minister or council, as the case may be,

together with the property in the highway and all his other property, rights and obligations under the charter or special

PART X
—cont.

Act (being property, rights, and obligations connected with the highway), or such of them as may be specified in the agreement or, as the case may be, the notice to treat.

(2) Upon the making of a transfer under the foregoing subsection the right to charge tolls and any other property, rights or obligations transferred shall vest in and be exercisable by and imposed upon the Minister or the council, as the case may be, but, in the case of a transfer to a council, a right to charge tolls so transferred shall continue to be exercisable for such number of years only as may be allowed by the Minister in a particular case.

(3) The consideration to be paid to any person for a compulsory transfer under this section shall, in default of agreement, be determined by the Lands Tribunal, and the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919 (which provides rules for valuation on a compulsory acquisition), shall apply to the calculation of any such consideration; and, subject to any agreement with respect to the date of transfer, the person on whom a notice to treat has been served under this section shall, on payment to him of the consideration determined in the manner aforesaid, transfer to the Minister or to the council, as the case may be, all such property, rights and obligations vested in or imposed upon him as are required by the notice to treat to be so transferred.

(4) A council in whose area part only of a highway is situated shall have in relation to that highway the same powers as they would have had under subsection (1) of this section if the highway had been wholly situated within their area, but shall not exercise those powers except in pursuance of an agreement made under the next following subsection.

(5) Any two or more councils having under either subsection (1) or subsection (4) of this section powers in relation to a highway may, subject to the approval of the Minister, enter into agreements with respect to the exercise of those powers by one council on behalf of the other or others of them and with respect to the making of contributions by any of them towards the expenses of any action so taken, and, where those powers are exercised in pursuance of any such agreement, the transfer of the highway and of any other property, rights and obligations to be transferred shall be made to such council or councils as may be provided by the agreement.

(6) The provisions of this section with respect to compulsory transfers shall not apply in relation to—

- (a) a highway vested in dock undertakers as such,
- (b) a highway vested in harbour undertakers as such, or
- (c) the property in a bridge vested in railway undertakers.

234.—(1) Where—

- (a) in pursuance of section twenty-four of this Act the council of a county district relinquish functions with respect to the maintenance and improvement of, and other dealing with, a highway, or the council of a county determine the delegation to the council of a county district of any such functions, or
- (b) in pursuance of section forty-five of this Act the council of a county district being a non-county borough or an urban district relinquish their right to maintain a county road,

PART X
—*cont.*

Transfer to county councils of certain quarries, etc., belonging to councils of county districts.

then, if the council of the county district so desire, the council of the county comprising the district shall, on the date on which the determination or relinquishment takes effect, take over—

- (i) if the district is a borough or urban district, any quarry belonging to the council of the borough or district in their capacity as highway authority, together with any fixed plant therein, and
- (ii) if the district is a rural district, any quarry, plant or materials belonging to the council of the rural district which, immediately before the first day of April, nineteen hundred and thirty, belonged to them in their capacity as highway authority, or any depot which, immediately before the said date, was used by them exclusively in that capacity:

Provided that, except to such extent as may be agreed between the county council and the council of the county district, the council of the county district shall remain subject to any liability in respect of the quarry, plant, materials or depot, being a liability imposed by a contract made by the council of that district with some other person.

(2) Where in pursuance of the foregoing subsection a county council take over from some other council any quarry, plant, materials or depot, they shall pay such sum therefor as may be agreed between them, or, in default of agreement, as may be determined by a single arbitrator appointed by the Minister of Housing and Local Government.

PART XI**FINANCIAL PROVISIONS**

235.—(1) The Minister may, with the approval of the Treasury, make advances to a highway authority for any of the following purposes, that is to say—

- (a) the construction of a highway which is to be a highway maintainable at the public expense.

Advances in respect of the construction and improvement of highways, etc.

PART XI
—cont.

- (b) the maintenance of a highway,
- (c) the improvement of a highway, and
- (d) the provision, maintenance and improvement of a road-ferry,

or may, with the like approval, and in conjunction with such an authority, being a local highway authority, make advances to some other person for any of the said purposes.

(2) It is hereby declared that the power of the Minister to make advances to himself in his capacity of highway authority for any purpose specified in the foregoing subsection is a power conferred on him to expend money for that purpose.

(3) Any expenses incurred by a local highway authority under section eighteen of this Act in connection with a special road shall be deemed for the purposes of subsection (1) of this section to be incurred in the construction of the special road.

(4) The Minister may, with the approval of the Treasury, make advances to the council of a borough or urban district in respect of the following works, that is to say—

- (a) any work done by them in a highway for which they are not the highway authority in the exercise of the powers conferred by section sixty-five of this Act or section sixty-eight thereof;
- (b) any work done by them in or under a county road for which they are not the highway authority in the exercise of the powers conferred by section sixty-nine of this Act.

(5) The Minister may make advances under this section either by way of grant or by way of loan, or partly in one way and partly in the other, and on such terms and subject to such conditions as he thinks fit.

(6) The Minister, in deciding whether to make an advance under this section in respect of a work the execution of which will require the employment of labour on a considerable scale, shall have regard to the general state and prospects of employment.

(7) Nothing in this section shall be taken as authorising the making of any grants which before the passing of the Local Government Act, 1929, were made as classification grants in respect of classified roads in county boroughs or as grants for the maintenance of highways, not being classified roads, in counties.

236.—(1) There shall be paid out of moneys provided by Parliament—

PART XI
—cont.

- (a) any expenses incurred by the Minister under this Act, to such amount as may be approved by the Treasury ;
- (b) any expenses incurred by the Minister of Housing and Local Government under this Act, to such amount as may be so approved ;
- (c) any expenses incurred by any other Minister of the Crown in the exercise or discharge of functions conferred or imposed by section sixty-three or section one hundred and thirty-six of this Act on undertakers, other than, in the case of the Postmaster General, any such expenses as are defrayed out of money for the raising of which provision is made by the Post Office and Telegraph (Money) Act, 1955, or by any other enactment ;
- (d) any expenses incurred by the Advisory Committee constituted under the London Traffic Act, 1924, in the discharge of the duty imposed on them by section one hundred and thirty-seven of this Act, to such amount as may be approved by the Treasury ; and
- (e) any increase attributable to this Act in the sums payable by way of Rate-deficiency Grant or Exchequer Equalization Grant under the enactments relating to local government in England and Wales or in Scotland out of moneys provided by Parliament.

(2) Any sums received by the Minister under this Act shall be paid into the Exchequer.

237.—(1) Where the council of a non-county borough or of an urban district are by virtue of section four of this Act the highway authority for a county road within their area, the council of the county comprising the borough or district shall—

- (a) make, by quarterly instalments, such annual payments towards the cost of the maintenance of the road and of any reasonable improvement connected with the maintenance of the road as may be determined in accordance with the provisions of this section ; and
- (b) contribute towards the expenses of any improvement of the road, not being an improvement connected with the maintenance of the road, in any such case and to such extent (if any) as, failing agreement between the councils, may be determined by the Minister, who shall have regard to the extent to which the improvement is required for the purposes of through traffic and local traffic respectively, and to the extent to which it is of the nature of a town improvement.

PART XI
—cont.

(2) Expenses incurred under section eighty-two of this Act by the council of a non-county borough or urban district in connection with a county road for which they are the highway authority by virtue of the said section four shall not be treated as part of the costs towards which the county council are required to make an annual payment under this section, except in so far as the county council consent to their being so treated.

(3) The council of a non-county borough or urban district shall, on or before the fifteenth day of December in each year, submit to the county council for their approval a detailed estimate of—

- (a) the cost, for the ensuing financial year, of the maintenance of every county road for which the council of that borough, or of that district, as the case may be, are, by virtue of the said section four, the highway authority, and
- (b) the cost, for the ensuing financial year, of any reasonable improvement connected with the maintenance of any such road,

and on any such estimate being approved by the county council, either with or without modifications, the amount to be paid by the county council under this section in respect of the maintenance and improvement shall be the amount of that estimate, or of that estimate as amended by any supplementary estimate submitted to and approved by the county council, or such less sum as may have been actually expended thereon by the council of the non-county borough or of the urban district, as the case may be, during the said financial year:

Provided that, subject to subsection (5) of this section, the county council shall not be liable to make a payment towards the cost of the maintenance or of the improvement until they are satisfied, by a report of their surveyor or of such other person as they may appoint for the purpose, that the works therefor are being or have been properly executed.

(4) The council of a non-county borough or of an urban district may at any time and from time to time submit to the county council for their approval a detailed supplementary estimate.

(5) The county council shall not unreasonably withhold approval of an estimate submitted to them under this section, and any question whether their approval has been unreasonably withheld, or whether any works of maintenance or improvement are being or have been properly executed, or as to the liability of a county council to make a payment under this section, shall be determined by the Minister.

(6) Where, by virtue of section twenty-two of the Public Utilities Street Works Act, 1950 (which provides that where in

consequence of, or for the purpose of facilitating, the execution of certain works by a highway authority for road purposes within the meaning of that Act undertakers are obliged or required to carry out certain works or take certain measures, the highway authority shall pay the undertakers the cost incurred by them in doing those works or taking those measures) an amount is payable to undertakers by reference to a road alteration (within the meaning of that Act) of or in a highway being a county road for which the council of a non-county borough or urban district are by virtue of section four of this Act the highway authority, that amount shall for the purposes of this section be deemed to be part of such costs as are referred to in paragraph (a) of subsection (1) of this section, or of such expenses as are referred to in paragraph (b) thereof, according as the alteration is treated for the said purposes as falling within the said paragraph (a) or the said paragraph (b).

PART XI
—cont.

238.—(1) The council of a county or county borough may contribute towards the expenses incurred by the Minister in the construction or improvement of a trunk road, including any expenses incurred in respect of improvements to the amenities of the road or of land adjoining or adjacent to the road, and the council of a non-county borough or urban district may contribute towards the expenses incurred by the Minister in any such construction or improvement, if the construction or improvement is in the nature of a town improvement.

Contributions by councils towards expenses of construction, improvement, etc., of highways.

(2) The council of a county may contribute towards the expenses incurred by the council of some other county in the improvement of a highway situated in a rural district comprised in that other county, if, in the opinion of the first-mentioned council, the improvement will be of benefit to any rural district in their county.

(3) The council of a county district may contribute towards the expenses incurred by the council of a county or of a non-county borough or urban district under any of the following provisions of this Act, that is to say, section eighty-five, subsections (1), (2), (5) and (6) of section two hundred and fourteen, and sections two hundred and twenty-three and two hundred and twenty-four.

239.—(1) A local authority may defray or contribute towards, or undertake to defray or contribute towards, the expenses incurred or to be incurred by any other local authority for the purposes of—

Contributions by local authorities towards expenses incurred in connection with footpaths and bridleways.

(a) the provisions of Part III of this Act relating to the creation of footpaths and bridleways by means of public path creation agreements or public path creation orders, to the making up of footpaths and bridleways and to the payment of compensation for loss caused by a public path creation order ;

PART XI
—cont.

(b) the provisions of Part VI of this Act relating to the making of public path extinguishment orders and public path diversion orders, to the making up of foot-paths and bridleways and to the payment of compensation for loss caused by any such order.

(2) In this section “local authority” means a local planning authority, the council of a county or county borough not being a local planning authority, or the council of a county district.

(3) Where under subsection (1) of section twenty-nine of this Act the Minister of Housing and Local Government directs that a power of one local authority shall be exercisable by another, then, if the direction so provides, the first mentioned authority shall be under a duty to exercise their powers under subsection (1) of this section to such extent as may be specified in the direction.

Contributions to land drainage works which will benefit trunk roads.

240. Where it appears to the Minister that the execution or maintenance by a drainage board or river board of any drainage works is desirable for the protection or enjoyment of a trunk road, the Minister may make such contributions as he thinks fit towards any expenses incurred by the board in the execution or maintenance of those works.

Contribution towards maintenance of bridge where road ceases to be a trunk road.

241. Where a trunk road carried by a bridge vested in the Minister by virtue of section two hundred and twenty-nine of this Act ceases to be a trunk road, the Minister may contribute towards the expenses to be incurred in the maintenance of the bridge by the council who become the highway authority for the road.

In this section “bridge” includes the highway carried by the bridge and so much of the approaches thereto as supports or protects the surface of the trunk road.

Liability of non-county borough to contribute to costs incurred by county council in respect of certain highways and bridges.

242. Notwithstanding anything in subsection (2) of section thirty-five of the Local Government Act, 1888 (which provides for the continuance of the exemption of certain boroughs from contributing towards costs incurred by the county council for certain purposes), no non-county borough shall be exempt from contributing towards the costs incurred by the council of the county comprising that borough in the maintenance or improvement of, or other dealing with—

(a) county roads in the county, and

(b) bridges in the county which are highways maintainable at the public expense.

243. A council may borrow money for the purposes of this Act.

PART XI
—cont.

Borrowing
power.

244.—(1) Without prejudice to the exercise by local authorities of the borrowing powers conferred on them by the Local Government Act, 1933, or by this Act, a local authority who own any land, works or other property for the purposes of the disposal of sewage may borrow money on mortgage thereof for any purposes of any of the provisions of this Act to which this section applies for which they might borrow money under the Local Government Act, 1933.

Power to
borrow on
sewage land
and plant.

(2) Any money borrowed under this section shall be applied only to such purposes as aforesaid and shall be repaid within thirty years.

(3) Sections one hundred and ninety-nine, two hundred and two hundred and three of the Local Government Act, 1933, shall apply to any borrowing under this section, but, save as aforesaid, the provisions of sections one hundred and ninety-six to two hundred and eighteen of that Act shall not apply thereto.

(4) This section applies to sections two hundred and fifty-three and two hundred and fifty-six of this Act and to the other provisions thereof which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments.

245. Where by virtue of subsection (2) of section twenty-five of this Act the council of a county district are discharging functions of a county council, then, if, for the purpose of bearing the whole or a portion of the expenses of private street works or for any other purpose in connection with those functions, the council of the district desire to incur expenses which, in the opinion of the county council, could not properly be defrayed as expenses for general county purposes, the council of the district shall have the like powers of raising money for the purpose in question as they would have if those functions had been vested directly in them.

Power of
di strict council
discharging
functions
of county
council to
raise money.

246.—(1) Any sum paid to, or recovered by, a local highway authority under any of the provisions of this Act which are mentioned in subsection (3) of this section, being a sum which for the purpose of any such provision is a lump sum, and so much of any other sum paid to, or recovered by, any such authority under any of those provisions as represents capital, shall be applied by the authority for purposes for which capital money is applicable by them.

Application
of certain
sums payable
to local
highway
authorities, etc.

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—cont.

(2) If any question arises whether any and, if so, what part of any sum paid to, or recovered by, a local highway authority under any of the said provisions represents capital, it shall be determined by the Minister of Housing and Local Government.

(3) The provisions of this Act referred to in subsection (1) of this section are subsection (3) of section fifty-six, subsection (1) of section fifty-seven, subsections (2) and (3) of section fifty-eight, subsection (3) of section two hundred and twenty-four and paragraph 19 of the Eleventh Schedule.

(4) Any capital sum paid to the council of a county district under section two hundred and thirty-four of this Act shall be treated as capital and shall be applied by them, with the consent of the said Minister, either in repayment of debt or for any other purpose for which capital money is applicable by them.

Accounts to be kept of expenses incurred in maintaining claimed county roads.

247. The council of a non-county borough or of an urban district who are by virtue of section four of this Act the highway authority for one or more of the county roads within their area shall keep, in such form as may be directed by the council of the county comprising the borough or district in which such road or roads is or are situated, a separate account for each financial year of the expenses incurred in maintaining such road or roads, and shall send copies thereof to the council of the said county at such time or times as that council may direct.

Exemption from stamp duty.

248. If the Minister certifies that any stamp duty which, but for the provisions of this section, would be payable on any instrument made by, to or with him in relation to a highway or proposed highway which is, or is to become, a trunk road would be payable as an expense incurred by him under this Act, that stamp duty shall not be payable.

PART XII

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Miscellaneous powers of highway authorities and local authorities

Power of Minister to conduct experiments.

249.—(1) The Minister may, either by himself or through an authority or other organisation approved by him, conduct experiments or trials for the purpose of—

- (a) improving the construction of highways, road-ferries or subways, or
- (b) testing the effect of various classes of vehicles on various types of highways.

(2) The Minister may construct such highways and works, erect such plant, and provide such accommodation, as may be necessary for the purpose of conducting an experiment or trial under this section.

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—cont.

(3) An experiment or trial under this section shall not be conducted on any highway except with the consent of the highway authority or other person responsible for the maintenance of the highway, and, where the highway is a claimed county road, with the consent also of the council of the county in which the highway is situated.

(4) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person shall, unless the damage was caused by his negligence, be entitled to recover from the Minister compensation in respect of the damage:

Provided that if that person by his negligence contributed to the damage the compensation shall be reduced accordingly.

250. Where a trunk road comprises a highway which a person is liable to maintain under a charter or special enactment or by reason of tenure, enclosure or prescription, the Minister shall be entitled to exercise in relation to that highway any power which he would have been entitled to exercise in relation thereto if that highway had been a highway maintainable at the public expense.

Powers of Minister in relation to privately maintainable parts of trunk roads.

251.—(1) Subject to the provisions of this section, local highway authorities shall have power to enter into agreements with each other for or in relation to the construction, reconstruction, alteration, improvement or maintenance of a highway for which any party to the agreement are the highway authority.

Agreements between local highway authorities for doing of certain works.

(2) The council of a county shall not have power to enter into an agreement under this section with the council of another county unless the counties adjoin each other.

(3) Expenses incurred in pursuance of an agreement made under this section shall be borne by the parties to the agreement in such proportions as may be determined by the agreement.

252.—(1) Where this section applies in the area of a local authority by virtue of section two hundred and ninety of this Act, the authority may require the corner of a building intended to be erected at the corner of two streets in their area to be rounded or splayed off to the height of the first storey or to the full height of the building, and to such extent otherwise as they may determine, and for any loss which may be

Power to require angles of new buildings at corners of streets to be rounded off.

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—cont.

sustained through the exercise by them of their powers under this section they shall pay compensation.

(2) A person aggrieved by a requirement of a local authority under this section may appeal to a magistrates' court.

(3) This section shall not apply to a building, other than a dwelling-house, belonging to any of the following undertakers and used by them for the following purposes respectively, that is to say, by railway undertakers for those of a railway comprised in the railway undertaking, by canal undertakers for those of a canal comprised in the canal undertaking, by inland navigation undertakers for those of a navigation comprised in the inland navigation undertaking, by dock undertakers for those of a dock comprised in the dock undertaking, by harbour undertakers for those of a harbour comprised in the harbour undertaking, or by pier undertakers for those of a pier comprised in the pier undertaking.

Power to require gas and water pipes to be moved.

253.—(1) Section one hundred and fifty-three of the Public Health Act, 1875 (which relates to the power to require gas and water pipes to be moved), shall apply for the purposes of any of the provisions of this Act to which this section applies as it applies for the purposes of that Act :

Provided that the said section one hundred and fifty-three shall not apply in any case in which the code in Part II of the Public Utilities Street Works Act, 1950 (which regulates the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) has effect.

(2) A local authority shall pay compensation to any person who has sustained damage by reason of the execution by them of works under this section.

(3) This section applies to section two hundred and fifty-six of this Act and to the other provisions thereof which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments.

Powers of entry for purposes connected with provision of special roads and trunk roads.

254.—(1) A person duly authorised in writing by a highway authority may enter on any land—

(a) for the purpose of surveying it in connection with the making of a scheme under section eleven of this Act or of an order under any of the following provisions of this Act, that is to say, section seven, section nine, section thirteen and section twenty ;

(b) where an order under the said section seven, the said section nine, or the said section twenty, so provides, for purposes connected with the carrying out of any works in pursuance of the order, or with the removal of any temporary works so carried out ;

- (c) where an order under the said section thirteen so provides, for purposes connected with the carrying out of any works in pursuance of a scheme under the said section eleven, or of any order under the said section thirteen, or with the removal of any temporary works so carried out.

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—cont.

(2) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before entering; and a person shall not under this section demand admission as of right to any land which is occupied unless at least seven days' notice of the intended entry has been given to the occupier.

(3) A person who wilfully obstructs a person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding twenty pounds.

(4) If a person who, in compliance with the provisions of this section, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, then, unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(5) Where, in the exercise of a power of entering land conferred by this section (including the carrying out or removal of any such works as aforesaid), any damage has been caused to land or to chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the authority by whom or on whose behalf the power was exercised; and where in consequence of the exercise of such a power any person is disturbed in his enjoyment of any land or chattels, he may recover from that authority compensation in respect of the disturbance.

(6) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein:

Provided that a person shall not carry out any works authorised by this subsection unless notice of his intention so to do has been included in the notice required by subsection (2) of this section, and, if the land in question is held by any statutory undertakers and they object to the proposed works on the ground that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking, the works

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—cont.

shall not be carried out except with the authority of the appropriate Minister.

(7) In the last foregoing subsection “appropriate Minister” means—

- (a) in relation to statutory undertakers carrying on an undertaking for the supply of electricity, gas or hydraulic power, the Minister of Power;
- (b) in relation to statutory undertakers carrying on an undertaking for the supply of water, the Minister of Housing and Local Government;
- (c) in relation to any other statutory undertakers, the Minister.

Powers of entry for purposes connected with certain orders relating to footpaths and bridleways.

255.—(1) A person duly authorised in writing by the Minister of Housing and Local Government or other authority having power under this Act to make a public path creation order, a public path extinguishment order or a public path diversion order may enter upon any land for the purpose of surveying it in connection with the making of the order.

(2) For the purpose of surveying land, or of estimating its value, in connection with a claim for compensation payable by an authority in respect of that or any other land under section thirty-one of this Act, or under that section as applied by subsection (2) of section one hundred and thirteen thereof, a person being an officer of the Valuation Office or a person duly authorised in writing by the authority from whom the compensation is claimed may enter upon the land.

(3) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before entering; and a person shall not under this section demand admission as of right to any land which is occupied unless at least seven days’ notice in writing of the intended entry has been given to the occupier.

(4) A person who wilfully obstructs a person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding twenty pounds.

Entry, etc., of premises by highway authority or local authority for certain purposes.

256.—(1) If, in the discharge of functions conferred or imposed on an authority, being a highway authority or council, by a provision of this Act to which this section applies, it becomes necessary for an authorised officer of the authority to enter, examine or lay open any premises for the purpose of surveying, making plans, executing, maintaining or examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier of the premises refuses to permit the premises to be entered, examined or laid

open for any such purpose as aforesaid, the authority, after giving notice to the owner or occupier of their intention to do so, may make a complaint to a magistrates' court for an order authorising the authority by any authorised officer to enter, examine and lay open the premises for any such purpose.

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—cont.

(2) If on the hearing of the complaint no sufficient cause is shown against the making of the order for which the complaint is made, the court may make the order, and thereupon any authorised officer of the complainant authority may, at all reasonable times between the hours of nine in the morning and six in the afternoon, enter, examine or lay open the premises described in the order for such of the purposes mentioned in the foregoing subsection as are specified in the order:

Provided that, except in a case of emergency, no entry shall be made on any premises, and no works shall be begun therein, under this subsection unless at least seven days' notice of the intended entry, and of the object thereof, has been given to the occupier of the premises.

(3) Where, in the course of an entry on or examination or laying open of premises authorised by an order under this section, damage has been caused to land or to chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the authority on whose complaint the order was made; and where by reason of any such entry, examination or laying open any person is disturbed in his enjoyment of land or chattels, he may recover from that authority compensation in respect of the disturbance.

(4) This section applies to the provisions of this Act which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments.

257.—(1) A local authority in whose area this subsection applies by virtue of section two hundred and ninety of this Act may remove, appropriate, or use, sell or otherwise dispose of all old materials existing in any street other than a highway maintainable at the public expense at the time of the execution by the authority of any works in the street, unless those materials are removed by the owners of premises in the street within three days from the date of service of a notice from the surveyor of the authority requiring the owners of those premises to remove the materials.

Power to
dispose of
certain
materials.

(2) Where a local authority remove, appropriate, or use, sell or otherwise dispose of any materials in a street under the foregoing subsection, they shall, on demand, pay or allow to the owner of any premises in the street such proportion of the reasonable value of the materials as is attributable to those

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—cont.

premises, and the amount thereof shall be settled, in case of dispute, by arbitration, or, if the amount claimed does not exceed fifty pounds and either party so requires, by a magistrates' court.

(3) A local authority may sell any materials which have been removed by them from any premises in the execution of powers conferred on them by subsection (2) of section one hundred and forty-five of this Act and which are not within three days from the date of their removal claimed by the owner and taken away by him.

(4) Where a local authority sell any materials under the last foregoing subsection, they shall pay the proceeds to the person to whom the materials belonged after deducting the amount of any expenses recoverable by them from him.

Power of certain authorities to execute certain works on behalf of other person.

258. A highway authority or a council may by agreement with any person execute at his expense any work which they have under this Act (except under Part IX thereof) required him to execute, or any work in connection with a highway which he is otherwise under an obligation or is entitled to execute, and for that purpose they shall have all such rights as he would have.

Power to require information as to ownership of land.

259.—(1) A highway authority or a council may, for the purpose of enabling them to discharge or exercise any of their functions under this Act, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.

(2) A person who, having been required in pursuance of this section to give any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds.

Power of county council to obtain information from district councils.

260. It shall be the duty of the council of every county district to furnish, and to instruct their officers to furnish, any information in their power which may reasonably be required by the council of any county for the purpose of enabling that council to discharge their functions under this Act.

Protection of members and officers of local authorities

Protection of members and officers of local authorities from personal liability.

261.—(1) No act or thing done by any member of a local authority, or by any officer of a local authority or other person acting under the direction of a local authority, shall, if the act or thing was done bona fide for the purpose of carrying a provision of this Act to which this section applies into effect, subject him personally to any liability, action, claim or demand whatsoever.

(2) Any expenses incurred by any such member, officer or person as is mentioned in the foregoing subsection for the purpose of carrying a provision of this Act to which this section applies into effect shall be paid by the local authority.

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—cont.

(3) Nothing in this section shall be construed to exempt any member of a local authority from liability to be surcharged with the amount of any payment which may be disallowed by the auditor in the accounts of the authority, and which that member authorised or joined in authorising.

(4) This section applies to—

- (a) sections two hundred and forty-four, two hundred and fifty-three and two hundred and fifty-six of this Act and the other provisions thereof which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments; and
- (b) the advance payments code and section two hundred and three of this Act.

Obstruction of persons executing Act

262. A person who wilfully obstructs any person acting in the execution of this Act or of a byelaw or order made thereunder shall, in any case for which no other provision is made by this Act, be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds, and, if the offence in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding five pounds for each day on which the offence is so continued.

Penalty for obstructing execution of Act.

263. If on a complaint made by the owner of any premises, it appears to a magistrates' court that the occupier of those premises prevents the owner from executing any work which he is by this Act required to execute, the court may order the occupier to permit the execution of the work.

Power to require occupier to permit works to be executed by owner.

Recovery of expenses

264.—(1) Where a council have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable—

Recovery of expenses.

- (a) under any of the provisions of this Act which are specified in the Eighteenth Schedule thereto, or
- (b) by agreement with the council,

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—cont.

those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the council from the owner for the time being of the premises, and, as from the date of the completion of the works, the expenses and interest accrued due thereon shall, until recovered, be a charge on the premises and on all estates and interests therein.

(2) A council may by order declare any expenses recoverable by them under this section to be payable by annual instalments within a period not exceeding thirty years, together with interest; and any such instalment and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred.

(3) A person aggrieved by an order of a council under the last foregoing subsection, or by the refusal of a council to make such an order, may appeal to a magistrates' court:

Provided that this subsection shall not apply in a case where an appeal lies to the Minister of Housing and Local Government under section two hundred and seven of this Act.

(4) The Thirteenth Schedule to this Act shall apply in relation to any sum paid by an occupier of premises under the foregoing provisions of this section.

(5) The rate of interest chargeable under the foregoing provisions of this section shall be such rate of interest as the Minister of Housing and Local Government may by order fix, and different rates of interest may be fixed in different cases.

(6) Any sum which a highway authority or council are entitled to recover under this section or any other provision of this Act, and with respect to the mode of recovery of which provision is not made by any other section of this Act, may be recovered either summarily as a civil debt or in any court of competent jurisdiction.

Limitation
of time for
summary pro-
ceedings for
recovery of
expenses.

265. The time within which summary proceedings may be taken for the recovery of any sum which a highway authority or council are entitled to recover under this Act shall be reckoned from the date of the service of a demand therefor:

Provided that where the sum is recoverable in a case in which an appeal has been made to the Minister of Housing and Local Government under section two hundred and seven of this Act the said time shall be reckoned from the date on which the decision on the appeal is notified to the appellant or the appeal is withdrawn, as the case may be.

Determination of disputes as to compensation

266.—(1) Any dispute arising on a claim for compensation under any provision of this Act to which this section applies shall be determined by the Lands Tribunal.

The provisions of this Act to which this section applies are sections sixteen, seventeen, eighteen, thirty-one, seventy-two and seventy-three, subsection (2) of section one hundred and thirteen, section one hundred and sixty-three, subsection (2) of section one hundred and seventy and section two hundred and fifty-four.

(2) For the purposes of any reference to the Lands Tribunal under this section, section five of the Acquisition of Land (Assessment of Compensation) Act, 1919 (which relates to costs) shall have effect with the substitution, for references to the acquiring authority, of references to the authority from whom the compensation in question is claimed.

(3) Rules 2 to 4 of the Rules set out in section two of the said Act of 1919 (which provides rules for valuation on a compulsory acquisition) shall apply to the calculation of compensation under any provision of this Act to which this section applies, in so far as it is calculated by reference to the depreciation of the value of an interest in land.

(4) In determining the amount of compensation payable under section eighteen of this Act, the Lands Tribunal shall have regard to any new means of access to the premises of the claimant provided by the special road authority from whom the compensation is claimed.

(5) In determining the amount of compensation payable under section seventy-two of this Act in respect of injurious affection, the Lands Tribunal shall take into account any benefit accruing to the claimant by reason of the improvement of the street in relation to which an improvement line has been prescribed under that section, and may take into account and embody in their award any undertaking with regard to the exercise of the powers of a highway authority under that section in relation to the property affected which the authority have offered to give to the claimant, and the terms of any undertaking so embodied in the award shall be binding on and enforceable against the authority.

(6) In determining the amount of compensation payable under section seventy-three of this Act, the Lands Tribunal shall take into account any benefit accruing to the claimant by reason of any improvement made or about to be made to the highway in relation to which a building line has been prescribed under that section.

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—cont.

Disputes as to compensation which are to be determined by Lands Tribunal and provisions as to determination of amount.

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—cont.

(7) In determining the amount of compensation payable under section one hundred and sixty-three of this Act, or under subsection (2) of section one hundred and seventy thereof, the Lands Tribunal shall take into account any benefit accruing to the claimant by reason of the widening of a street under the said section one hundred and sixty-three or the said subsection (2), as the case may be.

Disputes as to compensation which are to be determined by arbitration or county court.

267.—(1) Any dispute arising on a claim for compensation under this Act, being a dispute for the determination of which provision is not made by or under any section of this Act other than this section, shall be determined, if the parties so agree, by arbitration, or, in default of agreement, by a county court.

(2) A county court shall have jurisdiction to deal with any dispute which by virtue of the foregoing subsection is to be determined by such a court notwithstanding that, by reason of the amount of the claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.

Compensation in respect of depreciation in value of interest in land subject to mortgage.

268. Where an interest in land is subject to a mortgage—

- (a) any compensation which is payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage ;
- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person ;
- (c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such ; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

Prosecutions, appeals, etc.

Summary proceedings for offences.

269. All offences under this Act or under byelaws made thereunder shall be punishable on summary conviction.

Continuing offences.

270. Where by virtue of any provision of this Act, or of byelaws made thereunder, a person convicted of an offence is, if the offence in respect of which he was convicted is continued after the conviction, guilty of a further offence and liable in respect

thereof to a fine for each day on which the offence is so continued, the court before whom the person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the defendant shall not be liable in respect of the further offence to a fine for any day before the expiration of that period.

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—cont.

271.—(1) Proceedings for an offence under any provision of this Act to which this section applies or under byelaws made under any such provision, shall not, without the written consent of the Attorney General, be taken by any person other than a person aggrieved, or a highway authority or council having an interest in the enforcement of the provision or byelaws in question.

Restriction on institution of proceedings.

(2) This section applies to the provisions of this Act which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments.

272. Where two or more sums are claimed from any person as being due under this Act, a complaint, summons or warrant issued for the purposes of this Act, or of any byelaws made thereunder, in respect of that person may contain in the body thereof, or in a schedule thereto, a statement of all or any of the sums so claimed.

Inclusion of several sums in one complaint, etc.

273. Where an appeal lies under this Act to a court of quarter sessions or a magistrates' court against a requirement, order, refusal or other decision of a highway authority or a council, the notice given by the authority or council to the person concerned of the making of the requirement or order or of the refusal or other decision against which such an appeal lies shall state the right of appeal to a court of quarter sessions or a magistrates' court, as the case may be, and the time within which such an appeal may be brought.

Notice to be given of right of appeal.

274.—(1) Where any provision of this Act provides—

- (a) for an appeal to a magistrates' court against a requirement, order, refusal or other decision of a highway authority or a council, or
- (b) for any other matter to be determined by, or an application in respect of any matter to be made to, a magistrates' court,

Appeals and applications to magistrates' courts.

the procedure shall be by way of complaint for an order.

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—cont.

(2) The time within which an appeal such as is mentioned in paragraph (a) of the foregoing subsection may be brought shall be twenty-one days from the date on which notice of the decision of the highway authority or council was served on the person wishing to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

Appeals to
quarter
sessions from
decisions of
magistrates'
courts.

275.—(1) Where a person aggrieved by an order, determination or other decision of a magistrates' court under this Act is not by any other enactment authorised to appeal to a court of quarter sessions he may appeal to such a court.

(2) The applicant for an order under section one hundred and eight of this Act or any person who was entitled under subsection (6) of that section to be, and was, or claimed to be, heard on the application may appeal to a court of quarter sessions against the decision made by the magistrates' court on the application.

(3) Where an applicant for an order under the said section one hundred and eight appeals against the refusal of a magistrates' court to make the order applied for and more than two persons were, or claimed to be, heard on the application for the order, it shall be sufficient for the purposes of subsection (1) of section eighty-four of the Magistrates' Courts Act, 1952 (which relates to notices of appeal), if the appellant gives notice of appeal to any two of those persons in addition to the clerk of the magistrates' court:

Provided that this subsection shall not affect the right of any of those persons to appear as respondent to the appeal.

Appeals to
quarter
sessions from
decisions of
highway
and local
authorities.

276.—(1) Where any provision of this Act provides for an appeal to a court of quarter sessions against a requirement, order, refusal or other decision of a highway authority or a council, the appeal shall be made to a court of quarter sessions having jurisdiction in the county or borough in which the matter with respect to which the decision relates arose.

(2) The time within which such an appeal may be brought shall be twenty-one days from the date on which notice of the decision of the highway authority or council was served on the person wishing to appeal, and an appellant shall bring such an appeal by giving notice of appeal to the clerk of the peace and to the highway authority or council against whose decision the appeal is to be brought.

(3) A notice of appeal for the purpose of this section shall be in writing and signed by or on behalf of the appellant and shall state the general grounds of appeal.

(4) The clerk of the peace shall enter the appeal and shall in due course give notice to the appellant and to the highway authority or council against whose decision the appeal is brought of the date, time and place fixed for the hearing of the appeal.

(5) Where it appears to a court of quarter sessions, on application made in accordance with the next following subsection, that any person entitled by virtue of any provision of this Act to appeal to that court from a decision of a highway authority or a council has failed to give the notice of appeal required by this section within the period of twenty-one days prescribed by subsection (2) of this section, the court of quarter sessions may, if it thinks fit, direct that any such notice of appeal previously given by the applicant after the expiration of the said period, or any such notice to be given by him within such further time as may be specified in the direction, shall be treated as if given within the said period.

(6) An application for a direction under the last foregoing subsection shall be made in writing and be sent by the applicant to the clerk of the peace; and, where the court gives any such direction as aforesaid, the clerk of the peace shall give notice of the direction to the applicant and to the highway authority or council against whose decision the appeal is to be brought.

(7) A court of quarter sessions may from time to time adjourn the hearing of any such appeal, and may reverse or vary the decision of the highway authority or council against which the appeal is brought or may dismiss the appeal.

(8) On any such appeal a court of quarter sessions may make such order as to costs to be paid by either party as it thinks just, and costs so ordered to be paid may be recovered summarily as a civil debt by the party to whom they are ordered to be paid.

(9) The powers of a court of quarter sessions under subsection (5) of this section shall be exercised—

(a) if the quarter sessions are for a county, by the chairman or a deputy chairman of the appeal committee of the quarter sessions;

(b) if the quarter sessions are for a borough, by the recorder or any deputy recorder;

and may be exercised either within or outside the county or borough for which the quarter sessions are held.

277. Where on an appeal under this Act a court varies or reverses a decision of a highway authority or of a council it shall be the duty of the authority or council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

Effect of
decision of
court upon
an appeal.

PART XII
—*cont.*

Judges and justices not to be disqualified by liability to rates.

278. A judge of any court or a justice of the peace shall not be disqualified for acting in cases arising under this Act by reason only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefited by, any rate or fund out of which any expenses of a council are to be defrayed.

Inquiries

Provisions as to inquiries.

279.—(1) The Minister and the Minister of Housing and Local Government may each cause such inquiries to be held as he may consider necessary or desirable for the purposes of his functions under this Act, and subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence at, and defraying of costs of, inquiries) shall, subject to the following provisions of this section, apply in relation to any inquiry which either of the said Ministers may cause to be held under this section, or in compliance with any requirement in this Act, with the substitution, for references to a department, of references to the Minister or to the Minister of Housing and Local Government, as the case may be.

(2) Subsection (4) of the said section two hundred and ninety (which requires the costs of the department holding the inquiry to be defrayed by the parties thereto) shall not apply in relation to—

- (a) an inquiry caused to be held by the Minister for the purposes of his functions under section ninety-nine of this Act, or
- (b) an inquiry held in compliance with paragraph 3 of the Tenth Schedule to this Act, or with paragraph 9 of the Eleventh Schedule thereto,

in so far as the Minister is of opinion, having regard to the object and result of the inquiry, that the Minister's costs should be defrayed by him.

Notices, etc.

Notices, etc., to be in writing; forms of certain documents.

280.—(1) All notices, consents, approvals, orders, demands, licences, certificates and other documents authorised or required by or under this Act to be given, made or issued by, or on behalf of, a highway authority or a council, and all notices, consents, requests and applications authorised or required by or under this Act to be given or made to a highway authority or a council, shall be in writing.

(2) The Minister may by regulations prescribe the form of any notice or certificate to be used for the purposes of section thirty-nine of this Act.

(3) The Minister of Housing and Local Government may by regulations prescribe the form of any notice, order, advertisement, certificate or other document to be used for any of the purposes of Part IX of this Act.

PART XII
—cont.

(4) If forms are prescribed by the Minister, or by the Minister of Housing and Local Government, under this section, those forms or forms to the like effect shall be used in all cases to which those forms are applicable.

281.—(1) Any notice, consent, approval, order, demand, licence, certificate or other document which a council (whether as a highway authority or in any other capacity) are authorised or required by or under this Act to give, make or issue may be signed on behalf of the council—

Authentica-
tion of
documents,
etc.

- (a) by the clerk of the council, or
- (b) by any officer of the council authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.

(2) Any document purporting to bear the signature of the clerk of the council, or of an officer expressed to be duly authorised by the council to sign such a document or the particular document, shall for the purposes of this Act, and of any byelaws, regulations and orders made thereunder, be deemed, until the contrary is proved, to have been duly given, made or issued by the council.

In this subsection “signature” includes a facsimile of a signature by whatever process reproduced.

282.—(1) Any notice, consent, approval, order, demand, licence, certificate or other document required or authorised by or under this Act to be given to or served on a person being a corporation shall be duly given or served if it is given to or served on the secretary or clerk of the corporation.

Service of
notices, etc.

(2) Subject to the provisions of this section, any notice, consent, approval, order, demand, licence, certificate or other document required or authorised by or under this Act to be given to or served on any person may be given or served either—

- (a) by delivering it to that person, or
- (b) by leaving it at his proper address, or
- (c) by post ;

so however that, where such a document as aforesaid is sent by post otherwise than in a registered letter, it shall be deemed not to have been given or served if it is proved that it was not received by the person to whom it was addressed.

PART XII
—cont.

(3) For the purposes of this section, and of section twenty-six of the Interpretation Act, 1889, in its application to this section, the proper address of any person to or on whom such a document as aforesaid is to be given or served shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, and, in any other case, be the usual or last known place of abode of the person to whom the notice is to be given:

Provided that, where the person to or on whom such a document as aforesaid is to be given or served has furnished an address for service in accordance with arrangements agreed to in that behalf, his proper address for the purposes aforesaid shall be the address furnished.

(4) If the name or the address of any owner, lessee or occupier of premises to or on whom any such document as aforesaid is to be given or served cannot after reasonable inquiry be ascertained by the person seeking to give or serve the document, the document may be given or served by addressing it to the person to whom it is to be given or on whom it is to be served by the description of "owner", "lessee" or "occupier" of the premises (describing them) to which the document relates, and by delivering it to some responsible person resident or appearing to be resident on the premises, or, if there is no such person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

(5) The foregoing provisions of this section shall not apply to the service of—

- (a) a notice required or authorised to be served under the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, as applied by this Act, or
- (b) a summons.

Reckoning
of periods.

283.—(1) For the purposes of this Act—

- (a) in reckoning any period which is therein expressed to be a period from or before a given date, that date shall be excluded; and
- (b) in reckoning any period therein mentioned of eight days or less which apart from this provision would include a day being a Sunday, Christmas Day, Good Friday or a bank holiday, that day shall be excluded.

(2) In this section "bank holiday" means a day which is, or is to be observed as, a bank holiday, or a holiday, under the Bank Holidays Act, 1871, or the Holidays Extension Act, 1875.

Regulations, schemes, orders, etc.

PART XII

—cont.

284.—(1) Subject to the provisions of the First Schedule to this Act, the Minister may make regulations for prescribing the procedure to be followed in connection with the making and confirmation of schemes under section eleven of this Act and orders under sections twelve and thirteen thereof.

Power to make regulations as to procedure to be followed in making certain schemes and orders.

(2) Regulations made under this section may provide for securing that proceedings required to be taken for the purposes of—

- (a) an order under section nine of this Act relating to a trunk road, or
- (b) an order under section thirteen of this Act relating to a special road,

may be taken concurrently (so far as practicable) with proceedings required to be taken for the purposes of an order under section seven of this Act, or, as the case may be, for the purposes of a scheme under section eleven of this Act, relating to that road.

(3) Regulations made under this section may provide for securing that proceedings required by the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, to be taken in respect of the compulsory acquisition of any land for the purposes described in any of the following paragraphs, that is to say—

- (a) purposes connected with a special road,
- (b) purposes connected with a trunk road not being a special road,
- (c) the purpose of enabling a highway authority or the owners of a bridge to comply with a requirement or direction contained in an order made under section ninety-nine of this Act, and
- (d) the purpose of providing or improving a cattle-grid or by-pass in the exercise of powers conferred by this Act,

may be taken concurrently (so far as practicable) with proceedings required to be taken for the purposes described in the paragraph of the next following subsection bearing the corresponding letter.

(4) The purposes last-mentioned in the last foregoing subsection are the following—

- (a) the purposes of a scheme or order under this Act relating to the special road,
- (b) the purposes of an order under this Act relating to the trunk road,

PART XII
—cont.

- (c) the purposes of the order under the said section ninety-nine, and
- (d) the purposes of the determination under the Tenth Schedule to this Act of a question relating to the provision of the cattle-grid or by-pass.

(5) Regulations made under this section shall provide for securing that the centre line of the special road authorised by a scheme under section eleven of this Act shall be indicated on a map on such scale as may be prescribed by the regulations.

Provisions as to regulations, schemes and orders.

285.—(1) The following powers conferred by this Act on a Minister of the Crown shall be exercisable by statutory instrument, that is to say—

- (a) all powers to make regulations,
- (b) the power to make schemes, and the power to confirm schemes, conferred by section eleven of this Act,
- (c) the power to make byelaws conferred by section one hundred and fifty-seven of this Act, and
- (d) all powers to make or confirm orders, except those which are conferred by any of the following provisions of this Act, that is to say, sections nine, thirteen, fifteen, twenty-four, twenty-eight, twenty-nine and thirty, subsection (4) of section forty-five, sections one hundred and ten, one hundred and eleven, one hundred and twelve and two hundred and twenty-five and paragraph 2 of the Sixteenth Schedule.

(2) A statutory instrument containing—

- (a) regulations made under this Act, not being a statutory instrument containing only regulations made under section two hundred and eighty of this Act or a statutory instrument containing only regulations made by virtue of paragraph (c) or paragraph (d) of subsection (3) of the last foregoing section, or
- (b) an order made under paragraph 6 of the Eighth Schedule to this Act, paragraph 7 of that Schedule or paragraph 6 of the Fourteenth Schedule thereto,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) A statutory instrument containing an order made under section twelve of this Act shall be of no effect unless it is approved by resolution of each House of Parliament.

286.—(1) A scheme made or confirmed by the Minister under section eleven of this Act may be revoked or varied by a subsequent scheme made or confirmed in the like manner and subject to the like provisions.

PART XII
—cont.
Revocation
and variation
of schemes
and orders.

(2) An order made or confirmed by the Minister, or by the Minister of Housing and Local Government, under this Act may be revoked or varied by a subsequent order made or confirmed in the like manner and subject to the like provisions:

Provided that this subsection shall not apply to an order made under any of the following provisions of this Act, that is to say, sections twenty-one, twenty-two and twenty-four, subsection (4) of section forty-five, sections seventy-three, ninety-nine, one hundred and fifty-seven, two hundred and twenty-five, two hundred and eighty-eight and two hundred and ninety and paragraph 6 of the Fourteenth Schedule.

(3) Subject to the following provisions of this section, a scheme revoking or varying a scheme made or confirmed under section eleven of this Act, and an order revoking or varying an order made or confirmed under section nine, section twelve or section thirteen thereof, may contain such consequential provisions as appear to the Minister to be expedient.

(4) Where a scheme under section eleven of this Act is revoked by a subsequent scheme, any part of the special road authorised to be provided by the scheme which has been constructed before the date on which the revoking scheme comes into operation, and any highway appropriated by or transferred to the special road authority before that date, shall cease on that date to be a special road within the meaning of this Act, but shall, where the special road is a trunk road or a county road, continue to be a trunk road or a county road, as the case may be.

(5) Where a scheme under the said section eleven is varied by a subsequent scheme, the provisions of the last foregoing subsection shall apply in relation to any part of the special road which ceases to form part of the route of that road in consequence of the variation.

(6) Subject to the foregoing provisions of this section, the revocation or variation of a scheme under the said section eleven shall not affect the validity of anything done in pursuance of the scheme before the date on which the revoking or varying scheme comes into force, or the validity of any order made under section thirteen of this Act before that date in connection with the special road to be provided under the scheme.

PART XII

—cont.

Certain provisions of Act to bind the Crown.

Provisions as to the Crown

287.—(1) The following provisions of this Act shall bind the Crown, that is to say, sections twenty-seven to thirty-one, sections one hundred and eight to one hundred and thirteen, subsections (1), (2), (3) and (6) of section one hundred and nineteen, section one hundred and twenty-six, section one hundred and thirty-six (except paragraph (b) of subsection (6)) and sections one hundred and thirty-seven and one hundred and thirty-eight :

Provided that no order under the said section one hundred and eight authorising the stopping up or diversion of a highway, nor any public path creation order, public path diversion order or public path extinguishment order shall be made as respects any Crown land except with the consent of the appropriate Crown authority.

(2) In this section “Crown land” means land an interest in which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, and land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department ; and “appropriate Crown authority”, in relation to any land, means—

- (a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners, or where the land in question is not under the management of those Commissioners, the government department having the management thereof ;
- (b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy ;
- (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints ;
- (d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department.

If any question arises under this section as to what authority is the appropriate Crown authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Modification of local Acts

Orders for modification of local Acts.

288.—(1) Where at the commencement of this Act there is in force—

- (a) in a county borough a local Act the Bill for which was promoted by the council of the borough, or

(b) in a county or county district a local Act the Bill for which was promoted either by the council of the county or by the council of the county district,

PART XII
—cont.

and the said local Act contains provisions appearing to the Minister of Housing and Local Government either to be inconsistent with any of the provisions of this Act, or to be redundant having regard to any of the provisions of this Act, the said Minister on the application of the council by whom the said Bill was promoted may by order make such alterations, whether by amendment or repeal, in the local Act as appear to him to be necessary for the purpose of bringing its provisions into conformity with the provisions of this Act, or for the purpose of removing redundant provisions, as the case may be.

(2) This section applies in relation to a local Act the Bill for which was promoted by an authority, board, commissioners, trustees or other body whose functions under the local Act have become exercisable by the council of a county borough, county or county district, as if the Bill for that Act had been promoted by that council.

(3) For the purposes of this section a provision of a local Act may be treated as being inconsistent with a provision of this Act, or to be redundant having regard to a provision of this Act, notwithstanding that that provision of this Act is not, immediately after the commencement of this Act, in force in the area of the council by whom the Bill for the local Act was promoted.

(4) For the purposes of this section "local Act" includes a provisional order confirmed by Parliament and the confirming Act so far as it relates to that order.

289. In section three hundred and three of the Public Health Act, 1875 (which relates to the power of the Minister of Housing and Local Government to repeal and alter local Acts by means of orders subject to special parliamentary procedure), the reference to any local Act which relates to the same subject matters as that Act shall be construed as including a reference to any local Act which relates to the same subject matters as the following provisions of this Act, that is to say, sections two hundred and forty-four, two hundred and fifty-three, two hundred and fifty-six, two hundred and sixty-one, two hundred and seventy-one, three hundred and seven and three hundred and eight and the other provisions thereof which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments.

Amendment of
s. 303 of Public
Health Act,
1875.

PART XII

—cont.

Certain provisions of Act to apply in certain areas only in certain circumstances.

Application of Act in certain areas

290.—(1) Subject to the provisions of this section, a provision of this Act which is specified in the first column of the Nineteenth Schedule thereto shall apply in an area described in relation thereto in the second column of that Schedule only if, immediately before the commencement of this Act, the enactment specified in relation to that provision in the third column of the said Schedule was in force in that area.

(2) Where a provision of this Act specified in the said Schedule confers or imposes functions on the Minister or a county council, the Minister or that council may exercise those functions as respects any area whether or not it is an area in which, by virtue of the foregoing subsection, the provision so specified does not apply.

(3) Where, by virtue of the foregoing provisions of this section, a provision of this Act specified in the said Schedule does not apply in a borough, urban district or rural district, the Minister of Housing and Local Government may, subject to the following provisions of this section, on an application made to him in accordance with those provisions, by order declare that the provision so specified shall apply in the borough or district, subject to any conditions that he may consider necessary or desirable or to any adaptations that he considers the circumstances of that borough or district require.

(4) An application for the purposes of this section may be made—

- (a) in a case where a provision specified in the said Schedule does not apply in a borough or in an urban district, by the council of the borough or district;
- (b) in a case where a provision so specified does not apply in a rural district—
 - (i) by the council of the district, or
 - (ii) by the council of the county comprising the district, or
 - (iii) by persons liable to be rated to a general rate made by the rating authority for the district, being persons who own or are in occupation of hereditaments the aggregate rateable value of which amounts to at least ten per cent. of the aggregate rateable value of all hereditaments in the district.

(5) The said Minister shall not make an order under this section unless he is satisfied—

- (a) that not less than two weeks before the application for the order was made to him the applicants gave notice of their intention to make the application by notice published in at least one local newspaper circulating in their area, and

(b) that not less than one month has elapsed from the day on which the said notice was published or, if it was published on two or more days, from the day on which it was first published.

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—cont.

(6) Upon the making of an order under this section the applicants for the order shall publish a statement of the effect of the order in such manner as the said Minister may direct.

(7) Where an enactment specified in the third column of the Nineteenth Schedule to this Act is in force in an area subject to any conditions or adaptations specified in an order made in relation to the area under section two hundred and seventy-six of the Public Health Act, 1875, section three of the Public Health Acts Amendment Act, 1907, or section four of the Public Health Act, 1925, as the case may be, the provision of this Act which is specified in relation to that enactment in the first column of the said Schedule shall apply in the area subject to the like conditions or adaptations.

291.—(1) The provisions of this Act which are specified in the next following subsection shall, subject to the provisions of this section, extend to London.

(2) The provisions of this Act referred to in subsection (1) of this section are—

- (a) sections two, seven and nine,
- (b) sections eleven to eighteen,
- (c) section twenty,
- (d) section forty-two.
- (e) section forty-four,
- (f) section fifty-eight,
- (g) sections one hundred and thirty-seven to one hundred and thirty-nine,
- (h) sections two hundred and fourteen, two hundred and fifteen and two hundred and twenty-three to two hundred and twenty-five,
- (i) sections two hundred and twenty-nine to two hundred and thirty-one,
- (j) section two hundred and forty-one,
- (k) section two hundred and fifty-four,
- (l) sections two hundred and sixteen, two hundred and twenty-two, two hundred and thirty-six, two hundred and forty-six, two hundred and sixty-six, two hundred and sixty-eight, two hundred and sixty-nine, two hundred and seventy-nine to two hundred and eighty-seven, two hundred and ninety-four, two hundred and ninety-five, two hundred and ninety-eight, three hundred and three hundred and twelve, in so far as they are material for the purposes of any other provisions of this Act which extend to London.

PART XII
—cont.

(3) No highway which is within the City of London shall be, or become, a trunk road and, without prejudice to the generality of the foregoing provision, none of the following bridges, that is to say, Blackfriars Bridge, London Bridge, Southwark Bridge and Tower Bridge, and no highway carried by any of those bridges, shall be, or become, such a road.

(4) For the purposes of the provisions of this Act which are specified in subsection (2) of this section the London County Council shall be deemed to be a highway authority and references in those provisions to a highway authority and to a local highway authority shall be construed accordingly.

(5) In relation to a special road for which the London County Council are the special road authority—

(a) section one hundred and thirty of the Metropolis Management Act, 1855 (which provides for the lighting of certain streets), shall not apply; and

(b) subject to the provisions of the next following subsection, all other functions with respect to the paving, lighting, cleansing, watering and improving of streets exercisable by any authority under the said Act of 1855, or under the Public Health (London) Act, 1936, shall be exercisable by the London County Council to the exclusion of that other authority.

(6) Subsection (2) of section six of the London Government Act, 1899 (which provides for the maintenance by the councils of metropolitan boroughs of highways vested in the London County Council), shall apply in relation to the paving, lighting, cleansing, watering and improving of a special road for which the London County Council are the special road authority, and generally in relation to the maintenance of such a road as it applies to the maintenance of a highway vested in the London County Council.

(7) The proviso to subsection (2) of section ten of the Development and Road Improvement Funds Act, 1909 (which imposes on the councils of metropolitan boroughs the responsibility for maintaining a road in respect of which a grant under that Act is made to the London County Council), shall not apply to a highway provided by that council in pursuance of a scheme under section eleven of this Act or of an order under section thirteen thereof.

(8) A highway authority may erect and maintain fences or posts for the purpose of preventing access to a special road (not being a trunk road) in London for which they are the special road authority:

Provided that the powers conferred by this subsection shall not be exercised so as to—

(a) interfere with a fence or gate required for the purposes of agriculture; or

- (b) obstruct a public right of way ; or
- (c) obstruct any means of access for the construction, formation or laying out of which planning permission has been granted under Part III of the Town and Country Planning Act, 1947 ; or
- (d) obstruct any means of access which was constructed, formed or laid out before the first day of July, nineteen hundred and forty-eight.

PART XII
—cont.

For the purposes of this subsection the London County Council shall be deemed to be a highway authority.

(9) Except in the case of a special road for which the Minister is the special road authority, section seventeen of this Act shall not apply in relation to any sewer or sewage disposal works of the London County Council in London.

(10) For subsection (1) of section five of the Trunk Roads Act, 1936, there shall be substituted the following subsection:—

“(1) The Minister may by agreement with the council of a county, with the council of a borough (including a metropolitan borough) or with the council of an urban district delegate to that council all or any of his functions (including functions under the enactments mentioned in Part I of the Third Schedule to this Act) with respect to the maintenance, repair and improvement of, and other dealing with, any trunk road or any land which does not form part of a trunk road but which has been acquired by him in connection with a trunk road under subsection (5) or subsection (6) of section two hundred and fourteen of the Highways Act, 1959, or under section two hundred and fifteen thereof, being a road or land in the county of London :

Provided that such functions shall not be delegated to a council (other than the London County Council) with respect to any road or land in a metropolitan borough except with the consent of the council of that borough ”.

(11) The provisions of this Act which by virtue of this section extend to London and which are specified in the first column of the Twentieth Schedule thereto shall in their application to London have effect subject to the modifications set out in relation thereto in the second column of that Schedule.

(12) Nothing in this Act, or in any scheme made under section eleven thereof, or in any order made under section nine or section thirteen thereof, shall relieve the council of a metropolitan borough from the requirement to obtain the consent of the London County Council under section seventy-two of the Metropolis Management Amendment Act, 1862, in respect of the carrying out of any such works as are mentioned in that section.

PART XII
—cont.
Application to
Isle of Wight.

292.—(1) This Act shall in its application to the Isle of Wight have effect subject to the modifications specified in this section.

(2) References in this Act to county roads shall, in relation to the Isle of Wight, be construed as references to main roads.

(3) The council of the county of the Isle of Wight shall, with respect to the area of the Isle of Wight constituting a rural district, have the functions—

(a) of a local authority under the following provisions of this Act, that is to say, sections seventy-four, seventy-five, one hundred and thirty-one, one hundred and thirty-two, one hundred and forty-five, one hundred and forty-six, subsection (1) of section one hundred and fifty-four and subsections (3) and (4) of section two hundred and fifty-seven, and

(b) of the council of a borough or urban district under section one hundred and forty-nine of this Act,

and those provisions, and any provisions of this Act consequential thereon, shall apply accordingly.

(4) Subject to the provisions of any agreement made between the council of the county of the Isle of Wight and the council of a non-county borough or urban district in the Isle of Wight, the council of the said county shall not be under any liability to pay or contribute to the payment of any expenses in connection with the making, maintenance or improvement in a non-county borough or urban district of—

(a) any footpath, or

(b) any footway adjoining the sea or the seashore, or

(c) any highway adjoining or forming part of a quay or wharf.

(5) The provisions of this Act which are specified in the first column of the Twenty-first Schedule thereto shall in their application to the Isle of Wight have effect subject to the modifications set out in relation thereto in the second column of that Schedule.

Application to
Isles of Scilly.

293.—(1) Subject to the provisions of this section, the provisions of this Act which are specified in the next following subsection shall not extend to the Isles of Scilly.

(2) The provisions referred to in the foregoing subsection are—

(a) sections twenty-seven to thirty-two, one hundred and ten to one hundred and thirteen, one hundred and nineteen, one hundred and twenty-six, two hundred and thirty-nine and two hundred and fifty-five; and

(b) sections one hundred and ninety-two to one hundred and ninety-nine and two hundred and three.

(3) The Minister of Housing and Local Government may, after consultation with the Council of the Isles of Scilly, by

order provide that all or any of the provisions of this Act which are specified in paragraph (a) of the last foregoing subsection shall, subject to such modifications as may be specified in the order, apply in the Isles of Scilly as if those Isles were a separate county.

PART XII
—cont.

(4) The said Minister may, on the application of the Council of the Isles of Scilly, by order provide that the provisions of this Act which are specified in paragraph (b) of subsection (2) of this section shall apply in those Isles, and, on the making of an order under this subsection, any reference in the said provisions to the street works authority shall be construed as a reference to the Council of those Isles.

(5) A statutory instrument containing an order made under the last foregoing subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) On the making of an order under subsection (4) of this section the Council of the Isles of Scilly shall take such steps for notifying the public of its having been made as the said Minister may direct.

(7) Section two hundred and six of this Act shall, in its application in the Isles of Scilly, have effect subject to the modification that any reference therein to the appropriate council shall be construed as a reference to the Council of those Isles, and any regulations made under the said section two hundred and six shall in their application to those Isles be construed accordingly.

Interpretation

294.—(1) In this Act, except where the context otherwise requires, “highway” means the whole or a part of a highway other than a ferry or waterway. Meaning of “highway”.

(2) Where a highway passes over a bridge or through a tunnel, that bridge or tunnel shall be taken for the purposes of this Act to be a part of the highway.

(3) In this Act, “highway maintainable at the public expense” and any other expression defined by reference to a highway shall be construed in accordance with the foregoing provisions of this section.

295.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say— Further provisions as to interpretation.

“adjoining” includes abutting on, and “adjoins” shall be construed accordingly;

“advance payments code” has the meaning assigned to it by section one hundred and seventy-three of this Act;

PART XII
—cont.

- “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;
- “apparatus” includes any structure constructed for the lodging therein of apparatus;
- “approach”, in relation to a bridge or tunnel, means the highway giving access thereto, that is to say, the surface of that highway together with any embankment, retaining wall or other work or substance supporting or protecting the surface;
- “bridge” does not include a culvert, but, save as aforesaid, means a bridge or viaduct which is part of a highway, and includes the abutments and any other part of a bridge but not the highway carried thereby;
- “bridleway” means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;
- “by-pass” has the meaning assigned to it by section eighty-seven of this Act;
- “canal undertakers” means persons authorised by any enactment to carry on a canal undertaking;
- “carriageway” means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;
- “cattle-grid” has the meaning assigned to it by section eighty-seven of this Act;
- “claimed county road” has the meaning assigned to it by section four of this Act;
- “classified road” means a highway classified by the Minister under the Ministry of Transport Act, 1919, in Class I or Class II or any class declared by him to be not inferior to those classes for the purposes of this Act;
- “code of 1875” and “code of 1892” have the meanings assigned to them by section one hundred and seventy-three of this Act;

- “contravention” in relation to a condition, restriction or requirement, includes failure to comply with that condition, restriction or requirement, and “contravene” shall be construed accordingly ;
- “council” means a county council or a local authority ;
- “county bridge” means a bridge which by virtue of section twenty-three of this Act or some other enactment is a county bridge ;
- “county road” means a highway which by virtue of section twenty-one of this Act or some other enactment is a county road ;
- “cycle track” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot ;
- “development plan” has the same meaning as in the Town and Country Planning Act, 1947 ;
- “dock undertakers” means persons authorised by any enactment to carry on a dock undertaking ;
- “drainage board” has the same meaning as in the Land Drainage Act, 1930 ;
- “electricity undertakers” means persons authorised by any enactment to carry on an undertaking for the supply of electricity ;
- “enactment” includes an enactment in a local or private Act of Parliament and a provision of an order, scheme, regulations or other instrument made under or confirmed by a public general, local or private Act of Parliament ;
- “financial year” means a year ending on the thirty-first day of March ;
- “footpath” means a highway over which the public have a right of way on foot only, not being a footway ;
- “footway” means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only ;
- “functions” includes powers and duties ;
- “gas undertakers” means persons authorised by any enactment to carry on an undertaking for the supply of gas ;
- “harbour undertakers” means persons authorised by any enactment to carry on a harbour undertaking ;
- “highway maintainable at the public expense” means a highway which by virtue of section thirty-eight of this Act or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense ;

PART XII
—cont.

- “horse” includes pony, ass and mule, and “horseback” shall be construed accordingly;
- “hours of darkness” means the time between half an hour after sunset and half an hour before sunrise;
- “improvement” means the doing of any act under powers conferred by Part V of this Act (except sections eighty-three and eighty-four), and includes the erection, maintenance, alteration and removal of traffic notices in pursuance of the London Traffic Act, 1924, and of traffic signs, and the freeing of a highway or road-ferry from tolls;
- “inland navigation undertakers” means persons authorised by any enactment to carry on an inland navigation undertaking;
- “land” includes land covered by water and any interest or right in, over or under land;
- “lease” includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or a mortgage, and “lessee” shall be construed accordingly;
- “local authority” means the council of a county borough or county district;
- “local highway authority” means a highway authority other than the Minister;
- “local planning authority” has the same meaning as in the Town and Country Planning Act, 1947;
- “London” means the administrative county of London;
- “London Traffic Area” means the area described in the First Schedule to the London Traffic Act, 1924;
- “made-up carriageway” means a carriageway, or a part thereof, which has been metalled or in any other way provided with a surface suitable for the passage of vehicles;
- “maintenance” includes repair, and “maintain” and “maintainable” shall be construed accordingly;
- “the Minister” means the Minister of Transport and Civil Aviation;
- “navigation authority” means persons authorised by any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;
- “owner”, in relation to any premises, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if the premises were so let;

- PART XII
—cont.
- “petty sessions area” has the same meaning as in the Magistrates’ Courts Act, 1952 ;
- “pier undertakers” means persons authorised by any enactment to carry on a pier undertaking ;
- “premises” includes land and buildings ;
- “proposed highway” means land on which, in accordance with plans made or approved by the Minister, a highway authority are for the time being constructing or intending to construct a highway shown in the plans ;
- “public general enactment” means an enactment in an Act treated as a public general Act under the system of division of Acts adopted in the regnal year 38 George 3, other than an Act for confirming a provisional order ;
- “public health enactment” means an enactment which before its repeal by this Act was contained in any of the Public Health Acts, 1875 to 1925 ;
- “public path creation agreement” means an agreement made under section twenty-seven of this Act ;
- “public path creation order” has the meaning assigned to it by section twenty-eight of this Act ;
- “public path diversion order” has the meaning assigned to it by section one hundred and eleven of this Act ;
- “public path extinguishment order” has the meaning assigned to it by section one hundred and ten of this Act ;
- “public utility undertakers” mean persons authorised by any enactment to carry on any of the following undertakings, that is to say, an undertaking for the supply of electricity, gas, water or hydraulic power ;
- “rack rent”, in relation to any premises, means a rent which is not less than two-thirds of the rent at which the premises might reasonably be expected to let from year to year, free from all usual tenant’s rates and taxes and tithe rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to command such rent ;
- “railway” includes a light railway ;
- “railway undertakers” means persons authorised by any enactment to carry on a railway undertaking ;
- “reconstruction”, in relation to a bridge, includes the construction of a new bridge and approaches thereto in substitution for the existing bridge and the approaches thereto ;

PART XII
—cont.

“road-ferry” means a ferry connecting the termination of a highway which is, or is to become, a highway maintainable at the public expense with the termination of another highway which is, or is to become, such a highway;

“sewerage authority” has the meaning assigned to it by section ninety of the Public Health Act, 1936;

“special enactment” means any enactment other than a public general enactment;

“special road” means a highway provided or to be provided in pursuance of a scheme under section eleven of this Act;

“special road authority” has the meaning assigned to it by section eleven of this Act;

“statutory undertakers” means persons authorised by any enactment to carry on any of the following undertakings, that is to say—

(a) a railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or

(b) an undertaking for the supply of electricity, gas, water or hydraulic power;

and “statutory undertaking” shall be construed accordingly;

“street” includes any highway and any road, lane, footpath, square, court, alley or passage, whether a thoroughfare or not, and includes any part of a street;

“swing bridge” includes any opening bridge operated by mechanical means;

“traffic” includes pedestrians and animals;

“traffic sign” has the meaning assigned to it by section thirty-five of the Road Traffic Act, 1956;

“tramway undertakers” means persons authorised by any enactment to carry on a tramway undertaking;

“transport undertakers” means persons authorised by any enactment to carry on any of the following undertakings, that is to say, a railway, canal, inland navigation, dock, harbour or pier undertaking, and “transport undertaking” shall be construed accordingly;

“trunk road” means a highway, or a proposed highway, which, by virtue of subsection (1) of section seven of this Act, or section fourteen thereof, or by virtue of an order or direction made or given under this or any other Act, is a trunk road;

“water undertakers” means persons authorised by any enactment to carry on an undertaking for the supply of water.

(2) A highway at the side of a river, canal or other inland navigation shall not be excluded from either of the following definitions contained in the foregoing subsection, that is to say, "bridleway" and "footpath", by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.

PART XII
—cont.

(3) Except where the context otherwise requires, references in this Act to a county shall be construed as not including references to London.

(4) References in this Act to a parish, a parish council and the chairman of a parish council shall be construed as including references to a borough which has been included in a rural district, the council of such a borough and the mayor of such a borough respectively and, in a case where two or more parishes are grouped under a common parish council, references in this Act to a parish shall be construed as references to those parishes.

(5) Any reference in this Act to property of railway undertakers, canal undertakers, inland navigation undertakers, dock undertakers, harbour undertakers or pier undertakers shall, where the undertakers are the British Transport Commission, be taken as a reference to property of the Commission held or used by them wholly or mainly for the purposes of so much of their undertaking as consists of the carrying on of a railway undertaking, or, as the case may be, of a canal undertaking, an inland navigation undertaking, a dock undertaking, a harbour undertaking or a pier undertaking.

(6) References in this Act to a river board shall be construed as including references to the Conservators of the River Thames and the Lee Conservancy Catchment Board.

(7) For the avoidance of doubt it is hereby declared that, except where the context otherwise requires, references in this Act to a section, Part or other provision thereof shall be construed as including references to any Schedule to this Act referred to in that provision.

(8) Except where the context otherwise requires, references in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this Act.

296.—(1) Where by any enactment empowering statutory undertakers to execute works under, in, upon, over, along or across a highway the undertakers are thereby required—

- (a) to give notice to, or obtain the consent or approval of, a council,
- (b) to carry out the works under the superintendence of a council,

Construction of certain enactments relating to execution of works by statutory undertakers.

PART XII
—cont.

(c) to reinstate the highway to the satisfaction of a council,
or

(d) to do anything in relation to a county road,

any such requirement, and any provisions of the enactment empowering the council to act in default of the undertakers or otherwise to enforce any such requirement, shall, in relation to a trunk road, have effect with the substitution, for references to the council, of references to the Minister, and, for references to a county road, of references to a trunk road.

(2) Notwithstanding the provisions of any enactment as to the determination of disputes arising between statutory undertakers and a council in connection with the execution of any such works, any such dispute arising in the case of a trunk road between statutory undertakers and the Minister shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

(3) Nothing in this section shall affect the provisions of Part I of the Public Utilities Street Works Act, 1950.

References to county roads, etc., to be construed in certain cases as including trunk roads.

297. Except where the provisions of this Act otherwise require, any enactment or document relating to the functions of a council as respects county roads, highways maintainable at the public expense by a county borough or highways chargeable to a county or county borough shall, in relation to functions not exercisable in the case of a trunk road by the Minister, be construed as if references therein to such roads or highways included references to trunk roads.

Savings

Saving for highway authority in respect of liability for condition of highway.

298. Subject to subsection (1) of section eighty-nine of this Act, nothing in this Act with respect to the duty of highway authorities to maintain highways maintainable at the public expense shall be construed as affecting any exemption from liability for non-repair available to a highway authority immediately before the commencement of this Act as the successor to the inhabitants at large.

Saving for rights and liabilities as to interference with highways.

299. No provision of this Act relating to obstruction of or other interference with highways shall be taken to affect any right of a highway authority or other person under any enactment not contained in this Act, or under any rule of law, to remove an obstruction from a highway or otherwise abate a nuisance or other interference with a highway, or to affect the liability of any person under such an enactment or rule to proceedings (whether civil or criminal) in respect of any such obstruction or other interference.

300.—(1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made thereunder shall affect any powers or duties of the Postmaster-General under the provisions of the Telegraph Acts, 1863 to 1954, or apply to any telegraphic lines placed or maintained by virtue of any of those provisions:

PART XII

—cont.

Saving for
Postmaster-
General.

Provided that this subsection shall not affect the operation of sections one hundred and thirty-six to one hundred and thirty-eight of this Act.

(2) Where in pursuance of—

- (a) an order made by the Minister under section nine of this Act,
- (b) an order made or confirmed by the Minister under section thirteen thereof,
- (c) a public path extinguishment order, or
- (d) a public path diversion order,

a highway is stopped up or diverted and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster-General, the Postmaster-General shall have the same powers in respect of that line as if the order had not come into force:

Provided that if any person entitled to land over which the highway subsisted requires that the telegraphic line shall be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

(3) Where in pursuance of an order made by a magistrates' court under section one hundred and eight of this Act a highway is stopped up or diverted, the following provisions of this subsection shall have effect in relation to so much of any telegraphic line belonging to or used by the Postmaster-General as is under, in, upon, over, along or across the land which by reason of the stopping up or diversion ceases to be a highway (in this subsection referred to as "the affected line"), that is to say—

- (a) the power of the Postmaster-General to remove the affected line shall be exercisable notwithstanding the making of the order, so however that the said power shall not be exercisable, as respects the whole or any part of the affected line, after the expiration of a period of three months from the date of the sending of the notice referred to in the next following subsection unless before the expiration of that period the Postmaster-General has given notice to the authority on whose application the order was made of his intention

PART XII
—cont.

to remove the affected line or that part thereof, as the case may be ;

- (b) the Postmaster-General may by notice in that behalf to the said authority abandon the affected line or any part thereof, and shall be deemed, as respects the affected line or any part thereof, to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it ;
- (c) the Postmaster-General shall be entitled to recover from the said authority the expense of providing, in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line, a telegraphic line in such other place as he may require ;
- (d) where under paragraph (b) of this subsection the Postmaster-General has abandoned the whole or any part of the affected line, it shall vest in the said authority and the provisions of the Telegraph Acts, 1863 to 1954, shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(4) As soon as practicable after the making of an order under section one hundred and eight of this Act the authority on whose application the order was made shall by notice to the Postmaster-General inform him of the making of the order.

(5) Where an order under section nine, or section thirteen, of this Act provides for the alteration of a highway, not being a highway for which the Minister is the highway authority, and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Postmaster-General, then, if the highway authority for the highway require that that line shall be altered, paragraphs (1) to (8) of section seven of the Telegraph Act, 1878, shall apply in relation to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the highway authority :

Provided that this subsection shall not have effect so far as it relates to the alteration, for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act, 1950, of any telegraphic line.

(6) Without prejudice to the code in Part II of the said Act of 1950 (which regulates the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby)—

- (a) any work proposed to be done by a local highway authority in exercise of powers conferred on them by section eighty-two of this Act,

- (b) any work authorised or required by an order under section ninety-nine thereof to be done by a local highway authority or the owners of a bridge, and
- (c) any work authorised or required by a licence under section one hundred and fifty-one thereof to be done by the person to whom the licence is granted,

PART XII
—cont.

shall, for the purposes of section seven of the Telegraph Act, 1878, be deemed to be work proposed to be done in the execution of an undertaking authorised by an Act of Parliament, and the authority or person carrying out the work shall be deemed to be the undertakers.

(7) For the purposes of the placing or maintenance of over-ground telegraphic lines under the powers conferred by the Telegraph Acts, 1863 to 1954, a bridge constructed or used in accordance with a licence under section one hundred and fifty-one of this Act shall be deemed to be part of any highway which it crosses.

(8) In this section “alter” and “telegraphic line” have the same meanings respectively as in the Telegraph Act, 1878.

301.—(1) Nothing in this Act with respect to county roads shall affect any exemption from rating under section thirty-three of the Highway Act, 1835, or under any other enactment, as continued by section thirty-eight of the Local Government Act, 1929, or by a scheme made or approved by the Minister of Health under the said section thirty-eight, and in force at the commencement of this Act:

Saving for
certain
rating
exemptions.

Provided that the council of a county in which a hereditament affected by such an exemption is and all persons interested in the hereditament may agree that the exemption shall be surrendered and extinguished in consideration of such payments as they may agree.

(2) Paragraph 7 of Part III of the Second Schedule to the Rating and Valuation Act, 1925 (which empowers the Minister of Housing and Local Government to vary or amend a scheme under that Schedule), shall apply to any such scheme as is mentioned in subsection (1) of this section as it applies to a scheme under the said Second Schedule.

302. Notwithstanding anything in Part X of this Act all mines and minerals of any description whatsoever under any highway vested in a highway authority by virtue of any provision contained in the said Part X shall belong to the person who would be entitled thereto if the highway were not vested in the authority, and the person entitled to any such mine or minerals shall have the same powers of working and of getting the same as if the highway were not vested in a highway authority:

Saving for
minerals, etc.

Provided that nothing in this section shall be taken to affect any liability (whether civil or criminal) of the person entitled

PART XII
—cont.

- to any such mine or minerals in respect of damage to the highway resulting from the exercise of the said powers.
- 303.** Nothing in this Act shall authorise the excavation or removal of any materials the excavation or removal of which is prohibited by section eighteen of the Coast Protection Act, 1949 (which makes it unlawful except as therein mentioned to excavate or remove certain materials on, under or forming part of any portion of the seashore to which the provisions of the said section eighteen are applied), or the carrying out of any operation in contravention of section thirty-four of that Act (which restricts the carrying out of certain operations detrimental to navigation).
- 304.** Nothing in this Act with respect to the recovery of expenses from owners of premises affects the provisions of the Land Charges Act, 1925, with respect to local land charges.
- 305.** Nothing in this Act shall be taken to authorise the carrying out of any development of land for which permission is required by virtue of section twelve of the Town and Country Planning Act, 1947, and which is not authorised by permission granted or deemed to be granted under Part III of that Act.
- 306.** Nothing in this Act shall be taken to affect any functions, not being functions with respect to highways, which were exercisable immediately before the commencement of this Act by the councils of rural districts as successors to surveyors of highways or highway boards.
- 307.**—(1) Subject to the provisions of this section, nothing in any of the provisions of this Act to which this section applies shall authorise a highway authority or council, without the consent of the dock, harbour or canal undertakers concerned—
- (a) to execute any works in, across or under any dock, harbour, basin, wharf, quay or lock ; or
 - (b) to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof.
- (2) A consent required for the purposes of the foregoing subsection shall not be unreasonably withheld, and if any question arises whether the withholding of a consent is unreasonable either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

(3) On an arbitration under this section, the arbitrator shall determine—

PART XII
—cont.

- (a) whether any works which the highway authority or council propose to execute are such works as under subsection (1) of this section they are not entitled to execute without the consent of the undertakers concerned ; and
- (b) if they are such works, whether the injury, if any, to the undertakers will be of such a nature as to admit of being fully compensated by money ; and
- (c) if the works are of such a nature, the conditions subject to which the authority or council may execute the works, including the amount of the compensation, if any, to be paid by them to the undertakers.

If the arbitrator determines that the proposed works are such works as the highway authority or council are not entitled to execute without the consent of the undertakers and that the works would cause injury to the undertakers of such a nature as not to admit of being fully compensated by money, the authority or council shall not proceed to execute the works, but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator determines.

(4) For the purposes of this section, dock, harbour and canal undertakers shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of navigating on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof.

(5) This section applies to section two hundred and fifty-six of this Act and to the other provisions thereof which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments.

(6) In this section “ canal ” includes inland navigation.

308.—(1) Subject to the provisions of this section, nothing in any of the provisions of this Act to which this section applies shall authorise a highway authority or council to use or interfere with any watercourse (including the banks thereof), or any drainage or other works, vested in or under the control of a river board or other drainage authority within the meaning of the Land Drainage Act, 1930, without the consent of that board or that authority, as the case may be.

Saving for works, etc. of land drainage authorities.

(2) A consent required for the purposes of the foregoing subsection shall not be unreasonably withheld, and if any question arises whether the withholding of a consent is unreasonable

- PART XII**
—*cont.*
- either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.
- (3) This section applies to sections forty-eight, one hundred and three and two hundred and fifty-six of this Act and to the other provisions thereof which are specified in the Seventeenth Schedule thereto, being provisions which re-enact with or without modifications public health enactments.
- Consequential amendments, transitional provisions, repeals, etc.*
- Consequential amendments.** **309.** The enactments specified in the Twenty-second Schedule to this Act shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Act.
- Amendment of s. 3 of Parish Councils Act, 1957.** **310.** At the end of section three of the Parish Councils Act, 1957 (which empowers parish councils and parish meetings to light certain roads and other public places), there shall be inserted the following subsection:—
- “(10) In this section ‘road’ includes a highway comprised in the route of a special road (as defined by the Highways Act, 1959), being a highway in relation to which a parish council or parish meeting, as the case may be, are exercising the powers conferred by subsection (1) of this section on the date on which a scheme made under section eleven of the said Act of 1959 authorising the provision of the special road comes into force”.
- Certain enactments to cease to have effect.** **311.** The enactments specified in the Twenty-third Schedule to this Act, being enactments which to the extent specified in the third column of that Schedule have by lapse of time or otherwise become obsolete or unnecessary, shall cease to have effect to the extent so specified.
- Transitional provisions, repeals and revocations.** **312.—**(1) The transitional provisions set out in the Twenty-fourth Schedule to this Act shall have effect.
- (2) Subject to subsection (1) of section forty-two of this Act, and to the provisions of the said Twenty-fourth Schedule, the enactments specified in the Twenty-fifth Schedule to this Act are hereby repealed to the extent specified in the third column thereof.
- (3) The said repeal shall extend to London in so far as it relates—
- (a) to the London Traffic Act, 1924, and the Special Roads Act, 1949; and
- (b) to the provisions of the Trunk Roads Acts, 1936 and 1946, specified in the Twenty-sixth Schedule to this Act.

(4) The Local Government Act (Application to the Isle of Wight) Order, 1930, except Articles 1, 3, 9, and 10 thereof, is hereby revoked.

PART XII
—cont.

(5) Without prejudice to section one hundred and thirty-three of this Act or to section three hundred and eleven thereof in so far as it has effect in relation to paragraph (4) of section twenty-six of the Highways and Locomotives (Amendment) Act, 1878, byelaws made by the council of a county under the said paragraph (4) and in force immediately before the commencement of this Act in any non-county borough or urban district within the county shall cease to have effect in the borough or district at the commencement of this Act.

(6) Byelaws in force immediately before the commencement of this Act made by a local authority under an enactment corresponding to the provisions of section one hundred and fifty-seven of this Act (being an enactment repealed by virtue of this section, or being an enactment so repealed as amended or extended by a local Act), shall cease to have effect on the expiration of three years from the date of the passing of this Act:

Provided that the Minister of Housing and Local Government may by order extend the period during which any such byelaw is to remain in force.

(7) Byelaws in force immediately before the commencement of this Act made by a local authority for regulating the construction of a bridge to carry a new street, or for regulating the construction of the approaches to such a bridge, or for regulating the construction of a new street in so far as it is, or is to be, carried by a bridge or by the approaches thereto, shall cease to have effect at the commencement of this Act.

(8) The mention of particular matters in the Twenty-fourth Schedule to this Act shall not be taken as affecting the general application to this Act of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals).

313.—(1) This Act may be cited as the Highways Act, 1959. Short title,

(2) This Act shall come into operation on the first day of January, nineteen hundred and sixty. commencement and extent.

(3) Except as provided by section two hundred and ninety-one of this Act and by subsection (3) of the last foregoing section, this Act shall not extend to London.

(4) This Act shall not extend to Scotland or Northern Ireland.

SCHEDULES

FIRST SCHEDULE

Sections 7, 9, 11,
13, 20, 284.

PROCEDURE FOR MAKING OR CONFIRMING CERTAIN ORDERS AND
SCHEMES UNDER PART II OF THIS ACT

PART I

ORDERS

1. Where the Minister proposes to make an order under any of the following provisions of this Act, that is to say, section seven, section nine, section thirteen or section twenty he shall prepare a draft of the order and shall publish in at least one local newspaper circulating in the area in which any highway, or any proposed highway, to which the order relates is situated, and in the London Gazette, a notice—

- (a) stating the general effect of the proposed order ;
- (b) naming a place in the said area where a copy of the draft order and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice ; and
- (c) stating that, within the said period, any person may by notice to the Minister object to the making of the order.

2. Where an order is submitted to the Minister under the said section thirteen by a local highway authority, that authority shall publish, in the manner specified in the foregoing paragraph, the notice referred to therein, and that paragraph shall have effect in relation to a notice published by any such authority as if, for the references to the draft order and the making of the order, there were substituted references to the order as submitted to the Minister and the confirmation of the order respectively.

3. Not later than the day on which the said notice is published or, if it is published on two or more days, the day on which it is first published, the Minister or the local highway authority, as the case may be, shall serve on each person specified in such head or heads of the Table set out at the end of this paragraph as apply in the case of the order in question—

- (a) a copy of the said notice ;
- (b) a copy of the draft order or of the order, as the case may be ; and
- (c) a copy of any map or plan referred to in the draft order or the order relating to a matter which, in the opinion of the Minister or of the local highway authority, as the case may be, is likely to affect the said person.

TABLE

*Persons to be served with copies of the documents specified
in paragraph 3 of this Schedule*

(i) In the case of every order proposed to be made under section seven, section nine, or section twenty of this Act—

The council of every county and county borough in which any highway or proposed highway to which the proposed order

relates is situated and, in the case of a highway or proposed highway situated in a non-county borough or in an urban district, the council of that borough or district.

1st SCH
—cont.

(ii) In the case of an order proposed to be made under section seven of this Act which provides for the construction as part of a trunk road of a bridge over or tunnel under any navigable waters and in the case of every order proposed to be made under section twenty of this Act—

Every navigation authority and river board concerned with or having jurisdiction over the waters affected or the area comprising those waters.

(iii) In the case of an order proposed to be made under section thirteen of this Act which authorises the carrying out of any works—

The council of every county, county borough and county district in which any works authorised by the proposed order are to be carried out.

(iv) In the case of an order proposed to be made under section thirteen of this Act which provides for transferring any highway from one highway authority to another—

The highway authorities to and from whom the highway is to be transferred.

(v) In the case of an order proposed to be made under section thirteen of this Act which authorises the stopping up of any private means of access to any premises—

The owner (within the meaning of section sixteen of this Act) and the occupier of those premises.

(vi) In the case of an order proposed to be made under section thirteen of this Act which provides for entry by the special road authority on any land—

The occupier of that land.

(vii) In the case of an order proposed to be made under section nine or section thirteen of this Act which authorises the stopping up or diversion of any highway—

The parish council (or, in the case of a rural parish not having a separate parish council, the parish meeting) of every rural parish in which the highway is situated.

Any public utility undertakers having apparatus under, in, upon, over, along or across the highway.

4. Where the proposed order authorises the stopping up or diversion of a highway, the Minister or the local highway authority, as the case may be, shall, not later than the day on which the said notice is published or, if it is published on two or more days, the day on which it is first published, cause a copy thereof to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order.

5. If any objection to the proposed order is received by the Minister from any person on whom a copy of the notice is required to be served under paragraph 3 of this Schedule within three months from the date of his being served therewith, or is received by the Minister

1ST SCH.
—cont.

from any other person appearing to him to be affected within three months from the day on which the notice of the proposed order is published, or, if it is published on two or more days, from the later or latest of them, and the objection is not withdrawn, the Minister shall cause a local inquiry to be held:

Provided that, except where the objection is made by a person entitled to receive a copy of the notice relating to the order in question by virtue of the said paragraph 3 and such one or more of the following heads of the Table set out at the end of that paragraph, that is to say, heads (i), (ii), (iii) and (iv), as apply in the case of that order, the Minister may dispense with such an inquiry if he is satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary.

6. After considering any objections to the proposed order which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Minister may make or confirm the order either without modification or subject to such modifications as he thinks fit.

PART II

SCHEMES UNDER SECTION ELEVEN

7. Where the Minister proposes to make a scheme under section eleven of this Act, or where a scheme under that section is submitted to the Minister by a local highway authority, the Minister or that authority, as the case may be, shall publish in at least one local newspaper circulating in the area in which the special road to which the scheme relates is situated, and in the London Gazette, a notice—

- (a) stating the general effect of the proposed scheme;
- (b) naming a place in the said area where a copy of a draft of the scheme, or of the scheme as submitted to the Minister, as the case may be, and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable hours during a period of three months from the date of the publication of the notice; and
- (c) stating that, within the said period, any person may by notice to the Minister object to the making or confirmation of the scheme.

8. Not later than the day on which the said notice is published or, if it is published on two or more days, the day on which it is first published, the Minister or the local highway authority, as the case may be, shall serve a copy thereof (together with a copy of the draft scheme or of the scheme, as the case may be, and of any map or plan referred to therein)—

- (a) on the council of every county, county borough and county district in which any part of the route of the special road is situated; and
- (b) where the scheme provides for the construction of a bridge over or tunnel under any navigable waters, on every

navigation authority and river board concerned with or having jurisdiction over the waters affected or the area comprising those waters.

1ST SCH.
—cont.

9. If any objection to the proposed scheme is received by the Minister from any council, authority or board on whom a copy of the notice is required to be served under the last foregoing paragraph within three months from the date of their being served therewith, or is received by the Minister from any other person appearing to him to be affected within three months from the day on which the notice of the proposed scheme is published, or, if it is published on two or more days, from the later or latest of them, and the objection is not withdrawn, the Minister shall cause a local inquiry to be held :

Provided that, except where the objection is made by any such council, authority or board as aforesaid, the Minister may dispense with such an inquiry if he is satisfied that in the circumstances of the case the holding of such an inquiry is unnecessary.

10. After considering any objections to the proposed scheme which are not withdrawn, and, where a local inquiry is held, the report of the person who held the inquiry, the Minister may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.

SECOND SCHEDULE

VALIDITY AND DATE OF OPERATION OF CERTAIN SCHEMES AND ORDERS

Sections 7, 9,
11, 13, 20,
Sch. 24, §29, 30.

1. As soon as may be after a scheme or order to which this Schedule applies has been made or confirmed by the Minister, the Minister shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the scheme or order has been made or confirmed, and naming a place where a copy thereof may be inspected free of charge at all reasonable hours.

2. If a person aggrieved by a scheme or order to which this Schedule applies desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or on the ground that any requirement of this Act or of regulations made thereunder has not been complied with in relation thereto, he may, within six weeks from the date on which the notice required by the foregoing paragraph is first published, make an application for the purpose to the High Court.

3. On any such application as aforesaid, the Court—

(a) may by interim order suspend the operation of the scheme or order, or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ; and

(b) if satisfied that the scheme or order, or any provision contained therein, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by failure to comply with any such requirement as

2ND SCH.
—cont.

aforesaid, may quash the scheme or order or any provision contained therein, either generally or in so far as it affects any property of the applicant.

4. Subject to the provisions of the last foregoing paragraph, a scheme or order to which this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever, and shall become operative on the date on which the notice required by paragraph 1 of this Schedule is first published, or on such later date, if any, as may be specified in the scheme or order.

5. In relation to any scheme or order to which this Schedule applies, being a scheme or order which is subject to special parliamentary procedure, the foregoing provisions of this Schedule shall have effect subject to the following modifications—

- (a) if the scheme or order is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, paragraphs 2 to 4 shall not apply; and
- (b) in any other case, paragraph 2 shall have effect as if, for the reference therein to the date on which the notice required by paragraph 1 is first published, there were substituted a reference to the date on which the scheme or order becomes operative under the said Act of 1945, and paragraph 4 shall have effect as if the words from “and shall become operative” to the end of the paragraph were omitted.

Section 8.

THIRD SCHEDULE

PROVISIONS OF THIS ACT REFERRED TO IN SECTION 8 THEREOF

PART I

Provisions conferring functions exercisable in relation to trunk roads by the Minister exclusively

1. *Provisions contained in Part IV.* Subsection (1) of section 40 and subsection (2) of section 61.
2. *Provisions contained in Part V.* Section 72.
3. *Provisions contained in Part VII.* Section 118, subsection (1) of section 146 and sections 151 and 152.
4. *Provisions contained in Part X.* Sections 217 and 233.

PART II

Provisions conferring functions exercisable in relation to trunk roads by the Minister as well as by other authorities

5. *Provisions contained in Part VII.* Sections 130, 131, 134, 142 and 143.

PART III

Provisions conferring functions exercisable in relation to trunk roads by the Minister and by other authorities with the consent of the Minister

6. *Provisions contained in Part V.* Subsection (2) of section 67 and subsection (3) of section 82.
7. *Provisions contained in Part VII.* Section 156.

FOURTH SCHEDULE

Section 12.

CLASSES OF TRAFFIC FOR PURPOSES OF SPECIAL ROADS

Class I: Motor tractors, heavy motor cars, motor cars and motor cycles, and trailers drawn thereby, which comply with general regulations as to construction and use made under section thirty of the Road Traffic Act, 1930, and in the case of which the following conditions are satisfied, that is to say:—

- (i) that the whole weight of the vehicle is transmitted to the road surface by means of wheels;
- (ii) that all wheels of the vehicle are equipped with pneumatic tyres;
- (iii) that the vehicle is not controlled by a pedestrian;
- (iv) that the maximum speed at which the vehicle may be driven under section ten of the Road Traffic Act, 1930, on roads which are not special roads is not less than twenty miles per hour.

Class II: Motor vehicles and trailers the use of which for or in connection with the conveyance of abnormal indivisible loads is authorised by order made by the Minister under paragraph (b) of the proviso to subsection (1) of section three of the Road Traffic Act, 1930.

Heavy and light locomotives when being used for or in connection with the conveyance of abnormal indivisible loads.

Motor vehicles and trailers constructed for naval, military, air force or other defence purposes, the use of which is authorised by order made by the Minister under paragraph (b) of the proviso to subsection (1) of section three of the Road Traffic Act, 1930.

Class III: Motor vehicles controlled by pedestrians.

Class IV: All motor vehicles not comprised in Class I, Class II or Class III.

Class V: Vehicles drawn by animals.

Class VI: Vehicles (other than pedal cycles) drawn or propelled by pedestrians.

Class VII: Pedal cycles.

Class VIII: Animals ridden, led or driven.

Class IX: Pedestrians.

In this Schedule any expression defined for the purposes of the Road Traffic Act, 1930, has the same meaning as in that Act and the expression "abnormal indivisible load" has the same meaning as in the Transport Act, 1947.

Section 19.

FIFTH SCHEDULE

ORDERS UNDER TRUNK ROADS ACT, 1946, TO BE TREATED AS
SCHEMES UNDER SECTION 11 OF THIS ACT

Registered Number of Order	Description of Trunk Road	Class of Traffic (as described in Fourth Schedule)
S.R. & O. 1947, No. 2248.	The south of Pottersheath-north of Graveley Trunk Road (Stevenage By-pass, County of Hertford).	Classes I and II.
S.R. & O. 1947, No. 1562.	The north of Almondsbury-south of Haysgate Trunk Road (Severn Bridge, Counties of Gloucester and Monmouth)— (a) from the junction of Redhill Lane in the Parish of Aust to the junction with Thornwell Road in the Parish of Chepstow; (b) any other part of the road.	Classes I, II, III, IV, V, VI, VII and IX.
S.I. 1948, No. 924.	The south of Haysgate-east of Crick Trunk Road (Haysgate to Crick, County of Monmouth).	Classes I and II.
S.I. 1948, No. 62.	The east of Christchurch-Tredegar Park Trunk Road (Newport By-pass, County of Monmouth).	Classes I and II.
S.I. 1949, No. 2360.	The north of Twyning-north of Lydiate Ash Trunk Road.	Classes I and II.
S.I. 1949, No. 2459.	The London-Fishguard Trunk Road (Port Talbot By-Pass).	Classes I and II.

Section 25.

SIXTH SCHEDULE

PROVISIONS OF THIS ACT CONFERRING FUNCTIONS ON COUNTY COUNCIL WHICH ARE TO BE DISCHARGED IN CERTAIN CIRCUMSTANCES BY COUNCIL OF COUNTY DISTRICT AS AGENTS FOR COUNTY COUNCIL

PART I

RURAL DISTRICTS

1. Provisions contained in Part IV. Sections 40 and 61.
2. Provisions contained in Part VII. Sections 118, 130, 142, 146, 151, 152 and 155.
3. Provisions contained in Part VIII. Sections 159, 163, 165, 166, and 167 and subsections (2) and (4) of section 170.

4. *Provisions contained in Part IX.* All the provisions contained in Part IX except the code of 1875.

6TH SCH.
—cont.

5. *Provisions contained in Part X.* Subsections (1), (2) and (8) of section 214.

PART II

NON-COUNTY BOROUGHES AND URBAN DISTRICTS

6. *Provisions contained in Part IV.* Section 40.

7. *Provisions contained in Part VII.* Sections 118, 146, 151 and 152.

8. *Provisions contained in Part X.* Subsections (1), (2) and (8) of section 214.

SEVENTH SCHEDULE

Sections 28,
110, 111.

PROVISIONS AS TO MAKING, CONFIRMATION, VALIDITY AND DATE OF OPERATION OF CERTAIN ORDERS RELATING TO FOOTPATHS AND BRIDLEWAYS

PART I

PROCEDURE FOR MAKING AND CONFIRMING CERTAIN ORDERS RELATING TO FOOTPATHS AND BRIDLEWAYS

1.—(1) Before a public path creation order, a public path extinguishment order or a public path diversion order is submitted to the Minister of Housing and Local Government for confirmation, the authority by whom the order was made shall give notice in the prescribed form—

- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation,
- (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order and of the map referred to therein may be inspected free of charge at all reasonable hours, and
- (c) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.

(2) Before the Minister of Housing and Local Government makes a public path creation order, a public path extinguishment order or a public path diversion order, he shall prepare a draft of the order and shall give notice—

- (a) stating that he proposes to make the order and the general effect thereof,
- (b) naming a place in the area in which the land to which the draft order relates is situated where a copy of the draft order and of the map referred to therein may be inspected free of charge at all reasonable hours, and
- (c) specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the draft order may be made.

7TH SCH.
—cont.

(3) The notices to be given under either of the two foregoing sub-paragraphs shall be given—

(a) in the case of a public path creation order, by publication in the *London Gazette* and in at least one local newspaper circulating in the area in which the land to which the order relates is situated, and by serving a like notice on every owner, occupier and lessee (except tenants for a month or any period less than a month and statutory tenants within the meaning of Part II of the Housing Repairs and Rents Act, 1954) of any of that land, so however that—

(i) except in the case of an owner, occupier or lessee being a local authority or statutory undertakers, the Minister of Housing and Local Government may in any particular case direct that it shall not be necessary to serve notice as aforesaid, but

(ii) if the said Minister so directs in the case of any land, then in addition to publication the notice shall be addressed to “the owners and any occupiers” of the land (describing it) and a copy or copies of it shall be affixed to some conspicuous object or objects on the land ;

(b) in the case of a public path extinguishment order or a public path diversion order, by publication and the service of notices as mentioned in head (a) of this sub-paragraph and also—

(i) by serving such a notice as is therein mentioned on the council of every county, county borough, county district and rural parish, and the parish meeting of every rural parish not having a separate parish council, being a county, borough, district or parish which includes any of the land to which the order relates, and

(ii) by causing a copy of the notice to be displayed in a prominent position at the ends of so much of any footpath or bridleway as is to be stopped up or diverted by virtue of the order.

(4) Where under this paragraph a notice is required to be served on an owner of land and the land belongs to an ecclesiastical benefice, a like notice shall be served on the Church Commissioners.

2.—(1) If no representations or objections are duly made, or if any so made are withdrawn, the Minister of Housing and Local Government may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications.

(2) If any representation or objection duly made is not withdrawn, the said Minister shall, before confirming or making the order, as the case may be, if the objection is made by a local authority cause a local inquiry to be held, and in any other case either—

(a) cause a local inquiry to be held, or

(b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may confirm or make the order, as the case may be, with or without modifications:

Provided that in the case of a public path creation order or a public path diversion order, if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

7TH SCH.
—cont.

(3) Notwithstanding anything in the foregoing provisions of this paragraph, the said Minister shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—

- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made,
- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose, and
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

and, in the case of a public path creation order or a public path diversion order, if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

3.—(1) The Minister of Housing and Local Government may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the submission and confirmation of orders to which this Schedule applies as appears to him to be expedient.

(2) Provision may be made by regulations of the said Minister for enabling proceedings preliminary to the confirmation of a public path extinguishment order to be taken concurrently with proceedings preliminary to the confirmation of a public path creation order or a public path diversion order.

(3) In this Part of this Schedule—

- (a) “local authority” means the council of a county, county borough or county district and any other authority being a local authority within the meaning of the Local Loans Act, 1875, and includes any drainage board and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid;
- (b) “prescribed” means prescribed by regulations made by the said Minister.

7TH SCH.
—cont.

PART II

VALIDITY AND DATE OF OPERATION OF CERTAIN ORDERS RELATING
TO FOOTPATHS AND BRIDLEWAYS

4. As soon as may be after an order to which this Schedule applies has been confirmed or made by the Minister of Housing and Local Government, the authority by whom the order was made, or, in the case of an order made by the said Minister, the said Minister, shall publish, in the manner required in relation to the class of order in question by sub-paragraph (3) of paragraph 1 of this Schedule, a notice in the prescribed form describing the general effect of the order, stating that it has been confirmed or made, and naming a place where a copy thereof as confirmed or made may be inspected free of charge at all reasonable hours, and—

- (a) where under the said sub-paragraph (3) notice was required to be served, shall serve a like notice and a copy of the order as confirmed or made on any persons on whom notices were required to be served under that sub-paragraph or under sub-paragraph (4) of paragraph 1 of this Schedule ; and
- (b) where under the said sub-paragraph (3) a notice was required to be displayed, shall cause a like notice to be displayed in the like manner as the notice required to be displayed under that sub-paragraph :

Provided that no such notice or copy need be served on a person unless he has sent to the authority or the said Minister (according as the notice or copy would require to be served by an authority or by the said Minister) a request in that behalf specifying an address for service.

5. The Second Schedule to this Act (except paragraph 1 thereof) shall apply in relation to an order to which this Schedule applies as it applies in relation to a scheme or order to which that Schedule applies, but with the following modifications, that is to say—

- (a) for references to a scheme or order to which that Schedule applies there shall be substituted references to an order to which this Schedule applies ;
- (b) for the references in paragraphs 2, 4 and 5 thereof to the date on which the notice required by paragraph 1 thereof is first published there shall be substituted references to the date on which the notice required by the last foregoing paragraph is first published ; and
- (c) the said paragraph 4 shall have effect as if the words “ or on such later date, if any, as may be specified in the scheme or order ” were omitted.

6. In this Part of this Schedule “ prescribed ” means prescribed by regulations made by the Minister of Housing and Local Government.

EIGHTH SCHEDULE

Section 45.

CLAIMED COUNTY ROADS

PART I

PERIOD WITHIN WHICH CLAIMS MAY BE MADE

1. In a case where the population of the non-county borough or urban district is found by the Registrar-General's preliminary report on any census taken after the commencement of this Act to exceed for the first time twenty thousand and the road is a county road at the date of the publication of that report, the claim may be made within twelve months from that date.

2. In the case of a road which is situated—

- (a) in an area which by virtue of any enactment is transferred to an existing non-county borough or urban district with a population already exceeding twenty thousand, or
- (b) in an area which by virtue of any enactment is constituted a new non-county borough or urban district with a population exceeding twenty thousand, or
- (c) in an area which by virtue of any enactment is transferred to an existing non-county borough or urban district and that borough or district, as the case may be, thereby becomes a non-county borough or urban district with a population exceeding twenty thousand,

and is a county road at the date on which the enactment takes effect, the claim may be made within twelve months from that date.

3. In the case of a road which becomes a county road at, or after, the commencement of this Act, or after the date mentioned in either of the foregoing paragraphs, the claim may be made within twelve months from the date on which it becomes a county road.

4. For the purposes of the foregoing paragraphs—

- (a) a trunk road for which a county council are to become the highway authority on its ceasing to be a trunk road by virtue of an order under section seven of this Act,
- (b) a highway which is transferred to a county council by means of an order under section nine of this Act, and
- (c) a highway, not forming part of a special road, which is transferred to a county council by means of an order under section thirteen of this Act,

shall be deemed to become a county road on the date on which the order comes into operation.

PART II

DATE ON WHICH CLAIMING COUNCIL BECOME ENTITLED TO
MAINTAIN ROAD

5. Subject to the provisions of the two next following paragraphs, the date as from which the council making a claim under section

8TH SCH. forty-five of this Act shall be entitled to maintain the county road
—cont. in respect of which the claim was made shall be—

- (a) in a case where the claim is made in respect of a trunk road which will, on ceasing to be a trunk road, become a county road, the date on which the road becomes a county road ;
- (b) in a case where the claim is made in respect of a highway which is to be transferred to the county council by means of an order under section nine of this Act, or in respect of a highway which is to be transferred to the county council by means of an order under section thirteen of this Act, the date specified in the order as the date on which the highway is to be transferred to the county council ;
- (c) in a case where the claim is made in respect of any other county road, the first day of April in the calendar year next following that in which the claim is made.

6. As respects a county road which is declared by the Minister to be a road towards the construction or improvement of which by a county council advances have been made under this Act, and to be a road which should, having regard to the best means of promoting economy and efficiency in highway administration, be maintained by the county council, the date as from which the council of the non-county borough or urban district in which the road is situated are to be entitled to maintain the road shall be deferred until such date as the Minister may by order determine.

7. Where a claim is made in respect of a county road situated in a county in which at the commencement of the Local Government Act, 1929, there was in force a local Act empowering the council of a borough or urban district to relinquish any functions of maintenance retained by them in pursuance of a claim made under subsection (2) of section eleven of the Local Government Act, 1888, and the road is one in respect of which the council of a borough or urban district were not at the said commencement exercising the functions of maintenance in pursuance of a claim made under the said subsection (2), the date as from which the council making the claim are to be entitled to maintain the road shall be deferred until such date as the Minister may by order determine.

Sections 72, 73.

NINTH SCHEDULE

IMPROVEMENT LINES AND BUILDING LINES

1. Before a line is prescribed by the Minister or by a county council the Minister or, as the case may be, that council shall consult the local authority in whose area the street or highway in relation to which the line is to be prescribed is situated.

2. If a line which a highway authority (not being the local planning authority) propose to prescribe will affect a trunk road or a county road then, before the line is prescribed, the authority shall consult the local planning authority.

3. A line which a highway authority propose to prescribe shall be shown on a plan to be signed, if the authority are a council, by the clerk to the council.

9TH SCH.
—cont.

4. The plan shall be deposited at the offices of the authority or, if the Minister is the authority, at such place as he may direct, and may be inspected by any person free of charge at all reasonable hours during a period of one month from the day on which it is so deposited.

5. As soon as the plan has been so deposited the authority shall give notice of the proposal to prescribe the line and of the times and place at which the plan may be inspected, and of the effect of section seventy-two of this Act or, as the case may require, section seventy-three thereof and of the next following paragraph to every owner, lessee and occupier of land affected.

6. The authority shall consider any objection to the proposed line made within six weeks from the date on which the notices aforesaid were given and may then prescribe the line.

7. Not later than six weeks after the date on which the authority prescribe the line they shall prepare a plan, duly sealed and authenticated, on which the line shall be shown and shall give notice of the prescribing of the line and of the times and place at which the said plan may be inspected to every owner, lessee and occupier of land affected.

8. If the authority revoke the line—

- (a) they shall give notice of the revocation to every owner, lessee or occupier of land affected and to the proper officer of the local authority within whose area the land to which the line relates is situated, being the officer authorised by rules made under section fifteen of the Land Charges Act, 1925 (which provides for the registration of local land charges), to act as local registrar for the purposes of that section ; and
- (b) they shall indicate on the plan prepared in accordance with the last foregoing paragraph the extent to which the line has been revoked.

9. Where a local highway authority prescribe a line or revoke a line or any part thereof they shall do so by resolution.

TENTH SCHEDULE

Sections 87, 91.

PROCEDURE FOR DETERMINATION BY HIGHWAY AUTHORITY OF CERTAIN QUESTIONS ARISING IN CONNECTION WITH PROVISION OF CATTLE-GRID OR BY-PASS

1. Before determining, under the provisions of section eighty-seven or section ninety-one of this Act, the question—

- (a) whether it is expedient to place any part of a cattle-grid in, or provide a by-pass on, any such land not forming part of a highway and not belonging to the highway authority

10TH SCH.
—cont.

therefor as is mentioned in the proviso to subsection (3) of the said section eighty-seven, or

- (b) whether it is expedient to provide a by-pass along any part of a highway, or
- (c) whether the purpose for which a right to instal gates is exercisable will be adequately achieved by the provision of a cattle-grid,

a highway authority shall publish in two successive weeks in one or more local newspapers circulating in the area where the cattle-grid is to be, or has been, provided a notice stating generally the question for determination, naming a place within the said area where a copy may be inspected free of charge at all reasonable hours of such plans or other descriptive matter as appear to the highway authority to be requisite for enabling the nature of the question to be understood, and specifying the time (not being less than twenty-eight days from the date of the first publication of the notice) within which and the manner in which representations may be made to the highway authority, and shall display a like notice in a prominent position at the place where the cattle-grid is to be or has been provided.

2. If no representation is duly made under the foregoing paragraph, or if every representation so made is withdrawn, the highway authority may proceed to determine the question.

3.—(1) Where a representation is duly made as aforesaid and not withdrawn, the following provisions shall have effect.

(2) Where the highway authority is not the Minister, the authority shall forward the representation to the Minister, together with their observations thereon and their proposals, in the light of the representation, for determining the question.

(3) The Minister shall consider any representations received by him (and, where the highway authority is not the Minister, the authority's observations and proposals forwarded to him as aforesaid) and shall either cause a local inquiry to be held or afford to any person by whom a representation has been duly made and not withdrawn and, where the highway authority is not the Minister, to that authority, an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(4) After the Minister has considered the report of the person who held the inquiry under the last foregoing sub-paragraph, or the person appointed under that sub-paragraph, as the case may be,—

- (a) the Minister may, where he is the highway authority, proceed to determine the question ;
- (b) where he is not the highway authority, the authority may determine the question in the affirmative if the Minister consents, but not otherwise, and subject to compliance with any conditions subject to which his consent is given.

(5) Notwithstanding anything in sub-paragraph (3) of this paragraph, except where a representation is made by a highway authority

other than the Minister, the Minister may, if satisfied that in the special circumstances of the case the holding of a local inquiry or the affording to the person making such representation as aforesaid of an opportunity to be heard by a person appointed by the Minister is unnecessary, proceed without compliance in this respect with the provisions of the said sub-paragraph (3).

10TH SCH.
—cont.

(6) As soon as may be after the determination of the question, a notice of the determination shall be sent by the Minister to any person by whom a representation has been made under the foregoing provisions of this Schedule.

4. For the purpose of displaying a notice as required by paragraph 1 of this Schedule, a highway authority shall have power, on the highway or on adjoining land (whether or not belonging to the authority), to erect and maintain posts or boards or to affix a notice to any building or structure:

Provided that the powers conferred by this paragraph shall not be exercised, on land off the highway which is occupied, except with the consent of the occupier.

5. In relation to the exercise by a council of functions of the Minister as highway authority delegated to the council under section ninety-four of this Act, the foregoing provisions of this Schedule shall apply as if the council, and not the Minister, were the highway authority.

ELEVENTH SCHEDULE

Section 99.

PROVISIONS AS TO ORDERS UNDER SECTION 99 OF THIS ACT

Limitations on matters to be dealt with by orders

1. The Minister shall not by an order under section ninety-nine of this Act (hereafter in this Schedule referred to as "an order") direct that a swing bridge crossing a canal is to be operated otherwise than by the owners of the canal unless he is satisfied, after considering any representations made to him by the owners of the canal, that the facilities for traffic on the canal will not be prejudiced thereby.

2. The Minister shall not by an order with respect to a swing bridge modify any statutory provisions relating to precedence of traffic.

3. The Minister shall not by an order with respect to a bridge crossing a railway or a canal modify any statutory provisions relating to the headway of the bridge or the width of the canal without the consent of the owners of the railway or canal.

4. An order made with respect to—

- (a) a bridge owned by railway undertakers which carries a highway over a railway of the undertakers, or carries both a highway and such a railway, or

11TH SCH.
—cont.

- (b) a bridge owned by dock undertakers or harbour undertakers, or
- (c) a bridge, other than one falling within sub-paragraph (a) of this paragraph, owned by the British Transport Commission and forming part of so much of the undertaking of that Commission as corresponds to the undertaking of the Weaver Navigation Trustees prior to the vesting of that undertaking in the Commission under the Transport Act, 1947,

shall not, without the consent of the owners of the bridge, either—

- (i) require works for the reconstruction or improvement of the bridge to be carried out otherwise than by the owners, or
- (ii) direct the bridge to be maintained otherwise than by the owners, or
- (iii) transfer the property in the bridge to a highway authority, or
- (iv) in the case of a swing bridge, direct the bridge to be operated otherwise than by the owners.

5. Nothing in an order made with respect to—

- (a) a bridge owned by railway undertakers and crossing a railway of the undertakers, or
- (b) a bridge owned by canal undertakers and crossing a canal of the undertakers, or
- (c) a bridge owned by dock undertakers, or by harbour undertakers, and crossing a railway, lock, passage or other work of the undertakers,

shall, without the consent of the owners of the bridge, require the bridge to be altered or reconstructed in such a manner as to necessitate an alteration in the level, or reduction in the width, of that railway, canal, lock, passage or work, or to reduce the headway of the bridge as existing at the date of the order.

6. An order requiring the reconstruction of a bridge crossing a canal, or of the approaches to such a bridge, shall, unless the owners of the bridge agree to the contrary, direct the bridge, the highway carried by the bridge, and the approaches to the bridge to be maintained by a highway authority.

Procedure for making orders

7.—(1) An order to which this paragraph applies shall be prepared in draft and made by the Minister in accordance with this paragraph and the three next following paragraphs.

(2) The order shall describe by reference to a map the land on which the works to which the order relates are proposed to be executed or constructed.

(3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.

(4) This paragraph applies to an order which requires or authorises the owners of a bridge or a highway authority to execute or construct any works.

11TH SCH.
—cont.

8. Before making an order to which the last foregoing paragraph applies the Minister shall in two successive weeks publish in one or more local newspapers circulating in the area in which the proposed works are to be executed or constructed a notice—

- (a) stating the general effect of the proposed order,
- (b) naming a place in the said area where a copy of the draft order, the map referred to therein, and plans and sections of the proposed works, may be inspected free of charge at all reasonable hours, and
- (c) specifying the time (not being less than twenty-one days from the date of the first publication of the notice) within which and the manner in which objections to the draft order may be made,

and shall serve on all statutory undertakers appearing to him to be affected by the proposed works a notice stating the general effect of the order and that it is proposed to be made, and specifying the time (not being less than twenty-one days from the date of service of the notice) within which and the manner in which objections to the draft order may be made.

9.—(1) If no objection is duly made by any person who will be affected by the proposed works, or if all objections so made are withdrawn, the Minister, on being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order with or without modifications.

(2) If an objection duly made as aforesaid is not withdrawn, the Minister shall, before making the order, either cause a local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may make the order either with or without modifications.

(3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Minister shall afford to the local highway authority, or to the owners of a bridge, by whom the proposed works are to be executed or constructed, and to any other person to whom it appears to him expedient to afford it, an opportunity of being heard on the same occasion.

(4) Notwithstanding anything in the two last foregoing subparagraphs, the Minister may require any person who has made an objection to state in writing the grounds thereof.

10. As soon as may be after the order has been made the Minister shall publish in one or more local newspapers circulating in the area in which the proposed works are to be executed or constructed a notice describing the proposed works, stating that the order has been made and naming the place where a copy of the order and of the map referred to therein, and a copy of plans and sections of

11TH SCH.
—cont.

the proposed works, may be inspected free of charge at all reasonable hours, and shall serve a like notice and a copy of the order on any statutory undertakers on whom a notice was required to be served under paragraph 8 of this Schedule.

11. Subject to the four last foregoing paragraphs, the Minister may make regulations for prescribing the procedure to be followed in connection with the making of orders.

Power to postpone commencement of orders

12. The Minister may postpone the date of the coming into operation of an order in a case where it appears to him that, owing to the number or nature of the orders and applications affecting the same highway authority or affecting bridges belonging to the same owners, the making of an order which would be immediately operative would work hardship to that authority or to those owners.

Provisions as to public utility undertakers

13.—(1) Before making an order for the reconstruction or improvement of a bridge, the Minister shall take into consideration the desirability of the provision of special facilities or accommodation for carrying across the bridge the mains, pipes, cables or wires of public utility undertakers:

Provided that, in a case where the provision of facilities or accommodation greater than those available in the bridge before reconstruction or improvement would increase the cost of the reconstruction or improvement, he shall have regard to the amount of any contribution towards the cost of the reconstruction or improvement which any public utility undertakers may be willing to make.

(2) In this paragraph, and in the next following paragraph, “public utility undertakers” includes persons authorised by any enactment to carry on an undertaking for the operation of a light railway, a tramway, or trolley vehicles (that is to say, mechanically propelled vehicles adapted for use upon highways without rails and moved by power transmitted thereto from some external source).

14.—(1) Where an order provides for the transfer to a highway authority—

- (a) of the property in a bridge, or in the highway carried by a bridge, or in the approaches to a bridge, or
- (b) of the responsibility for the maintenance of a bridge, or of any such highway or approaches, or
- (c) of rights or obligations attaching to a bridge, or to any such highway or approaches,

any statutory provisions in force in relation thereto for the protection or benefit of any public utility undertakers shall, except so far as may be otherwise expressly provided by the order for giving effect to an agreement made between the parties concerned, remain in force notwithstanding the transfer.

(2) In relation to property, responsibilities, rights or obligations transferred by an order which provides as aforesaid, any such statutory provisions shall apply to the highway authority, and to the exercise by them of any powers under the order, in like manner as they applied, before the transfer, to the owners of the bridge, highway or approaches, and to the exercise of powers by the owners thereof.

11TH SCH.
—cont.

Apportionment of expenses

15. Where an order has been made with respect to a bridge other than a trunk road bridge—

- (a) requiring the reconstruction or improvement of the bridge, or of the highway carried by the bridge, or of the approaches to the bridge, or
- (b) relating to the maintenance of the bridge, or of any such highway or approaches, or
- (c) relating to the operation of the bridge, being a swing bridge,

the expense of such reconstruction, improvement, maintenance or operation shall be defrayed either by the owners of the bridge or by one or more of the highway authorities entitled to make application with respect thereto by virtue of section one hundred and one of this Act, or partly by the owners of the bridge and partly by one or more of those highway authorities, as, in default of agreement, may be determined by arbitration:

Provided that, unless otherwise agreed,—

- (i) where the bridge is a bridge crossing a railway of railway undertakers, or a canal of canal undertakers, or a railway, lock, passage or other work of dock undertakers or of harbour undertakers, any additional expense incurred by the owners of that railway, canal, lock, passage or work by reason of any alteration thereof due to the provisions of the order (not being provisions applied for by the undertakers for the improvement of their undertaking) shall be defrayed by one or more of the highway authorities;
- (ii) where the bridge is a swing bridge, any additional expense incurred by the owners in relation to the operation of the bridge due to the provisions of the order (not being provisions applied for by the owners for the improvement of their undertaking) shall be defrayed by one or more of the highway authorities; and
- (iii) except so far as any additional expense is due to works executed at the instance of the owners of the bridge for the improvement of their undertaking, the owners' share of the expense of the reconstruction, improvement, maintenance or operation shall be an amount equivalent to what would have been the amount of the owners' liability if no such order had been made.

11TH SCH.
—cont.

16. Where the reconstruction or improvement of a bridge crossing—

- (a) a railway of railway undertakers, or
- (b) a canal of canal undertakers, or
- (c) a railway, lock, passage or other work of dock undertakers or of harbour undertakers,

effected in pursuance of an order made otherwise than upon the application of the owners of the bridge, has caused the width between the parapets of the bridge, or the width of the approaches thereto, to be increased, any additional expense thereafter incurred in consequence of the increase by the owners of that railway, canal, lock, passage or work in connection with the widening or alteration thereof under the bridge or the approaches thereto shall be defrayed by one or more of the highway authorities referred to in the last foregoing paragraph, and any question whether any such additional expense has been so incurred or as to the amount thereof shall, in default of agreement, be determined by arbitration.

17. In relation to an order providing, with respect to a trunk road bridge, for a matter referred to in any of sub-paragraphs (a), (b) and (c) of paragraph 15 of this Schedule, the provisions of the two last foregoing paragraphs shall have effect as if, for references to the highway authorities entitled to make application with respect to a bridge by virtue of section one hundred and one of this Act, there were substituted references to the Minister.

18. Where it is determined by agreement or an award that the whole or part of the expenses of reconstruction, improvement, maintenance or operation is to be borne by two or more highway authorities, the expenses or part thereof shall be apportioned between them in such manner as, in default of agreement, may be determined by arbitration.

19. Where it is determined by agreement or an award that the owners of a bridge are to contribute to the expenses of a highway authority, the contribution shall, at the option of the owners of the bridge, be paid—

- (a) as a lump sum, or
- (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between the owners and the authority or, in default of agreement, as may be determined by arbitration, or
- (c) by perpetual annual payments of such amount as may be so agreed or determined.

Arbitration

20. Where a question is by any provision of this Schedule, or of an order, to be determined by arbitration, the arbitrator shall be a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

TWELFTH SCHEDULE

Section 108.

PROVISIONS AS TO ORDERS UNDER SECTION 108 OF THIS ACT

PART I

NOTICES TO BE GIVEN BY APPLICANT FOR ORDER

1. At least twenty-eight days before the day on which an application for an order under section one hundred and eight of this Act is made in relation to a highway the applicant authority shall give notice of their intention to apply for the order, specifying the time and place at which the application is to be made and the terms of the order applied for (embodying a plan showing what will be the effect thereof)—

- (a) to the local planning authority, unless that authority are the applicants ;
- (b) to the owners and occupiers of all lands adjoining the highway ;
- (c) to any statutory undertakers having apparatus under, in, upon, over, along or across the highway ;
- (d) if the highway is a classified road, to the Minister ;
- (e) if the highway is a classified road in, or partly in, a rural parish, to the council of the rural district which comprises the parish and to the parish council or, in the case of a parish not having a separate parish council, to the chairman of the parish meeting.

2. Not later than twenty-eight days before the day on which the application is made the applicant authority shall cause a copy of the said notice to be displayed in a prominent position at the ends of the highway.

3. Once at least in each of two successive weeks the applicant authority shall publish in the London Gazette and in a local newspaper circulating in the area in which the highway is situated a notice containing the particulars specified in paragraph 1 of this Schedule, except that there may be substituted for the plan a statement of a place in the said area where the plan may be inspected free of charge at all reasonable hours.

PART II

APPARATUS OF STATUTORY UNDERTAKERS

4. Where this Part of this Schedule applies in relation to a highway, the statutory undertakers whose apparatus is under, in, upon, over, along or across the highway shall, subject to the provisions of this Part of this Schedule, have the same powers and rights in respect of that apparatus as if the order authorising the highway to be stopped up or, as the case may be, diverted, had not been made.

5. Where a highway is stopped up or diverted in pursuance of an order under section one hundred and eight of this Act, the statutory undertakers whose apparatus is under, in, upon, over, along or across

12TH SCH. the highway may, and, if reasonably requested so to do by the
—cont. authority on whose application the order was made, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as they may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

Any works executed under this paragraph (including the provision of apparatus thereunder) are hereafter in this Part of this Schedule referred to as “undertakers’ works”.

6. Subject to the following provisions of this Part of this Schedule, the authority on whose application an order under the said section one hundred and eight stopping up or diverting a highway was made shall pay to any statutory undertakers an amount equal to the cost reasonably incurred by them in or in connection with—

- (a) the execution of undertakers’ works required in consequence of the stopping up or diversion of that highway, and
- (b) the doing of any other work or thing rendered necessary by the execution of undertakers’ works.

7. If in the course of the execution of undertakers’ works under paragraph 5 of this Schedule—

- (a) apparatus of better type, of greater dimensions or of greater capacity is placed in substitution for existing apparatus of worse type, of smaller dimensions or of smaller capacity, or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type, dimensions or capacity or the placing of apparatus at that depth, as the case may be, is not agreed by the authority concerned, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the undertakers’ works exceeding that which would have been involved if the apparatus placed had been of the existing type, dimensions or capacity, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the undertakers by virtue of the last foregoing paragraph shall be reduced by the amount of that excess.

8. For the purposes of the last foregoing paragraph—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

9. An amount which apart from this paragraph would be payable to undertakers in respect of works of theirs by virtue of paragraph 6 of this Schedule (and having regard, where relevant, to paragraph 7 of this Schedule) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven-and-a-half years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

12TH SCH.
—cont.

10. Any question arising under this Part of this Schedule shall, in default of agreement between the parties concerned, be determined by arbitration.

THIRTEENTH SCHEDULE

DEDUCTIONS FROM RENTS

Section 131,
132, 181, 211,
264.

1. An occupier of premises by whom any sum in relation to which this Schedule applies is paid under this Act shall be entitled to deduct from the rent payable by him in respect of the premises—

- (a) if he holds the premises at a rent not less than the rack rent, an amount equal to three-quarters of the said sum, or
- (b) if he holds the premises at a rent less than the rack rent, such proportion of an amount equal to three-quarters of the said sum as the rent at which he holds the premises bears to the rack rent.

2. Where a deduction from rent payable to a landlord is made under this Schedule, and the landlord himself holds the premises under a lease for a term of which less than twenty years is unexpired, the landlord shall be entitled to deduct from any rent payable by him under the lease such proportion of the amount deducted from the rent payable to him as the rent so payable by him bears to the rent payable to him, and so on in succession with respect to every landlord holding the premises for a term of which less than twenty years remains unexpired and who is both receiving and liable to pay rent in respect thereof.

3. Nothing in the last foregoing paragraph shall be construed as entitling a person to deduct from the rent payable by him more than the whole amount deducted from the rent payable to him.

FOURTEENTH SCHEDULE

APPLICATION OF CERTAIN PROVISIONS OF PART IX OF THIS ACT

Section 173.

PART I

Code of 1892

1. Where the code of 1892 does not apply in a borough or in an urban district, the council of the borough or district may, subject to the provisions of this Part of this Schedule, by resolution adopt that code at a meeting of which not less than one month's notice has been duly given to all the members of the council specifying the intention to propose the resolution.

14TH SCH.
—cont.

2. The resolution shall come into operation at such time, not being less than one month from the date of the first publication of an advertisement under sub-paragraph (a) of the next following paragraph, as the council may by the resolution fix, and upon its coming into operation the code of 1892 shall apply in the area of the council.

3. When it has been passed, the resolution shall be published—

- (a) by advertisement in at least one local newspaper circulating in the area of the council, and
- (b) by notice thereof fixed to the principal doors of every church and chapel in the area of the council in the place to which notices are usually fixed, and
- (c) otherwise in such manner as the council think sufficient for giving notice thereof to all persons interested,

and a copy of the resolution shall be sent to the Minister of Housing and Local Government.

4. A copy of the advertisement of the resolution published under sub-paragraph (a) of the last foregoing paragraph shall be sufficient evidence of the passing of the resolution unless the contrary is shown, and, on the expiration of three months from the date of the first publication of that advertisement, an objection to the resolution on the ground—

- (a) that notice to propose it was not duly given, or
- (b) that the resolution was not sufficiently published,

shall be of no effect.

5. For the purposes of this Part of this Schedule a notice shall be deemed to have been duly given to a member of a council if—

- (a) it is given in the mode in which notices to attend meetings of the council are usually given, or
- (b) where there is no such mode, it is signed by the clerk of the council and delivered to the member or left at his usual or last known place of abode in England or Wales, or sent by post in a prepaid registered letter addressed to the member at his usual or last known place of abode in England or Wales.

PART II

Advance Payments Code

6. The Minister of Housing and Local Government, on the application of a county council and after consultation with the council of the rural district concerned, may by order apply the advance payments code in any rural district within the county or in any contributory place within any such rural district.

7. Upon the making of an order under the last foregoing paragraph the county council shall take such steps for notifying the public of its having been made as the Minister of Housing and Local Government may direct.

FIFTEENTH SCHEDULE

Sections 174, 179.

PARTICULARS TO BE STATED IN SPECIFICATIONS, NOTICES, ETC., UNDER
THE CODE OF 1892

1. The specification shall describe generally the works and things to be done, and, in the case of structural works, shall specify so far as may be practicable the foundation, form, material and dimensions thereof.

2. The plans and sections shall show the constructional character of the works, the connections (if any) with existing streets, sewers or other works, and the lines and levels of the works, subject to such limits of deviation (if any) as may be indicated on the plans and sections respectively.

3. The estimate shall show the particulars of the probable cost of the whole works, including any additional charge in respect of surveys, superintendence and notices.

4. The provisional apportionment shall state the amounts charged on the respective premises and the names of the respective owners, or reputed owners, and shall also state whether the apportionment is made according to the frontage of the respective premises or not, and the measurements of the frontages, and the other considerations (if any) on which the apportionment is based.

5. The notice under section one hundred and seventy-four of this Act shall contain the following particulars, that is to say,—

- (a) a statement that the street works authority have resolved to execute street works in the private street in question ;
- (b) the address of the offices of the authority at which a copy of the resolution of approval, and the approved documents or copies thereof certified by the surveyor, may be inspected, and the times at which, and the period during which, they may be inspected ; and
- (c) a statement that an owner of premises liable to be charged with any part of the expenses of executing the street works may object to the proposal to execute the works, giving the period during which such objection may be made.

6. The notice under section one hundred and seventy-nine of this Act shall contain the following particulars, that is to say—

- (a) a statement that the street works authority propose to amend the estimate so as to increase the amount thereof, specifying the former amount and the amount to which it is to be increased ;
- (b) the address of the offices of the authority at which a document certified by the surveyor giving details of the proposed amendment and of the proposed consequential amendment of the provisional apportionment may be inspected, and the times at which, and the period during which, it may be inspected ; and
- (c) a statement that an owner of premises liable to be charged with any part of the expenses of executing the street works may object to the proposed amendments, giving the period during which such objection may be made.

Section 228.

SIXTEENTH SCHEDULE

TRANSITIONAL MATTERS ARISING WHERE A HIGHWAY BECOMES A TRUNK ROAD OR A TRUNK ROAD CEASES TO BE A TRUNK ROAD

1. All orders and regulations made, all directions, consents and notices given, and all building lines and improvement lines prescribed, with respect to a highway which becomes a trunk road, either by the former highway authority for the purposes of their functions with respect to that highway or by a council under any enactment to which section two hundred and twenty-eight of this Act applies shall, if they were in force immediately before the highway became a trunk road, have effect with respect thereto as if made, given or prescribed by the Minister:

Provided that nothing in this paragraph shall be taken as transferring to the Minister any liability not transferred to him by or under the said section two hundred and twenty-eight.

2. Any order, byelaw, regulation or other instrument made by a council with respect to a highway which becomes a trunk road, which would, if it had been made after the highway became a trunk road, have required the consent or approval of the Minister, may be revoked or varied by an order made by the Minister in like manner and subject to the like conditions as the original instrument, so, however, that no appeal shall lie to a court of quarter sessions or to a magistrates' court against any order made by the Minister under this paragraph.

3. All contracts, deeds, bonds or agreements entered into or made by the former highway authority for a highway which becomes a trunk road, or by a council for the purposes of functions in relation to the highway under any enactment to which the said section two hundred and twenty-eight applies and subsisting on the day on which the highway became a trunk road, shall, in so far as they relate to the property and liabilities transferred to the Minister in respect of that highway, have effect with the substitution of the Minister for the authority or council and may be enforced by or against the Minister accordingly.

4. Where any such contract as aforesaid provides for the execution of works or the rendering of services by a person other than the authority or council in connection with the construction, maintenance or improvement of, or other dealing with, the highway, then—

- (a) if the works or services have been completed before the day on which the highway becomes a trunk road but the price or payment, or any part thereof, has not accrued due before that day, the Minister may recover from the authority or council the price or payment, or part thereof, as the case may be; and
- (b) if the works or services have not been completed before the said day, the value of any works executed, or services rendered, before that day, shall be ascertained, regard being had to the terms of the contract, and the Minister may recover from the authority or council the amount of the said value less any sum paid by the authority or council in pursuance of the contract, and if the authority or council have paid in pursuance of the contract a sum greater than the amount of the said value, the Minister shall repay the excess to the authority or council.

5. Where, before the day on which a highway becomes a trunk road, the former highway authority or any council having functions in relation to the highway under any enactment to which section two hundred and twenty-eight of this Act applies have been themselves executing works in connection with the construction, maintenance or improvement of, or other dealing with, the highway, but have not completed the works before that day, the Minister shall, if required to do so by the authority or council, purchase all unused materials necessarily acquired by the authority or council for the purpose of the works and hire from the authority or council all plant so acquired which is still necessary for the purpose of the works.

16TH SCH.
—cont.

6. In calculating—

- (a) the amount of any sum to be recovered or paid by the Minister under paragraph 4 of this Schedule, or
- (b) the price of the materials to be purchased, or the hire of plant to be hired, by the Minister under paragraph 5 thereof,

account shall be taken of any grant paid or payable by the Minister to the authority or council for the purpose of the works or services.

7. If any dispute arises under the three last foregoing paragraphs as to the materials to be purchased, or the plant to be hired, by the Minister from any authority or council, or as to the sums to be paid by any authority or council to the Minister, or by the Minister to any authority or council, it shall be determined by arbitration.

8. All proceedings, legal or other, begun before the day on which a highway becomes a trunk road and relating to any property or liabilities transferred to the Minister in respect of that highway, may be carried on with the substitution of the Minister as party to the proceedings, in lieu of the authority or council from whom the property or liabilities was or were transferred, and any such proceedings may be amended in such manner as may be necessary for that purpose.

9. The provisions of this Schedule, except paragraph 2 thereof, shall apply in a case where a trunk road ceases to be a trunk road in like manner as they apply where a highway becomes a trunk road, with the substitution, for the references to the former highway authority and to a council, of references to the Minister, and, for references to the Minister, of references to the council who become the highway authority for the road or, so far as relates to functions under any enactment to which section two hundred and twenty-eight of this Act applies and to property and liabilities vested in or incurred by the Minister for the purposes of those functions, to the council who are to exercise those functions in relation to the road.

Sections 244,
253, 256, 261,
271, 289, 307,
308.

SEVENTEENTH SCHEDULE

PROVISIONS OF THIS ACT TO WHICH SECTIONS 244, 253, 256, 261,
271, 289, 307 and 308 THEREOF APPLY

- 1. *Provisions contained in Part I.*
Subsection (5) of section 6.
- 2. *Provisions contained in Part IV.*
Subsection (6) of section 38 and section 40.
- 3. *Provisions contained in Part V.*
Subsections (2) to (6) of section 67, sections 72, 74, 75 and 78, and
subsections (3) and (4) of section 82.
- 4. *Provisions contained in Part VII.*
Sections 118, 130 to 132, 134, 142, 144 to 149, 151 to 154 and 156.
- 5. *Provisions contained in Part VIII.*
Sections 157 to 167, 170 and 171.
- 6. *Provisions contained in Part IX.*
The code of 1892, the code of 1875, and sections 200, 202, 204, 205,
207, 210, 211 and 212.
- 7. *Provisions contained in Part X.*
Subsection (8) of section 214 and section 217.
- 8. *Provisions contained in Part XII.*
Sections 252, 257, 259, 262, 263 and 264.

Section 264.

EIGHTEENTH SCHEDULE

PROVISIONS OF THIS ACT UNDER WHICH OWNERS OF PREMISES ARE
LIABLE FOR CERTAIN EXPENSES RECOVERABLE IN ACCORDANCE WITH
SECTION 264 THEREOF

- 1. *Provisions contained in Part VII.*
Sections 131, 132, 144, 145 and 154 and subsection (3) of section 155.
- 2. *Provisions contained in Part IX.*
Sections 190 and 204.

NINETEENTH SCHEDULE

Section 290.

PROVISIONS OF THIS ACT NOT APPLICABLE IN CERTAIN AREAS EXCEPT
AS PROVIDED BY SECTION 290 THEREOF.

Provision of Act	Area	Corresponding Enactment
Section 74 ...	Rural district	Section 155 of the Public Health Act, 1875.
Section 75 ...	Rural district	Section 3 of the Public Health (Buildings in Streets) Act, 1888.
Section 118...	Borough or urban district	Section 20 of the Public Health Acts Amendment Act, 1907.
Subsection (7) of section 131.	Rural district	Section 24 of the Public Health Act, 1925.
Section 132...	Rural district	So much of section 160 of the Public Health Act, 1875, as relates to sections 71 and 72 of the Towns Improvement Clauses Act, 1847.
Subsection (1) of section 146.	Borough or urban district	Section 29 of the Public Health Acts Amendment Act, 1907.
Section 148...	County borough or county district.	Section 32 of the Public Health Acts Amendment Act, 1907.
Subsections (1) to (3) of section 154.	Rural district	So much of section 160 of the Public Health Act, 1875, as relates to section 73 of the Towns Improvement Clauses Act, 1847.
Section 164...	County borough or county district.	Section 17 of the Public Health Acts Amendment Act, 1907.
Subsection (3) of section 170.	County borough or county district.	Section 17 of the Public Health Acts Amendment Act, 1907.
Section 204...	Borough or urban district.	Section 19 of the Public Health Acts Amendment Act, 1907.
Section 252...	County borough or county district.	Section 22 of the Public Health Acts Amendment Act, 1907.
Subsection (1) of section 257.	County borough or county district.	Section 28 of the Public Health Acts Amendment Act, 1907.

Section 291.

TWENTIETH SCHEDULE

MODIFICATIONS OF THIS ACT AS RESPECTS LONDON

<i>Provision modified</i>	<i>Modification</i>
Section two	<p>For section two there shall be substituted the following section:—</p> <p>“ 2. Where an order made under section seven of this Act directs that a trunk road in London shall cease to be a trunk road, then, as from the date specified in that behalf in the order, the council of the metropolitan borough in which the road is situated shall become the highway authority for the road:</p> <p>Provided that—</p> <p>(a) where the road includes a bridge or tunnel which, immediately before the road became a trunk road, was vested in the London County Council, that council shall become the highway authority for the bridge or tunnel and so much of the road as passes over or through it, but without prejudice to any liability of the council of a metropolitan borough to maintain the carriageways and footways over any such bridge, and</p> <p>(b) if the Minister, after consultation with the London County Council and the council of the metropolitan borough in which the road is situated, considers that any other bridge or tunnel forming part of the road ought to be vested in the London County Council, the order may direct that that council shall become the highway authority for that bridge or tunnel and so much of the road as passes over or through it.”</p>
Section seven	In subsection (3) the words “ under this Act ” shall be omitted.
Section eighteen.	<p>After subsection (2) there shall be inserted the following subsection:—</p> <p>“ (2A) Any expenses incurred under the foregoing provisions of this section by a local highway authority shall be deemed for the purposes of the Development and Road Improvement Funds Act, 1909, to be incurred in the construction of the special road ”.</p>

<i>Provision modified</i>	<i>Modification</i>	<i>20TH SCH. —cont.</i>
Section forty-four.	Subsection (1) shall be omitted. In subsection (2), for the words “ the foregoing provisions of this section ” there shall be substituted the words “ section three of the Trunk Roads Act, 1936 ”.	
Section two hundred and fourteen.	For subsections (1) to (3) there shall be substituted the following subsections:— <p style="margin-left: 40px;">“ (1) The Minister may acquire by agreement, or, subject to subsection (3) of this section, compulsorily, land required for the construction or improvement of a trunk road (not being a special road) in London.</p> <p style="margin-left: 40px;">(2) A special road authority may acquire by agreement, or, subject to the next following subsection, compulsorily, land required—</p> <p style="margin-left: 80px;">(a) for the construction, in pursuance of a scheme under section eleven of this Act, of a special road in London for which they are the special road authority, or</p> <p style="margin-left: 80px;">(b) for the improvement of a special road in London for which they are such an authority.</p> <p style="margin-left: 40px;">(3) The Minister shall not be enabled by virtue of subsection (1) of this section, and a special road authority shall not be enabled by virtue of the last foregoing subsection, to acquire otherwise than by agreement land lying more than two hundred and twenty yards from the middle of the trunk road or of the special road, as the case may be, and the Minister shall not, in exercise of the power conferred by the said subsection (1), acquire otherwise than by agreement land required for the construction of a trunk road unless plans for the construction of the road have been made by the Minister ”.</p>	
	For subsections (5) to (7) there shall be substituted the following subsections:— <p style="margin-left: 40px;">“ (5) The Minister may acquire by agreement, or subject to subsection (9) of this section compulsorily, land within two hundred and twenty yards from the middle of a trunk road in London, and a special road authority may acquire by agreement, or, subject to the said subsection (9), compulsorily, land within two hundred and twenty</p>	

20TH SCH. —cont.	<i>Provision modified</i>	<i>Modification</i>
Section two hundred and fourteen— <i>cont.</i>		<p>yards from the middle of a special road in London for which they are the special road authority, being land which, in the opinion of the Minister or of the special road authority, as the case may be, is necessary for preventing the erection of buildings detrimental to the view from the road.</p> <p>(6) The Minister may acquire, but only by agreement, any other land in the neighbourhood of a trunk road in London, and a special road authority may acquire, but only by agreement, any other land in the neighbourhood of a special road in London for which they are the special road authority, being land which the Minister or the special road authority, as the case may be, considers or consider it desirable to acquire for preventing the erection of buildings detrimental to the view from the road or otherwise preserving the amenities of the locality in which it is, or is to be, situated.</p> <p>(7) The power to acquire land in relation to a trunk road under the two last foregoing subsections may be exercised by the London County Council as well as by the Minister ”.</p> <p>Subsection (8) shall be omitted.</p> <p>In subsection (9), for the words “ subsections (5), (7) and (8) ” there shall be substituted the words “ subsections (5) and (7) ”.</p>
Section two hundred and twenty-three.		<p>In subsection (1), in paragraph (a), after the word “ construction ” there shall be inserted the words “ as part of a trunk road in London or a special road therein ”, and at the end of paragraph (c) there shall be added the words “ in connection with a trunk road in London or a special road therein ”.</p> <p>In subsection (2), for the words from “ (a) if the ” to the end there shall be substituted the words “ if the acquisition is for a purpose specified in that subsection in connection with a trunk road in London, by the London County Council as well as by the Minister ”.</p>
Section two hundred and twenty-five.		<p>In subsection (3), for the reference to section one hundred and sixty-four of the Local Government Act, 1933, there shall be substituted a reference to section one hundred and seven of the London Government Act, 1939.</p>
Section two hundred and thirty-one.		<p>In subsection (1), for the words “ section two hundred and twenty-eight of this Act ” there shall be substituted the words “ section seven of the Trunk Roads Act, 1936, or any of the transitional provisions contained in the Fifth Schedule to that Act ”.</p>

<i>Provision Modified</i>	<i>Modification</i>	20TH SCH. —cont.
Section two hundred and seventy-nine.	For the references to section two hundred and ninety of the Local Government Act, 1933, there shall be substituted references to section one hundred and eighty-nine of the London Government Act, 1939.	
Section two hundred and ninety-five.	For the definitions of “ council ” and “ highway maintainable at the public expense ” there shall, except for the purposes of section forty-two of this Act, be substituted the following:— “ ‘ council ’ means the London County Council, the Common Council of the City of London or the council of a metropolitan borough; ‘ highway maintainable at the public expense ’ means a highway repairable by the inhabitants at large or by a highway authority.”	
First Schedule.	Paragraphs 3 and 5 and head (i) of the Table set out at the end of the said paragraph 3 shall have effect, in relation to a highway or proposed highway to which an order proposed to be made under section seven, section nine or section twenty of this Act relates, and some part of which is situated in London, as if the reference in the said head to the council of a county and to the council of a county borough included a reference to the London County Council and to the council of a metropolitan borough respectively. Paragraphs 3 and 5 and head (iii) of the said Table shall have effect, in relation to any works authorised by an order proposed to be made under section thirteen of this Act which are to be carried out in the City of London or a metropolitan borough, as if the reference in the said head to the council of a county, county borough and county district included a reference to the London County Council and to the Common Council of the City of London or the council of the metropolitan borough, as the case may be. Paragraph 8 shall have effect, in relation to any part of the route of a special road which is situated in the City of London or a metropolitan borough, as if the reference therein to the council of a county, county borough and county district included a reference to the London County Council and to the Common Council of the City of London or the council of the metropolitan borough, as the case may be.	

Section 292.

TWENTY-FIRST SCHEDULE

MODIFICATIONS OF THIS ACT AS RESPECTS ISLE OF WIGHT

<i>Provision modified</i>	<i>Modification</i>
Section five.	At the end of the section there shall be added the words "and the county council shall have, with reference to the highway, in addition to the powers of a highway authority, such other powers as may be specified in the agreement, being powers exercisable by the council of the borough or district, as the case may be, with reference to highways in their area."
Section twenty-one.	In subsection (1), for the reference to the Local Government Act, 1929, there shall be substituted a reference to the Local Government Act, 1888. In subsection (4), paragraph (b) shall be omitted.
Section twenty-two.	Subsections (2) and (4) shall be omitted.
Sections twenty-four and twenty-five.	For sections twenty-four and twenty-five there shall be substituted the following section:— "24.—(1) The council of a county district in the Isle of Wight may, by agreement with the council of the county of the Isle of Wight (hereafter in this section referred to as "the county council"), or shall, if the county council so require, undertake the maintenance and improvement of any main road in the county district other than a claimed main road, and, for the purposes of an undertaking in pursuance of this section, the council of the county district shall have the same functions in relation to the road as if they were the highway authority for the road. (2) It shall be a condition of any such undertaking that the county council shall make such annual payments towards the cost of the maintenance and improvement of the road as may be agreed or, in default of agreement, as may be determined by the Minister: Provided that the county council shall not make a payment under this subsection as respects a road unless they are satisfied by a report of their surveyor or of such other person as they may appoint for the purpose that the road has been properly maintained or, in the case of a payment towards the cost of an improvement, that the improvement has been properly carried out. (3) If at any time the county council are satisfied, on the report of their surveyor or some other person appointed by them for the purpose, that a main road the maintenance of which has in

<i>Provision modified</i>	<i>Modification</i>	<i>21st SCH. —cont.</i>
Sections twenty-four and twenty- five— <i>cont.</i>	<p>pursuance of this section been undertaken by the council of a county district is not in proper repair and condition, the county council may, by notice to the district council, require them to place the road in proper repair and condition and, if the notice is not complied with within a reasonable time, the county council may do anything that seems to them necessary to place it in proper repair and condition and may recover the expenses of so doing from the district council.</p> <p>(4) Any question arising under this section between the county council and the council of a county district as to the refusal of the county council to make a payment thereunder, or whether a road is in proper repair or condition, or as to any notice under the last foregoing subsection shall, if either council so require, be determined by the Minister."</p>	
Section forty-five.	<p>Subsection (2) shall have effect with the omission of the requirement that the borough or urban district must have a population exceeding twenty thousand, with the substitution, for the reference to the period specified in the Eighth Schedule, of a reference to the period of twelve months from the date on which the highway becomes a main road, with the substitution, for the reference to section thirty-two of the Local Government Act, 1929, of a reference to subsection (2) of section eleven of the Local Government Act, 1888, and with the addition at the end of the subsection of the following words:—</p> <p style="padding-left: 40px;">" Provided that where a highway in a non-county borough or an urban district becomes a main road by virtue only of paragraph (f) of subsection (2) of section twenty-one of this Act, this section shall have effect in relation to that highway as if the council of the borough or district in which the highway is had made a claim under this section in respect of the highway on the date on which it became a main road ".</p> <p>For subsection (3) there shall be substituted the following subsection:—</p> <p style="padding-left: 40px;">" (3) Where a claim is made under this section, the date as from which the council making the claim shall be entitled to maintain the main road in respect of which the claim is made shall be the date of the claim ".</p>	

21ST SCH. —cont.	<i>Provision modified</i>	<i>Modification</i>
Section forty-five —cont.		After the first paragraph of subsection (4) there shall be inserted the following paragraph:— “ A relinquishment under this subsection shall be effected by resolution of the council of the borough or of the district, as the case may be, confirmed by a further resolution of the same council passed within three months from the passing of the first resolution ”. In subsection (5), paragraph (b) shall be omitted.
Section one hundred and sixteen.		After subsection (9) there shall be inserted the following subsection:— “ (10) The functions of the council of a county district under this section shall, in the case of the area of the Isle of Wight constituting a rural district, be exercised by the council of the county of the Isle of Wight and not by the council of the rural district.”
Section two hundred and thirty-four.		The section shall be omitted.
Section two hundred and thirty-seven.		In subsection (1), the words in paragraph (a) “ by quarterly instalments ” and paragraph (b) shall be omitted. In subsection (3), for the reference to the fifteenth day of December there shall be substituted a reference to the fifteenth day of January. Subsection (6) shall be omitted.
Section two hundred and forty-six.		Subsection (4) shall be omitted.
Section two hundred and ninety.		The following paragraph shall be added at the end of subsection (4):— “ An order made on an application by the council of the county of the Isle of Wight under paragraph (b) of this subsection may, if that council by the application so require, declare that the functions exercisable by virtue of the provision to which the application relates shall be exercisable by that council instead of by the council of the rural district.”
Nineteenth Schedule.		The references to the following provisions of this Act, that is to say, sections seventy-four, seventy-five and one hundred and thirty-two and subsections (1) to (3) of section one hundred and fifty-four, shall be omitted.

TWENTY-SECOND SCHEDULE

Section 309.

CONSEQUENTIAL AMENDMENTS

The Inclosure Act, 1845

(8 & 9 Vict. c. 118)

In section seventy-two, the words from “and shall apply” to the end shall be omitted.

The Tramways Act, 1870

(33 & 34 Vict. c. 78)

In section four, the words from “or of the road authority” to “Highway Acts” shall be omitted.

The Annual Turnpike Acts Continuance Act, 1872

(35 & 36 Vict. c. 85)

In section thirteen, for the words from “if the road” to “such highway board” there shall be substituted the words “the highway authority for the road”, and the words from “and in other cases” to the end shall be omitted.

The Evidence Act, 1877

(40 & 41 Vict. c. 14)

In section one the words “the non-repair of any public highway or bridge or for” shall be omitted.

The Highways and Locomotives (Amendment) Act, 1878

(41 & 42 Vict. c. 77)

In section twenty-six, for the words from the beginning to “their county” there shall be substituted the words “The council of a county or county borough may make with respect to all or any of the highways in their county or borough”.

The Annual Turnpike Acts Continuance Act, 1882

(45 & 46 Vict. c. 52)

In section eight, for the words from “so far as relates” to “such authority” there shall be substituted the words “by the highway authority for the road”; and the definition of “highway authority” shall be omitted.

The Railway and Canal Traffic Act, 1888

(51 & 52 Vict. c. 25)

1. In section sixteen, in subsection (1), for the words from “highway board” to “parish” there shall be substituted the words “a local highway authority”, and subsection (3) shall be omitted.

2. In section fifty-four, in subsection (3), the words “if other than a surveyor of highways” shall be omitted.

The Military Lands Act, 1892

(55 & 56 Vict. c. 43)

1. For section thirteen there shall be substituted the following section:—

“13.—In relation to a footpath crossing or near to any land leased under this Act, the Highways Act, 1959, shall have effect as if in section one hundred and eight thereof (which provides for the stopping up and diversion of highways) there

22ND SCH.
—cont.

were added to the grounds for stopping up or diverting a highway specified in subsection (1) the ground that the highway crosses or runs inconveniently or dangerously near to any such land:

Provided that—

- (a) a magistrates' court shall not make an order under the said section one hundred and eight authorising the stopping up or diversion of the footpath unless it is satisfied that a new footpath convenient to the public will be substituted therefor, or that the footpath as diverted will be convenient to the public, as the case may be, and
- (b) if the order is made, an appeal shall not lie therefrom to a court of quarter sessions under section two hundred and seventy-five of the said Act of 1959 on the ground that the new footpath, or the footpath as diverted, as the case may be, is not convenient to the public.

In this section 'footpath' has the same meaning as in the said Act of 1959."

2. In section sixteen, in subsection (2), after the word "footpath", where it first occurs, there shall be inserted the words "within the meaning of the Highways Act, 1959".

The Settled Land Act, 1925

(15 & 16 Geo. 5, c. 18)

In section fifty-six, in subsection (3), for the words "section eighty-two of the Highway Act, 1835" and for the words "section eighty-five of that Act" there shall be substituted the words "the Highways Act, 1959".

The Universities and College Estates Act, 1925

(15 & 16 Geo. 5, c. 24)

In section sixteen, in subsection (3), for the words "section eighty-two of the Highway Act, 1835" and for the words "section eighty-five of that Act" there shall be substituted the words "the Highways Act, 1959".

The Supreme Court of Judicature (Consolidation) Act, 1925

(15 & 16 Geo. 5, c. 49)

In section twenty-nine, the words "non-repair or" shall be omitted.

The Town and Country Planning Act, 1947

(10 & 11 Geo. 6, c. 51)

In section one hundred and nineteen, in subsection (1), in the definition of "improvement", for the words from "the expression" to "1909" there shall be substituted the words "in the Highways Act, 1959".

The Highways (Provision of Cattle-grids) Act, 1950

(14 Geo. 6, c. 24)

22ND SCH.

—cont.

For section six there shall be substituted the following section :—

“6. As respects traffic signs relating to a cattle-grid provided under this Act or the Highways Act, 1959, for a highway not being for the purposes of the said Act of 1959 a highway maintainable at the public expense, or to a by-pass so provided for use in connection with such a cattle-grid, ‘highway authority’ in section forty-eight of the Road Traffic Act, 1930 (which provides for the placing and control of traffic signs) shall include the council of the county comprising the rural district, the council of the borough, or the council of the urban district, as the case may be, in which the highway is situated.”

The Public Utilities Street Works Act, 1950

(14 Geo. 6, c. 39)

In section thirty-nine, in subsection (1), for the words in the definition of “road purposes” from “of roads” to “thereto” there shall be substituted the words “in subsection (1) of section two hundred and ninety-five of the Highways Act, 1959”, and after the word “footway”, where it first occurs in the said definition, there shall be inserted the words “or grass verge”.

The Livestock Rearing Act, 1951

(14 & 15 Geo. 6, c. 18)

In section four—

- (a) in subsection (1), in paragraph (a), for the words from “the appropriate” to “1950” there shall be substituted the words “a highway authority under the Highways Act, 1959” and, in paragraph (b), for the words “section ten of the said Act of 1950” there shall be substituted the words “section ninety-three of the said Act of 1959”;
- (b) for the words “the appropriate authority” in every place, except the first, where they occur, there shall be substituted the words “the highway authority”; and
- (c) in subsection (3) paragraph (a) shall be omitted.

The Costs in Criminal Cases Act, 1952

(15 & 16 Geo. 6 & 1 Eliz. 2, c. 48)

In section sixteen, in subsection (3), the words “non-repair or” shall be omitted.

The Agriculture Act, 1957

(5 & 6 Eliz. 2, c. 57)

In section fifteen—

- (a) in subsection (1), for the words from “in pursuance” to the end of the subsection there shall be substituted the words “by a highway authority under the Highways Act, 1959”;
- (b) in subsection (2), for the words “section ten” there shall be substituted the words “section ninety-three”;
- (c) in subsection (3), for the words “the appropriate authority” there shall be substituted the words “the highway authority”.

Section 311.

TWENTY-THIRD SCHEDULE

ENACTMENTS CEASING TO HAVE EFFECT

Session and Chapter	Short Title	Extent of Repeal
22 Hen. 8. c. 5.	The Bridges Act, 1530	Section three.
1 Anne c. 12.	The Bridges Act, 1702	Section two.
12 Geo. 2. c. 29.	The County Rates Act, 1738.	The whole Act.
43 Geo. 3. c. 59.	The Bridges Act, 1803	In section one, the words from "and to remove" to "roads" in the second place where that word occurs, the words "as well" and the words from "as the preventing" to "roads" in the third place where that word occurs.
52 Geo. 3. c. 110.	The Bridges Act, 1812	Sections four and six.
54 Geo. 3. c. 90.	The Bridges Act, 1814	Sections one, two and five.
55 Geo. 3. c. 143.	The Bridges Act, 1815	Section two.
3 Geo. 4. c. 126.	The Turnpike Roads Act, 1822.	Section five.
5 & 6 Will. 4. c. 50.	The Highway Act, 1835	Sections ninety-seven to one hundred and three, one hundred and eighteen and one hundred and twenty-four.
		Section nineteen.
		In section twenty-four, the words from "and also" to "carriages" and the words "or blocks".
		Sections thirty-five, forty-nine and fifty-eight to sixty-one.
		Section sixty-five so far as it relates to a hedge or tree which causes an obstruction in a carriageway or cartway.
		Section sixty-six so far as it relates to the felling of trees.
		Section seventy.
		In section seventy-two, the words from "or bait" to "near any highway".
		In section seventy-eight, the words from "and every such driver" to the end.
		Section seventy-nine except so far as it authorises the arrest by a constable of a person committing an offence against section seventy-two of the Act consisting of wilfully obstructing the free passage along a highway.
		Sections eighty and eighty-two.

Session and Chapter	Short Title	Extent of Repeal
23 & 24 Vict. c. 68.	The South Wales Highways Act, 1860.	Sections one, two, four to thirteen, nineteen to twenty-six, thirty-one, thirty-two and forty-one.
25 & 26 Vict. c. 61.	The Highway Act, 1862	Sections five to eleven, sixteen, thirty-two, thirty-three, thirty-seven, thirty-nine to forty-one and forty-three to forty-five.
27 & 28 Vict. c. 101.	The Highway Act, 1864	The Schedule. Sections four to nineteen, thirty-one, thirty-three to thirty-five and thirty-seven to forty-four. In section forty-six, the words from " and no justice " to the end. Section fifty-two.
28 & 29 Vict. c. 107.	The Annual Turnpike Acts Continuance Act, 1865.	Section two.
33 & 34 Vict. c. 73.	The Annual Turnpike Acts Continuance Act, 1870.	Section eleven.
41 & 42 Vict. c. 34.	The South Wales Highway Act Amendment Act, 1878.	Section nine.
41 & 42 Vict. c. 77.	The Highways and Locomotives (Amendment) Act, 1878.	Sections three to five, eleven and nineteen. In section twenty-six, in paragraph (4), the words " prohibiting or regulating the erection of gates across highways and ".
45 & 46 Vict. c. 67.	The South Wales Turnpike Roads Amendment Act, 1882.	Section three.
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	In section eleven, subsection (13).
56 & 57 Vict. c. 73.	The Local Government Act, 1894.	In section sixteen, in subsection (1) the words from " or that " to " manner ".

23RD SCH.
—cont.

Section 312.

TWENTY-FOURTH SCHEDULE

TRANSITIONAL PROVISIONS

PART I

PROVISIONS RELATING TO PART I OF ACT

Highway authorities

1. Subsection (2) of section three (which contains provisions corresponding to paragraph (b) of the proviso to subsection (1) of section nine of the Development and Road Improvement Funds Act, 1909) shall have effect in relation to an agreement made under the said paragraph (b) and in force at the commencement of this Act as if for the words "on such date as may be provided by the agreement" there were substituted the words "at the commencement of this Act".

2.—(1) Section four shall apply to a county road which the council of a non-county borough or urban district are for the time being entitled to maintain by virtue of paragraph 9 of this Schedule as it applies to a county road which such a council are for the time being entitled to maintain by virtue of section forty-five.

(2) Any reference in this Act to section four shall be construed as including a reference to that section as applied by the foregoing subparagraph.

3. If at the commencement of this Act there is in force an agreement made under section one hundred and forty-eight of the Public Health Act, 1875, between the council of a county and the council of a non-county borough or urban district with respect to a highway to which, but for this paragraph, subsection (1) of section six would apply, the said subsection (1) shall not apply to that highway.

PART II

PROVISIONS RELATING TO PART II OF ACT

Trunk roads

4. Subsection (1) of section eight shall apply to a highway which at the commencement of this Act is a trunk road as it applies to a highway which becomes a trunk road after the said commencement.

County roads

5. Where the responsibility for the maintenance of, or the property in, a highway was transferred to a county council in pursuance of an agreement, or by virtue of an order, made under the Bridges Act, 1929, and immediately before the commencement of this Act that highway was maintainable by that council, then, without prejudice to the provisions of subsection (1) of section twenty-one, that highway (except any county bridge comprised therein) shall become a county road at the commencement of this Act.

PART III

PROVISIONS RELATING TO PART III OF ACT

Maintenance of road-ferries

6. Subsection (3) of section twenty-six shall, in so far as it confers power on the Minister or a local highway authority to maintain road-ferries, have effect in relation to road-ferries in existence at the commencement of this Act and provided by the Minister or that authority, as the case may be, under Part II of the Development and Road Improvement Funds Act, 1909.

Certain ways excluded from operation of section 34

7. Where in respect of any way a court of competent jurisdiction has, in any proceedings pending on the sixteenth day of December, nineteen hundred and forty-nine, or has before that date, decided that the way is not a highway, subsections (1) and (2) of section one of the Rights of Way Act, 1932, as amended by section fifty-eight of the National Parks and Access to the Countryside Act, 1949, together with the other provisions of the said Act of 1932 applicable for the purposes of the said subsections (1) and (2), shall apply to the way as if this Act had not passed, and subsection (1) of section thirty-four shall not apply thereto.

PART IV

PROVISIONS RELATING TO PART IV OF ACT

Maintenance of highways

8. Section thirty-nine (which contains provisions corresponding to section twenty-three of the Highway Act, 1835) shall not apply to a highway dedicated by any person before the commencement of this Act in pursuance of a notice given by him under the said section twenty-three, but, notwithstanding the repeal by this Act of the said section twenty-three, proceedings with respect to that highway may be brought or continued under that section and that section shall continue to have effect in relation to that highway:

Provided that if the highway would, had this Act not passed, become maintainable under the said section twenty-three by the parish in which it is situated it shall become for the purposes of this Act a highway maintainable at the public expense.

9.—(1) Where, immediately before the commencement of this Act, the council of a non-county borough or urban district were, by virtue of the provisions of section thirty-two of the Local Government Act, 1929, maintaining a county road within their area, or having duly made a claim under those provisions were, by virtue thereof, entitled to undertake as from some future date the maintenance of such a county road, that council shall, subject to sub-paragraph (3) of this paragraph, continue to be entitled to maintain, or as the case may be shall as from the said future date be entitled to maintain, that road.

(2) Subsection (4) of section forty-five shall apply to a county road which the council of a non-county borough or urban district are for the time being entitled to maintain by virtue of sub-paragraph (1) of this paragraph as it applies to a county road which such a council are for the time being entitled to maintain by virtue of section forty-five.

24TH SCH.
—cont.

24TH SCH.
—cont.

(3) Paragraph 6 of the Eighth Schedule to this Act shall apply to a county road towards the construction or improvement of which by a county council advances have been made under the Development and Road Improvement Funds Act, 1909, as it applies to a county road towards the construction or improvement of which by a county council advances have been made under this Act.

(4) Sub-paragraph (1) of this paragraph shall have effect in the Isle of Wight with the substitution, for the reference to section thirty-two of the Local Government Act, 1929, of a reference to section nine of the Isle of Wight Highways Act, 1925, and section eleven of the Local Government Act, 1888.

PART V

PROVISIONS RELATING TO PART V OF ACT

Improvement of highways

10. Anything done before the first day of October, nineteen hundred and fifty-six, being the date of the coming into operation of section forty-five of the Road Traffic Act, 1956, otherwise than in pursuance of powers conferred by section thirty-nine of the Public Health Acts Amendment Act, 1890, or section fifty-five of the Road Traffic Act, 1930, which could lawfully have been done under the provisions of section sixty-five or section sixty-eight if those provisions had then been in force shall be treated as if those provisions had been in force when it was done.

11. Subsections (2) and (3) of section seventy-five shall apply in relation to any such thing as is referred to in subsection (1) of that section done before the commencement of this Act as they apply in relation to any such thing done thereafter:

Provided that section seventy-five shall not apply in relation to anything done in a rural district before the commencement of this Act unless, at the time when the thing in question was done, section three of the Public Health (Buildings in Streets) Act, 1888, was in force in that district.

12.—(1) Any cattle-grid, works or by-pass which immediately before the commencement of this Act was, by virtue of subsection (1) or subsection (2) of section eighteen of the Highways (Provision of Cattle-Grids) Act, 1950, deemed to have been provided in pursuance of that Act by the appropriate authority within the meaning of that Act, shall be deemed to have been provided under this Act by the highway authority for the highway in connection with which it was provided.

(2) If, as respects any other cattle-grid provided for a highway which consists of or comprises a carriageway, any gate or other works on such a highway for use in connection with such a cattle-grid, any by-pass for use in connection with such a cattle-grid and any gate or other works for the proper control of traffic passing over such a by-pass, being a cattle-grid, works or by-pass provided before the

twenty-eighth day of July, nineteen hundred and fifty, application is made to the Minister for his approval thereof by the highway authority for the highway and—

24TH SCH.
—cont.

- (a) the Minister approves the cattle-grid, works or by-pass unconditionally, or
- (b) the Minister gives his approval subject to conditions as to the carrying out of work, the conclusion of an agreement under section ninety-three or any other matter, and those conditions have been complied with,

then, as from the giving of the Minister's approval unconditionally or, as the case may be, compliance with all conditions subject to which the Minister gives his approval, the cattle-grid, works or by-pass shall be deemed to have been provided under this Act by the highway authority by whom the application for approval was made.

(3) Where the Minister gives his approval of a cattle-grid, works or by-pass subject to conditions, the highway authority by whom the application for approval was made shall have power to carry out any work, or do any other thing, which is requisite for complying with the conditions; and in particular (but without prejudice to the foregoing provisions of this sub-paragraph) sections ninety, ninety-two and two hundred and nineteen shall apply in relation to the exercise of powers conferred by the foregoing provisions of this sub-paragraph as they apply in relation to the corresponding powers conferred by this Act.

(4) The provisions of this Act relating to cattle-grids shall apply, as respects any cattle-grid provided before the twenty-eighth day of July, nineteen hundred and fifty, off the highway for which the cattle-grid was provided, subject to such exceptions, modifications and adaptations as may be provided by regulations under section ninety-six.

13. Rules made by the Minister under section ten of the Bridges Act, 1929, shall, if in force at the commencement of this Act, have effect as if they were regulations made by the Minister under paragraph 11 of the Eleventh Schedule to this Act and may be varied or revoked accordingly.

14. Section one hundred and seven shall have effect in relation to a road-ferry in existence at the commencement of this Act and provided by a highway authority under the Development and Road Improvement Funds Act, 1909, as it has effect in relation to a road-ferry provided by a highway authority under this Act.

PART VI

PROVISIONS RELATING TO PART VI OF ACT

Stopping up and diversion of highways

15. Notwithstanding the repeal by this Act of sections eighty-four to ninety-one of the Highway Act, 1835, any proceedings instituted before the commencement of this Act for the stopping up or diversion of a highway under the said Act of 1835 may be continued as if this Act had not passed.

24TH SCH.
—cont.

PART VII

PROVISIONS RELATING TO PART VII OF ACT

Lawful and unlawful interference with highways and streets

16. Where anything was done before the commencement of this Act which, if it had been done thereafter, would have contravened section one hundred and twenty-three, the provisions of subsection (2) of that section shall have effect in relation thereto as if this Act had commenced immediately before the doing thereof.

17. Section one hundred and twenty-eight shall apply in relation to things done before the commencement of this Act as it applies in relation to things done thereafter.

18.—(1) Where anything was done before the commencement of this Act which, if it had been done thereafter, would have contravened subsection (1) of section one hundred and thirty-two, the provisions of subsections (2) to (6) and (8) of that section shall, subject to the next following sub-paragraph, have effect in relation thereto as if this Act had commenced immediately before the doing thereof.

(2) Where before the date on which sections seventy-one and seventy-two of the Towns Improvement Clauses Act, 1847 (which contains provisions corresponding to section one hundred and thirty-two) became applicable in any area a door, gate or bar was put up on premises situated in that area, and the door, gate or bar opens outwards on a street, then, subject to the next following sub-paragraph, the local authority in whose area the premises are situated may, after the expiration of eight days from the date of service on either the owner or the occupier of the premises of a notice of their intention so to do, alter so as not to open outwards the door, gate or bar.

(3) The last foregoing sub-paragraph does not apply to a door, gate or bar put up on a public building with the consent of the local authority in whose area the building is situated.

19. For the purpose of determining the punishment which may be imposed on a person in respect of an offence under section one hundred and forty-one, an offence committed by him under section fifty-one of the Road Traffic Act, 1930, shall be deemed to have been committed under section one hundred and forty-one.

20. Subsections (2) to (5) of section one hundred and forty-six shall apply in relation to things done before the commencement of this Act as they apply in relation to things done thereafter.

21. Subsections (2) to (5) of section one hundred and fifty-three shall apply in relation to any such thing as is referred to in subsection (1) of that section done before the commencement of this Act as they apply in relation to any such thing done thereafter.

PART VIII

24TH SCH.
—cont.

PROVISIONS RELATING TO PART VIII OF ACT

New Streets

22.—(1) Any order under section thirty of the Public Health Act, 1925, which has effect at the commencement of this Act shall continue to have effect as if that section had not been repealed, so however, that the appropriate authority may at any time revoke the order.

(2) While any order under the said section thirty has effect in relation to a highway no order shall be made under section one hundred and fifty-nine in relation to that highway.

(3) In this paragraph “the appropriate authority” has the same meaning as in section one hundred and fifty-nine.

23.—(1) The powers conferred on a local authority by subsection (1) of section one hundred and sixty-two may be exercised in any case where—

(a) plans of any proposed work were, in accordance with new street byelaws, deposited before the commencement of this Act with that authority, and either the plans have been approved by the authority or notice of rejection of the plans has not been given within the appropriate period (as defined for the purposes of Part VIII of this Act) from the deposit thereof, and

(b) the works to which the plans relate have not been begun within three years from the date of the deposit of the plans; and the said subsection (1) shall have effect accordingly.

(2) Where immediately before the commencement of this Act section fifteen of the Public Health Acts Amendment Act, 1907, did not apply in any area and before the said commencement the local authority of that area approved the plans of any proposed work in connection with a new street, but the work was not begun before the said commencement, the authority shall within six months from the commencement of this Act give notice of the foregoing provisions of this paragraph to the person by whom or on whose behalf the plans were deposited or other the owner for the time being of the land to which the plans relate.

PART IX

PROVISIONS RELATING TO PART IX OF ACT

Making up of private streets

24. Where a highway—

(a) being a footpath or bridleway in existence on the sixteenth day of December, nineteen hundred and forty-nine, and

(b) being, immediately before the commencement of this Act, a highway repairable by the inhabitants at large by virtue only of subsection (1) of section forty-seven of the National Parks and Access to the Countryside Act, 1949,

24TH SCH.
—cont.

would, if the said section forty-seven had not been enacted, be a private street for the purposes of the code of 1875 or the code of 1892 or the corresponding provisions of any local Act, the fact that the path or way is, after the commencement of this Act, a highway maintainable at the public expense by virtue of paragraph (a) of subsection (2) of section thirty-eight shall not prevent its being treated for those purposes as a private street:

Provided that where the street works authority have exercised the powers exercisable by them by virtue of this paragraph or of section fifty of the said Act of 1949 in relation to a path or way or to a part thereof this paragraph shall not thereafter apply to that path or way or to that part, as the case may be, so as to enable the authority to exercise those powers in relation thereto on any subsequent occasion.

PART X

PROVISIONS RELATING TO PART X OF ACT

Transfer of property and liabilities relating to county roads

25. The provisions of section two hundred and thirty-two shall apply in a case where before the commencement of this Act—

- (a) a highway in a non-county borough or urban district became a county road and the council of the borough or district did not, within the time specified in section thirty-two of the Local Government Act, 1929, claim to undertake the maintenance of that road, or
- (b) the council of a non-county borough or urban district, having or having been deemed to have claimed as aforesaid with respect to a county road in their area, relinquished their right to maintain that road,

as they apply in the corresponding cases mentioned in that section.

PART XI

PROVISIONS RELATING TO PART XII OF ACT

Recovery of expenses

26.—(1) Where a council have incurred expenses under any enactment specified in the next following sub-paragraph and have not recovered those expenses at the commencement of this Act, those expenses may be recovered under this Act and the provisions of section two hundred and sixty-four shall have effect in relation to those expenses as they have effect in relation to expenses recoverable by a council under that section, but subject to the modification that for the reference in subsection (1) of that section to the owner for the time being of the premises there shall be substituted a reference to the owner of the premises at the date when the works were completed.

(2) The enactments referred to in the foregoing sub-paragraph are—

- (a) sections sixty-nine, seventy-one, seventy-five and eighty-three of the Towns Improvements Clauses Act, 1847, as incorporated with the Public Health Act, 1875, by section one hundred and sixty thereof ;

- (b) section one hundred and fifty of the Public Health Act, 1875 ;
- (c) section thirty-five of the Public Health Acts Amendment Act, 1890 ; and
- (d) sections nineteen, thirty and thirty-one of the Public Health Acts Amendment Act, 1907.

24TH SCH.
—cont.

27. Where, immediately before the commencement of this Act, a street works authority were recovering any expenses by means of private improvement rates they may continue to recover the unpaid balance of those expenses by means of such rates as if this Act had not passed.

Continuing offences

28. Where an offence, being an offence for the continuance of which a penalty was provided, has been committed under any enactment repealed and re-enacted, with or without modifications, by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the like manner as if the offence had been committed under the corresponding provision of this Act.

PART XII

PROVISIONS AS TO CERTAIN ORDERS MADE UNDER THE TRUNK ROAD ACTS, 1936 AND 1946

29.—(1) Notwithstanding the repeal of subsection (3) of section twelve of the Trunk Roads Act, 1946, any order made before the sixth day of March, nineteen hundred and forty-six, under subsection (3) of section one of the Trunk Roads Act, 1936 (which authorised the Minister, if satisfied that it was expedient to construct a new highway or improve a highway with a view to superseding any part of a trunk road by the creation of a new route for through traffic, to make an order providing that on a date specified therein the route which was to supersede the part of the trunk road should become a trunk road), shall, if in force at the commencement of this Act, continue in force, and may be revoked or varied by a subsequent order made in the like manner and subject to the like provisions.

(2) The Second Schedule to this Act shall have effect as to the validity and date of operation of an order made under this paragraph.

(3) If an order made under the said subsection (3) and continued in force by sub-paragraph (1) of this paragraph, being an order which provides that on a date specified therein a route described therein shall become a trunk road, is revoked or varied by a subsequent order made at any time before the date on which the route is opened for the purposes of through traffic, the revoking or varying order shall not be deemed for the purposes of section two to be an order directing that a trunk road shall cease to be a trunk road.

24TH SCH.
—cont.

30.—(1) Notwithstanding the repeal of subsection (6) of section fourteen of the Special Roads Act, 1949, any order made before the eleventh day of May, nineteen hundred and forty-nine, under section four of the Trunk Roads Act, 1946 (which conferred on the Minister certain powers relating to side roads connected with trunk roads), shall, if in force at the commencement of this Act, continue in force, and the provisions of subsections (1) to (3) of the said section four shall apply thereto, as if that section had not been repealed.

(2) Subject to the provisions of the next following sub-paragraph, an order made under the said section four and continued in force by the foregoing sub-paragraph may be revoked or varied by a subsequent order made in the like manner and subject to the like provisions.

(3) Part I of the First Schedule to this Act shall have effect as to the making of an order under this paragraph as it has effect as to the making of an order under section nine; and the Second Schedule to this Act shall have effect as to the validity and date of operation of an order under this paragraph.

(4) Subsection (2) of section twenty-one shall apply to a highway for which a county council become the highway authority by virtue of an order made under the said section four or this paragraph as it applies to a highway for which such a council become the highway authority by virtue of section two.

(5) Section two hundred and twenty-eight shall apply in relation to a highway for which any council become the highway authority by virtue of an order made under the said section four or this paragraph as if it had previously been a trunk road.

PART XIII

GENERAL AND SUPPLEMENTARY PROVISIONS

31. In so far as any scheme, order, regulation, byelaw, agreement, requirement, application or apportionment made, resolution passed, charge conferred, authorisation granted, notice, direction, consent, approval, licence or certificate given, building line or improvement line prescribed, or other thing done under any enactment repealed or revoked by this Act could have been made, passed, conferred, granted, given, prescribed or done under a corresponding provision of this Act, it shall not be invalidated by the repeals and revocations effected by subsections (2), (3) and (4) of section three hundred and twelve but shall have effect as if made, passed, conferred, granted, given, prescribed or done under that corresponding provision.

32.—(1) Byelaws made under section thirteen of the Public Health Acts Amendment Act, 1890 (which authorises the councils of boroughs and urban districts to make byelaws for prevention of danger from posts, wires, tubes or other apparatus placed over, along or across a

street) which were in force immediately before the commencement of this Act shall continue in force but may at any time be revoked by the council by whom they were made.

24TH SCH.
—cont.

(2) Until any such byelaws are so revoked, the following enactments shall also continue to have effect in relation to them, that is to say, subsection (3) of the said section thirteen (which relates to offences against byelaws made under that section), section fourteen of the said Act (which relates to danger from objects exempted by the Minister from the operation of such byelaws) and section fifteen thereof (which relates to certain savings).

33. Any enactment relating to main roads, except in so far as it relates to main roads in the Isle of Wight, shall have effect as if for references therein to main roads there were substituted references to county roads.

34. Any enactment or document referring to a highway repairable by the inhabitants at large or a highway maintainable by the inhabitants at large shall be construed as referring to a highway which for the purposes of this Act is a highway maintainable at the public expense.

35. Any enactment or document referring to a surveyor of highways or a highway board shall be construed as referring to a highway authority.

36. References in any enactment to subsection (2) of section eleven of the Local Government Act, 1888, shall be construed as references to sections forty-five and two hundred and thirty-seven or to either of those sections, as the context may require:

Provided that this paragraph shall not have effect in relation to any enactment (including an enactment contained in this Act) in so far as it applies in the Isle of Wight.

37. For the purposes of the operation, in relation to a provision of this Act, of either of the following enactments, that is to say—

(a) subsection (4) of section thirteen of the Town and Country Planning Act, 1947 (which authorises the effect of enactments passed before the passing of that Act and instruments made under such enactments to be modified for certain purposes), and

(b) subsection (4) of section thirty-two of the Public Utilities Street Works Act, 1950 (which makes provision as to payments falling to be made under enactments passed before the passing of that Act and instruments made under or confirmed by such enactments),

the said provision of this Act shall be deemed to have passed on the date of the passing of the enactment which is re-enacted, with or without modifications, by that provision.

38. Any enactment or document referring to any enactment repealed by this Act shall, unless the context otherwise requires, be construed as referring or including a reference to the corresponding provision of this Act.

24TH SCH.
—*cont.*:

39. Where a period of time specified in any enactment repealed and re-enacted, with or without modifications, by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

40. Any reference in this Schedule to a numbered section shall, unless the reference is to a section of a specified Act, be construed as a reference to the section bearing that number in this Act.

TWENTY-FIFTH SCHEDULE

Section 312.

REPEALS

Session and Chapter	Title or Short Title	Extent of Repeal
22 Hen. 8. c. 5.	The Bridges Act, 1530 ...	The whole Act.
1 Anne c. 12...	The Bridges Act, 1702 ...	The whole Act.
12 Geo. 2. c. 29	The County Rates Act, 1738	The whole Act.
14 Geo. 2. c. 33	The Bridges Act, 1740 ...	The whole Act.
13 Geo. 3. c. 78.	An Act to explain, amend and reduce into one Act of Parliament the Statutes now in being for the Amendment and Preservation of the Public Highways within that part of Great Britain called England; and for other purposes.	The whole Act.
43 Geo. 3. c. 59	The Bridges Act, 1803 ...	The whole Act.
52 Geo. 3. c. 110	The Bridges Act, 1812 ...	The whole Act.
54 Geo. 3. c. 90	The Bridges Act, 1814 ...	The whole Act.
55 Geo. 3. c. 143	The Bridges Act, 1815 ...	The whole Act.
3 Geo. 4. c. 126	The Turnpike Roads Act, 1822.	Sections ninety-seven to one hundred and three, one hundred and eighteen and one hundred and twenty-four.
5 & 6 Will. 4. c. 50.	The Highway Act, 1835 ...	In section five, the words " or waywarden ", the definition of " parish ", the words from " and wherever anything " to " meeting in vestry ", the definitions of " church " and " inhabitant " and the words from " and all the powers " to the end. Sections nineteen to twenty-one. In section twenty-two, the words from the beginning to " therewith " and the words from " the said " to the end. Sections twenty-three to twenty-six. Sections thirty-five, forty-one, forty-five, forty-seven and forty-nine. Sections fifty-one to seventy. In section seventy-two, the words from " or shall cause " to " highway " where it last occurs. Sections seventy-three and seventy-five. In section seventy-eight, the words from " and every such driver " to the end.

25TH SCH.
—cont.

Session and Chapter	Title or Short Title	Extent of Repeal
5 & 6 Will. 4. c. 50—cont.	The Highway Act, 1835 —cont.	Sections seventy-nine to ninety-six. Section ninety-nine. In section one hundred and three, the words “and all balances due from a surveyor”.
4 & 5 Vict. c. 51.	The Highway Act, 1841 ...	Sections one hundred and eleven, one hundred and thirteen, one hundred and sixteen, one hundred and seventeen and one hundred and eighteen. The Schedule.
8 & 9 Vict. c. 118.	The Inclosure Act, 1845	The whole Act.
10 & 11 Vict. c. 34.	The Towns Improvement Clauses Act, 1847.	In section seventy-two, the words from “and shall apply” to the end.
23 & 24 Vict. c. 68.	The South Wales Highways Act, 1860.	Sections forty-eight and forty-nine. Sections sixty-six to seventy-four. In section seventy-five, the words “to passengers or”, the words from “shall immediately” to “passengers and” and the words “of putting up every such fence and”.
25 & 26 Vict. c. 61.	The Highway Act, 1862 ...	Sections seventy-nine to eighty-three. The whole Act.
27 & 28 Vict. c. 101.	The Highway Act, 1864 ...	The whole Act except sections one and forty-six. In section forty-six, the words from “and no justice” to the end.
28 & 29 Vict. c. 107.	The Annual Turnpike Acts Continuance Act, 1865.	The whole Act.
33 & 34 Vict. c. 73.	The Annual Turnpike Acts Continuance Act, 1870.	The whole Act.
33 & 34 Vict. c. 78.	The Tramways Act, 1870	In section four, the words from “or of the road authority” to “Highway Acts”.
35 & 36 Vict. c. 85.	The Annual Turnpike Acts Continuance Act, 1872.	In section thirteen, the words from “and in other cases” to the end.
38 & 39 Vict. c. 55.	The Public Health Act, 1875	Sections twenty-six, one hundred and forty-four, one hundred and forty-six and one hundred and forty-seven.

Session and Chapter	Title or Short Title	Extent of Repeal
38 & 39 Vict. c. 55— <i>cont.</i>	The Public Health Act, 1875— <i>cont.</i>	In section one hundred and forty-eight, the words "maintenance repair". Sections one hundred and forty-nine to one hundred and fifty-two, one hundred and fifty-four, one hundred and fifty-five, one hundred and fifty-seven and one hundred and fifty-eight. In section one hundred and sixty, paragraphs (2) to (4) and the words from "Notices" to the end. Sections two hundred and thirteen to two hundred and fifteen, two hundred and eighteen to two hundred and twenty-three, two hundred and twenty-five, two hundred and twenty-six, two hundred and thirty-two, two hundred and thirty-four, two hundred and forty, two hundred and forty-one, two hundred and fifty-six, two hundred and fifty-seven and two hundred and sixty-eight. In the Fourth Schedule, Form G. In the Fifth Schedule, so much of Part III as re-enacts 26 & 27 Vict. c. 17. s. 6.
40 & 41 Vict. c. 14.	The Evidence Act, 1877 ...	In section one, the words "the non-repair of any public highway or bridge or for".
41 & 42 Vict. c. 34.	The South Wales Highway Act Amendment Act, 1878.	The whole Act.
41 & 42 Vict. c. 77.	The Highways and Locomotives (Amendment) Act, 1878.	Part I except section twenty-six, and in section twenty-six paragraph (4). Section thirty-four. In section thirty-six, the words "this Act or". Section thirty-eight, except so far as it defines "the metropolis" and "person".
43 & 44 Vict. c. 5.	The County Bridges Loans Extension Act, 1880.	The whole Act.
44 & 45 Vict. c. 14.	The South Wales Bridges Act, 1881.	The whole Act.
45 & 46 Vict. c. 27.	The Highway Rate Assessment and Expenditure Act, 1882.	Section six.

25TH SCH.
—*cont.*

25TH SCH.
—cont.

Session and Chapter	Title or Short Title	Extent of Repeal
45 & 46 Vict. c. 50.	The Municipal Corporations Act, 1882.	Section one hundred and nineteen. In the Ninth Schedule, the references to the South Wales Highways Act, 1860, the Highway Act, 1862, and the Highways and Locomotives (Amendment) Act, 1878.
45 & 46 Vict. c. 52.	The Annual Turnpike Acts Continuance Act, 1882.	In section eight, the definition of "highway authority".
45 & 46 Vict. c. 67.	The South Wales Turnpike Roads Amendment Act, 1882.	The whole Act.
48 & 49 Vict. c. 13.	The Highway Act Amendment Act, 1885.	The whole Act.
51 & 52 Vict. c. 25.	The Railway and Canal Traffic Act, 1888.	In section sixteen, subsection (3). In section fifty-four, in subsection (3), the words "if other than a surveyor of highways".
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	In section three, paragraph (viii). Section six. In section eleven, subsections (1), (7), (9), (10) and (13) and in subsection (12) the words from the beginning to "council and". Sections twelve and thirteen. In section thirty-four, subsection (2). In section thirty-five, subsections (3) and (4). In section thirty-eight, paragraph (d) of subsection (2), and subsections (3) and (4). Section ninety-seven. In section one hundred, the definition of "highway authority".
51 & 52 Vict. c. 52.	The Public Health (Buildings in Streets) Act, 1888.	The whole Act.
53 & 54 Vict. c. 59.	The Public Health Acts Amendment Act, 1890.	In section seven, subsection (2). In section eleven, subsection (2). Sections thirteen, fourteen, fifteen, thirty-four, thirty-five, thirty-nine, forty-one and forty-three.
54 & 55 Vict. c. 63.	The Highways and Bridges Act, 1891.	The whole Act.
55 & 56 Vict. c. 57.	The Private Street Works Act, 1892.	The whole Act.
56 & 57 Vict. c. 32.	The Barbed Wire Act, 1893.	The whole Act.

Session and Chapter	Title or Short Title	Extent of Repeal
56 & 57 Vict. c. 73.	The Local Government Act, 1894.	In section eight, paragraph (g) of subsection (1) in so far as it applies to a highway within the meaning of the Highways Act, 1959. Section thirteen. In section sixteen, subsection (1) so far as regards functions of a rural district council which are functions under this Act, and the words in that subsection from "or that" to "manner". In section nineteen, in paragraph (8), the words from "with", where it first occurs, to "expense and". In section twenty-five, subsections (2) and (3). In section twenty-six, subsections (1), (4), (5) and (6). Section eighty-two.
7 Edw. 7. c. 53.	The Public Health Acts Amendment Act, 1907.	In section seven, subsection (2). Sections fifteen to twenty, twenty-two and twenty-eight to thirty. In section thirty-one the words from "is owing" to "passengers or". Sections thirty-two, thirty-three and ninety-five.
9 Edw. 7. c. 47.	The Development and Road Improvement Funds Act, 1909.	Part II. In section nineteen, in subsection (1), the words "or Part II" and the proviso.
9 & 10 Geo. 5. c. 50.	The Ministry of Transport Act, 1919.	Section ten.
10 & 11 Geo. 5. c. 72.	The Roads Act, 1920 ...	The First Schedule so far as it amends any enactment repealed by this Act.
14 & 15 Geo. 5. c. 34.	The London Traffic Act, 1924.	Sections four and five. Section eleven. In section sixteen, the definition of "undertakers".
15 & 16 Geo. 5. c. 18.	The Settled Land Act, 1925.	In section fifty-six, paragraph (e) of subsection (3).
15 & 16 Geo. 5. c. 24.	The Universities and College Estates Act, 1925.	In section sixteen, paragraph (e) of subsection (3).
15 & 16 Geo. 5. c. 49.	The Supreme Court of Judicature (Consolidation) Act, 1925.	In section twenty-nine, the words "non-repair or".
15 & 16 Geo. 5. c. 68.	The Roads Improvement Act, 1925.	The whole Act.

25TH SCH.
—cont.

25TH SCH.
—cont.

Session and Chapter	Title or Short Title	Extent of Repeal
15 & 16 Geo. 5. c. 71.	The Public Health Act, 1925.	<p>In section three, the proviso. Section thirteen. In section sixteen, in subsection (1), the words from “nor shall” to the end. Sections twenty-one to twenty-five and twenty-seven to thirty-five. Section seventy-seven. Sections eighty-one to eighty-four. The First Schedule. The Second Schedule except so far as it relates to sections seventeen to nineteen of that Act.</p>
15 & 16 Geo. 5. c. xiii.	The Isle of Wight Highways Act, 1925.	<p>In section two, the definition of “main road”. In section three, subsection (1), in subsection (2), the references to sections one hundred and forty-four, one hundred and fifty-five and two hundred and sixty-eight of the Public Health Act, 1875, and the Public Health (Buildings in Streets) Act, 1888, and subsections (3) and (4), except in so far as they relate to any enactment passed before the commencement of this Act and not repealed thereby. Sections four, nine, ten and eleven. In section twelve, paragraphs (2), (3) and (4). Sections thirteen, fourteen and fifteen. In section nineteen, subsection (1). Sections twenty and twenty-one.</p>
17 & 18 Geo. 5. c. 23.	The Crown Lands Act, 1927.	In section eleven, subsection (1B).
19 & 20 Geo. 5. c. 17.	The Local Government Act, 1929.	<p>Section twenty-nine. Section thirty except subsection (2) and except subsection (3) so far as it relates to functions under the enactments mentioned in Parts I and II of the First Schedule to that Act.</p>

Session and Chapter	Title or Short Title	Extent of Repeal
19 & 20 Geo. 5. c. 17— <i>cont.</i>	The Local Government Act, 1929— <i>cont.</i>	Section thirty - one except subsection (5) so far as it relates to functions under the enactment mentioned in Part V of the said First Schedule. Sections thirty-two to thirty-nine. Section one hundred and eighteen. In section one hundred and twenty-nine, subsection (2). In the First Schedule, Part I except so far as it relates to section one hundred and forty-eight of the Public Health Act, 1875, Parts II and V except so far as they relate to section forty of the Public Health Acts Amendment Act, 1890, and Parts III and IV. In the Tenth Schedule, paragraphs 2 and 10.
19 & 20 Geo. 5. c. 33.	The Bridges Act, 1929 ...	The whole Act.
20 & 21 Geo. 5. c. 43.	The Road Traffic Act, 1930	Sections fifty-one to fifty-six. In section fifty-seven, subsections (1) and (2). Section fifty-eight. In section one hundred and twenty-one, in subsection (2), the words from "other than the section" to "traffic".
22 & 23 Geo. 5. c. 45.	The Rights of Way Act, 1932.	The whole Act.
24 & 25 Geo. 5. c. 50.	The Road Traffic Act, 1934.	Section twenty-three. The Third Schedule, so far as it amends subsection (2) of section fifty-seven of the Road Traffic Act, 1930.
25 & 26 Geo. 5. c. 47.	The Restriction of Ribbon Development Act, 1935.	Sections four, thirteen, fourteen and eighteen. The Fourth Schedule.
1 Edw. 8. & 1 Geo. 6. c. 5.	The Trunk Roads Act, 1936	Sections one and two. In section three, in subsection (1), the words from "and any functions" to "local Act" and the remainder of that subsection so far as it relates to functions under any enactment repealed by this Act, subsection (2), so far as it relates to functions mentioned in Part II of the Third Schedule to that Act, and subsections (4) to (7).

25TH SCH.
—*cont.*

25TH SCH. —cont.	Session and Chapter	Title or Short Title	Extent of Repeal
1 Edw. 8 & 1 Geo. 6. c. 5. —cont.	The Trunk Roads Act, 1936 —cont.	<p>Sections four and five.</p> <p>In section six, subsections (1) to (4), (8) and (9) and in subsection (7) the words from the beginning to “subways) and ” and the word “respectively ”.</p> <p>Sections seven and eight.</p> <p>Sections ten and eleven.</p> <p>In section thirteen, in subsection (1), the definitions of “classified road”, “former highway authority”, “improvement”, “property”, and “statutory undertakers ”.</p> <p>The First Schedule.</p> <p>The Second Schedule except so far as it relates to sections forty-seven and forty-eight of the Road Traffic Act, 1930, and section thirty of the Road and Rail Traffic Act, 1933.</p> <p>In the Third Schedule, Part I except so far as it relates to section one hundred and forty-eight of the Public Health Act, 1875, section forty-six of the Road Traffic Act, 1930, and sections one and eighteen of the Road Traffic Act, 1934, Part II and Part III except so far as it relates to sections forty and forty-two of the Public Health Acts Amendment Act, 1890, and section fourteen of the Public Health Act, 1925.</p> <p>The Fourth and Fifth Schedules.</p>	
9 & 10 Geo. 6. c. 30.	The Trunk Roads Act, 1946	<p>Sections one and two.</p> <p>In section three, subsection (2).</p> <p>Sections five to ten.</p> <p>In section eleven, in subsection (1), the definitions of “the Act of 1935 ” and “swing bridge”, and subsection (2).</p> <p>In section twelve, subsection (3).</p> <p>Sections thirteen and sixteen.</p> <p>The First and Second Schedules.</p>	

Session and Chapter	Title or Short Title	Extent of Repeal
9 & 10 Geo. 6. c. 30.— <i>cont.</i>	The Trunk Roads Act, 1946 — <i>cont.</i>	The Third Schedule in so far as it amends any enactment repealed by this Act. The Fourth Schedule in so far as it relates to section five of, and the Fourth Schedule to, the Trunk Roads Act, 1936.
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act, 1946.	In section one, in paragraph (b) of subsection (1), the words from “under section eleven” to “1946, or”. The Fourth Schedule in so far as it amends any enactment repealed by this Act.
9 & 10 Geo. 6. c. 68.	The New Towns Act, 1946.	In section seven, subsection (2).
10 & 11 Geo. 6. c. 51.	The Town and Country Planning Act, 1947.	In section forty-seven, subsection (1). Section forty-eight.
11 & 12 Geo. 6. c. 26.	The Local Government Act, 1948.	Section one hundred and twenty-seven.
12, 13 & 14 Geo. 6. c. 32.	The Special Roads Act, 1949.	Sections one to eight. In section nine, subsections (1), (3) and (5). Sections ten and eleven. Sections thirteen to fifteen. In section sixteen, in subsection (1), the words “Subject to the provisions of the First Schedule to this Act” and the words from “for prescribing” where first occurring to “therewith) and”, and subsections (2) and (3). Section seventeen. In section eighteen, in subsection (1), the words “to make or confirm schemes or” and the words “or orders under section two thereof”, and subsection (2). In section nineteen, paragraph (b) of subsection (2). Section twenty. In section twenty-one, subsection (1), except so far as it defines “Minister”, “special road” and “use”. Section twenty-two except subsection (2). The Schedules.

25TH SCH.
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25TH SCH.
—cont.

Session and Chapter	Title or Short Title	Extent of Repeal
12, 13 & 14 Geo. 6. c. 97.	The National Parks and Access to the Countryside Act, 1949.	Sections thirty-nine to fifty, fifty-six and fifty-eight. In section ninety-nine, subsection (4). In section one hundred and one, in subsection (6), the words from "public" to "order or". In section one hundred and seven, in subsection (1), the words "under section forty-six thereof". In section one hundred and eight, paragraph (b) of subsection (1). Part I of the First Schedule so far as it relates to a public path order, a diversion order or an extinguishment order.
14 Geo. 6. c. 24.	The Highways (Provision of Cattle-Grids) Act, 1950.	The whole Act except section six and subsections (1) and (4) of section nineteen.
14 Geo. 6. c. 39.	The Public Utilities Street Works Act, 1950.	In section twenty-three, subsection (6). In section twenty-seven, subsections (2) and (3). Section twenty-eight. The Fifth Schedule so far as it amends section twenty of the Special Roads Act, 1949.
14 & 15 Geo. 6. c. 40.	The New Streets Act, 1951.	The whole Act.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 48.	The Costs in Criminal Cases Act, 1952.	In section sixteen, in subsection (3), the words "non-repair or".
1 & 2 Eliz. 2. c. 26.	The Local Government (Miscellaneous Provisions) Act, 1953.	Section nine.
4 & 5 Eliz. 2. c. 6.	The Miscellaneous Financial Provisions Act, 1955.	The First Schedule so far as it amends subsection (1) of section fifty-seven of the Road Traffic Act, 1930.
4 & 5 Eliz. 2. c. 20.	The Agriculture (Improvement of Roads) Act, 1955.	In section one, subsection (6).
4 & 5 Eliz. 2. c. 67.	The Road Traffic Act, 1956.	Section forty-five. In the Eighth Schedule, paragraph 5.
5 & 6 Eliz. 2. c. 33.	The New Streets Act, 1951 (Amendment) Act, 1957.	The whole Act.
5 & 6 Eliz. 2. c. 42.	The Parish Councils Act, 1957.	In section three, subsection (9).
5 & 6 Eliz. 2. c. 56.	The Housing Act, 1957 ...	In section one hundred and forty-seven, subsection (2).

TWENTY-SIXTH SCHEDULE

PROVISIONS OF TRUNK ROADS ACTS, 1936 AND 1946,
REPEALED AS RESPECTS LONDON*The Trunk Roads Act, 1936*
(1 Edw. 8 & 1 Geo. 6. c. 5.)

In section one, in subsection (1), the words from the beginning to "name and", and subsection (2).

Section two.

In section four, subsection (6).

The First Schedule.

In the Fourth Schedule, paragraphs 6 and 7, and paragraph 8 in so far as it relates to the definition of the expression "middle of the road".

The Trunk Roads Act, 1946
(9 & 10 Geo. 6. c. 30.)

Sections one and two.

In section three, subsection (2).

In section five, subsection (1).

Sections six and seven.

In section eight, in subsection (3), the words from "under", where it first occurs, to "of London".

Section nine.

In section ten, subsection (3).

In section eleven, in subsection (1), the definition of "swing bridge", and subsection (2).

In section twelve, subsection (3).

The First and Second Schedules.

The Third Schedule in so far as it amends subsection (6) of section four of, and the Fourth Schedule to, the Trunk Roads Act, 1936.

The Fourth Schedule in so far as it relates to section five of, and the Fourth Schedule to, the Trunk Roads Act, 1936.



Table of Statutes referred to in this Act

Short Title	Session and Chapter
Highway Act, 1835	5 & 6 Will. 4. c. 50.
Lands Clauses Consolidation Act, 1845 ...	8 & 9 Vict. c. 18.
Inclosure Act, 1845	8 & 9 Vict. c. 118.
Towns Improvement Clauses Act, 1847 ...	10 & 11 Vict. c. 34.
Metropolis Management Act, 1855	18 & 19 Vict. c. 120.
Metropolis Management Amendment Act, 1862	25 & 26 Vict. c. 102.
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Bank Holidays Act, 1871	34 & 35 Vict. c. 17.
Annual Turnpike Acts Continuance Act, 1872	35 & 36 Vict. c. 85.
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Local Loans Act, 1875	38 & 39 Vict. c. 83.
Commons Act, 1876	39 & 40 Vict. c. 56.
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Highways and Locomotives (Amendment) Act, 1878.	41 & 42 Vict. c. 77.
Annual Turnpike Acts Continuance Act, 1882	45 & 46 Vict. c. 52.
Railway and Canal Traffic Act, 1888	51 & 52 Vict. c. 25.
Local Government Act, 1888	51 & 52 Vict. c. 41.
Public Health (Buildings in Streets) Act, 1888...	51 & 52 Vict. c. 52.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Public Health Acts Amendment Act, 1890 ...	52 & 54 Vict. c. 59.
Military Lands Act, 1892	55 & 56 Vict. c. 43.
Private Street Works Act, 1892	55 & 56 Vict. c. 57.
Local Government Act, 1894	56 & 57 Vict. c. 73.
Building Societies Act, 1894	57 & 58 Vict. c. 47.
Public Works Loans Act, 1897	60 & 61 Vict. c. 51.
London Government Act, 1899	62 & 63 Vict. c. 14.
Public Health Acts Amendment Act, 1907 ...	7 Edw. 7. c. 53.
Development and Road Improvement Funds Act, 1909.	9 Edw. 7. c. 47.
Welsh Church Act, 1914	4 & 5 Geo. 5. c. 91.
Ministry of Transport Act, 1919	9 & 10 Geo. 5. c. 50.
Acquisition of Land (Assessment of Compensa- tion) Act, 1919.	9 & 10 Geo. 5. c. 57.
London Traffic Act, 1924	14 & 15 Geo. 5. c. 34.
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Law of Property Act, 1925	15 & 16 Geo. 5. c. 20.
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Universities and College Estates Act, 1925 ...	15 & 16 Geo. 5. c. 24.
Supreme Court of Judicature (Consolidation) Act, 1925.	15 & 16 Geo. 5. c. 49.
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Rights of Way Act, 1932	22 & 23 Geo. 5. c. 45.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
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Restriction of Ribbon Development Act, 1935	25 & 26 Geo. 5. c. 47.

Short Title	Session and Chapter
Public Health Act, 1936... ..	26 Geo. 5. & 1 Edw. 8. c. 49.
Public Health (London) Act, 1936	26 Geo. 5. & 1 Edw. 8. c. 50.
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Costs in Criminal Cases Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 48.
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Housing Repairs and Rents Act, 1954	2 & 3 Eliz. 2. c. 53.
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Agriculture (Improvement of Roads) Act, 1955	4 & 5 Eliz. 2. c. 20.
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Agriculture Act, 1957	5 & 6 Eliz. 2. c. 57.

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