



Highways Act 1971

CHAPTER 41

LONDON
HER MAJESTY'S STATIONERY OFFICE

Highways Act 1971

CHAPTER 41

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ELIZABETH II



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An Act to make further provision with respect to highways, streets and bridges in England and Wales, including provisions with respect to means of access to premises from highways, provisions amending section 49 of the Public Health Act 1961, provisions authorising the provision of picnic sites and public conveniences for the benefit of users of certain highways, provisions authorising the provision of facilities for purposes connected with the transport of goods by road, provisions amending the law about the recording of public rights of way, and related provisions amending the law of town and country planning. [1st July 1971]

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

PROVISIONS WITH RESPECT TO CONSTRUCTION, IMPROVEMENT, ETC., OF HIGHWAYS

Classified roads

- 1.—(1) Provision may be made by an order under this section for any of the following purposes, that is to say,—
- (a) for authorising the highway authority for a classified road, not being a special road,—
 - (i) to stop up, divert, improve, raise, lower or otherwise alter a highway that crosses or enters the route of the classified road or is or will be otherwise affected by the construction or improvement of the classified road;
 - (ii) to construct a new highway for purposes connected with any such alteration as aforesaid or for

Powers of local highway authorities as respects roads that cross or join classified roads.

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any other purpose connected with the classified 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 other highway authority as may be specified in the order, as from such date as may be so specified, a highway constructed by the highway authority in pursuance of the order or any previous order made under this section ;

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

(2) An order under this section shall be made by the highway authority for the classified road and confirmed by the Secretary of State.

(3) For the purpose of applying certain provisions of the principal Act to a highway to which an order under this section relates and to such an order the provisions of the principal Act specified in Part I of Schedule 1 to this Act shall have effect subject to the amendments set out in the said Part I.

(4) No order under this section authorising the stopping up of a highway shall be confirmed by the Secretary of State unless he 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 highway authority for the classified road 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 highway authority for the classified road by any other highway authority in respect of any liabilities so imposed on the first-mentioned authority, being liabilities which would otherwise have fallen to be discharged by that other authority ;

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

(6) In this section “classified road” means—

(a) a highway or proposed highway which for the time being is classified by the Secretary of State under section 27(2) of the Local Government Act 1966—

(i) as a principal road for the purposes of advances under section 235 of the principal Act ; or

(ii) as a classified road for the purposes of this section ; and

(b) a highway which for the time being is, or by virtue of section 27(4) of the said Act of 1966 is to be treated as, classified by the Secretary of State under section 27(2) of that Act as a classified road for the purposes of the principal Act or of enactments which include that Act.

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*Powers to stop up and provide access to premises
from highway*

2.—(1) Subject to subsection (2) below, where the highway authority for a highway consider that a private means of access from the highway to any premises is likely to cause danger to, or to interfere unreasonably with, traffic on the highway, they may be authorised by an order made by them in accordance with this section to stop up the means of access.

Power to stop up private access to premises causing danger etc. to traffic on highway.

(2) No order under this section relating to an access to any premises shall be made by the Secretary of State or, in the case of an order made by a local highway authority, confirmed either by the Secretary of State or by that authority unless the Secretary of State or, as the case may be, the confirming authority is or are satisfied—

- (a) that no access to the premises from the highway in question is reasonably required, or
- (b) that another reasonably convenient means of access to the premises is available or will be provided by the Secretary of State or, as the case may be, the local highway authority.

(3) Subject to subsection (4) below, the Secretary of State may make regulations for prescribing the procedure to be followed in connection with the making and confirmation of orders under this section, and such regulations shall in particular make provision—

- (a) for the publication in such manner as may be prescribed by the regulations of notice of the order proposed to be made or confirmed and for service on such persons as may be so prescribed of a copy of that notice and of such other documents, if any, as may be so prescribed ;
- (b) as to the content of that notice ;
- (c) for objections to the making or confirmation of the order received within such period as may be so prescribed and not withdrawn to be considered by the Secretary of State ; and
- (d) for the making of modifications in the order, whether in consequence of any objections or otherwise, before the order is made or confirmed.

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(4) In the case of an order made by a local highway authority under this section if no objection to the confirmation of the order is received within the period prescribed by regulations under subsection (3) above or if every such objection so received is withdrawn, the local highway authority may themselves confirm the order, but without modification.

Further powers of the Secretary of State and a local highway authority to stop up private access to premises. 1968 c. 72.

3.—(1) Subject to subsection (2) below, an order under section 9 of the principal Act (which empowers the Secretary of State to make an order for certain purposes connected with a trunk road), an order under section 91 of the Town and Country Planning Act 1968 (which empowers the Secretary of State by order to stop up or divert a highway that crosses, etc. the route of a main highway) and an order under section 1 of this Act may authorise the following authority, namely, in the case of an order under the said section 91, the highway authority for the main highway, and, in the other cases, the authority by whom the order is made—

(a) to stop up any private means of access to premises adjoining or adjacent to land comprised in the route of the trunk road, main highway or classified road, as the case may be, or forming the site of any works authorised by the order or by any previous order made under the same enactment;

(b) to provide a new means of access to any such premises.

(2) No order authorising the stopping up of a private means of access to premises by virtue of subsection (1)(a) above shall be made or confirmed by the Secretary of State unless he is satisfied—

(a) that no access to the premises is reasonably required, or

(b) that another reasonably convenient means of access to the premises is available or will be provided in pursuance of an order made by virtue of subsection (1)(b) above or otherwise.

(3) For the purpose of modifying Part I of Schedule 1 to the principal Act in its application to an order under section 9 of that Act or section 1 of this Act, where the order authorises the stopping up of a private means of access to any premises, the provision of the said Part I specified in Part II of Schedule 1 to this Act shall have effect subject to the amendment set out in the said Part II.

1962 c. 38.

(4) Section 154 of the Town and Country Planning Act 1962 (procedure for making certain orders) in its application to an order under section 91 of the Town and Country Planning Act 1968 which by virtue of subsection (1)(a) above authorises the

stopping up of a private means of access to premises shall have effect as if the persons on whom the Secretary of State is required by subsections (2) and (6) of section 154 to serve certain documents relating to the order included the owner and the occupier of those premises.

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In this subsection "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.

4.—(1) Where an order under section 9 of the principal Act, section 91 of the Town and Country Planning Act 1968 or section 1 of this Act, being an order made by virtue of section 3 of this Act, or an order under section 2 of this Act, authorises a highway authority to stop up a private means of access to any premises, then, notwithstanding anything in section 85(3) of the principal Act (which imposes certain restrictions on the power of a highway authority to erect fences or posts for the purpose of preventing access to a highway), that authority may stop up the access in any way which seems to them appropriate, but, if the order in question is an order under section 2 of this Act, not so as to obstruct any highway.

Provisions supplementary to ss. 2 and 3. 1968 c. 72.

(2) Where a private means of access to any premises has been stopped up in pursuance of any such order 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 compensation in respect of that damage from the highway authority who were authorised by the order to stop up the means of access.

(3) Where any person is entitled to compensation in respect of any matter under subsection (2) above, he shall not be entitled to recover compensation in respect of the same matter under any other enactment.

5. The highway authority for a highway may agree with the occupier of any premises and any other person having an interest therein that any private means of access to the premises from the highway shall be stopped up by that authority in any way which seems to them appropriate but not so as to obstruct any highway; and an agreement under this section may make provision for the payment by the highway authority to the other party of compensation in respect of the damage (if any) suffered by him in consequence of the stopping up of the means of access.

Stopping up private access to premises by agreement.

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Penalty for
using access
which has
been
stopped up.

6. Any person who uses an access which has been stopped up by virtue of section 2, 3 or 5 of this Act or section 18 of the principal Act other than a person exercising a public right of way shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Further
provisions
with respect to
new means
of access.

7.—(1) Without prejudice to their power to provide a new means of access to any premises when authorised to do so by an order made under any enactment, a highway authority—

(a) who by virtue of an order under section 2 of this Act or an agreement under section 5 thereof have stopped up a means of access to any premises or propose to do so; or

(b) who consider it necessary or expedient in connection with the construction, improvement or alteration of a highway to provide a new means of access to any premises,

may provide a new means of access to those premises from any highway or proposed highway, but if they are not the highway authority for that highway or, as the case may be, will not become the highway authority therefor on the completion of the construction thereof, only with the consent of the authority who are, or will become, the highway authority therefor.

(2) Where a private means of access to any premises is proposed to be stopped up by virtue of section 2 of this Act, section 3 thereof or section 18 of the principal Act and another means of access to those premises from a highway is available or is to be provided, then, in determining for the purposes of the said section 2 or 3 or the said section 18 whether that other means of access is, or, as the case may be, will be, reasonably convenient, the Secretary of State, or, in the case of an order under the said section 2 which a local highway authority are empowered to confirm, that authority, shall have regard to the need, if any, for a means of access from the highway to different places on those premises and to any roads, paths or other ways on those or other premises which are or will be capable of providing such a means.

(3) It is hereby declared for the avoidance of doubt that the provision of a new means of access to any premises from a highway under or by virtue of a provision of this Act or section 18 of the principal Act includes the provision of a road, path or other way on those or any other premises.

Power to
make advances
in connection
with provision
of new means
of access, etc.

8.—(1) The power of the Secretary of State under section 235 of the principal Act to make, with Treasury approval, advances to highway authorities shall include power to make such advances

in respect of expenses incurred by such an authority in connection with—

- (a) the stopping up of a private means of access to any premises in pursuance of an order made under section 9 or 13 of the principal Act, section 91 of the Town and Country Planning Act 1968, section 1 of this Act or section 2 thereof or in pursuance of an agreement made under section 5 of this Act ; and
- (b) the provision of a new means of access to any premises in pursuance of any such order or under section 7 of this Act.

(2) Subsection (3) of the said section 235 (which authorises the making of advances to a local highway authority in respect of expenses incurred by them in connection with a special road in stopping up a private means of access to premises or providing a new means of access thereto) shall cease to have effect.

9.—(1) After section 29 of the Road Traffic Regulation Act 1967 there shall be inserted the following section:—

“ Provision of access to premises through off-street parking place.

29A.—(1) Where it appears to a local authority in England and Wales who propose to provide, or have provided, an off-street parking place under section 28 of this Act—

- (a) that it would relieve or prevent congestion of traffic on a highway if use were made of the parking place to provide a means of access from the highway to premises adjoining, or abutting on, the parking place ; and
- (b) that it would be possible to provide such access and at the same time ensure that vehicles using the parking place to obtain access to the premises in question would while in the parking place proceed in the direction in which other vehicles using the parking place are to be or are required to proceed,

the authority may in accordance with the provisions of this section and sections 30 and 32 of this Act provide such a means of access.

(2) A local authority may adapt for use as, or for providing, a means of access under this section any off-street parking place provided by them under section 28 of this Act, any land acquired or appropriated by them for the purposes of this section or the said section 28 and, with the consent of the authority or person responsible for the maintenance of a road, any part of that road.

Provision of access to premises through off-street parking place. 1967 c. 76.

1968 c. 72.

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(3) A local authority who propose to provide, or have provided, a means of access to any premises under this section—

(a) may enter into an agreement with the occupier of the premises with respect to the use of the means of access and for the making by him of contributions towards the expenses incurred by the authority in providing the means of access ;

(b) may, for such consideration and on such terms and conditions as may be agreed, grant to the occupier of the premises or any other person having an interest therein a right of way over any part of the land comprised in the parking place, being the part which is to be used as the means of access, and such other rights, if any, incidental to, or connected with, the use of the means of access as they think it necessary or expedient to grant.

(4) Subject to the provisions of any agreement made by them under paragraph (a) of subsection (3) above and to any rights granted by them under paragraph (b) thereof, a local authority may stop up any means of access provided by them under this section.

(5) References in this section to a parking place include references to the means of entrance to and egress from the parking place.”

(2) In section 30 of the said Act of 1967 (which confers on local authorities power to acquire land for the purposes of sections 28 and 29(6)(a) thereof) for the words “and 29(6)(a)”, where they occur in subsections (1) and (3), there shall be substituted the words “29(6)(a) and 29A”.

(3) After subsection (1) of section 31 of the said Act of 1967 (which among other things empowers a local authority by whom a parking place has been provided under section 28 of the Act to make provision by order as to the use of the parking place) there shall be inserted the following subsection:—

“(1A) Where a local authority have under section 29A of this Act provided a means of access to any premises through an off-street parking place then, subject to sections 84A, 84B and 84C of this Act and to the provisions of any agreement made by that authority under subsection (3) of the said section 29A and to any rights

granted by them under that subsection, that authority may by an order under subsection (1) above make provision as to the use of the parking place as the means of access and in particular as to the vehicles or class of vehicles which may be entitled to use the means of access and as to the conditions on which the means of access may be used."

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(4) In section 32(5) of the said Act of 1967 (which authorises a local authority to contribute towards the expenses incurred by another authority in the exercise of their powers under certain sections of the Act) after the words "29(1)" there shall be inserted the words "29A".

Diversion of watercourses and construction of bridges over and tunnels under navigable waters

10.—(1) An order made under this section may authorise the highway authority by whom it is made to divert such part of any navigable watercourse as may be specified in the order if, in the opinion of the authority, the diversion of that part is necessary or desirable in connection with—

Power to divert navigable watercourses.

- (a) the construction, improvement or alteration of a highway ;
- (b) the provision of a new means of access to any premises from a highway ; or
- (c) the provision of a maintenance compound or, if that authority are a special road authority, of a service area.

(2) An order under this section authorising the diversion of a navigable watercourse shall—

- (a) if the authority proposing to divert the watercourse is the Secretary of State, be made by him ; and
- (b) if that authority are a local highway authority, be made by that authority and confirmed by the Secretary of State.

(3) Where by virtue of an order under this section a highway authority are authorised to divert any part of a navigable watercourse they may also divert any towing path or other way adjacent to that part.

11.—(1) An order under section 9 of the principal Act (side roads that cross or join trunk roads), section 13 thereof (supplementary orders relating to special roads) or section 1 of this Act may provide for the construction as part of a highway which is to be altered or constructed in pursuance of the order—

Further powers to construct bridges over and tunnels under navigable waters and to divert navigable watercourses.

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

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(b) of a tunnel under any such waters ;

and any such order which authorises the highway authority by whom it is made to provide a new means of access to any premises from a highway may also provide for the access to be provided by means of a bridge over any navigable waters specified in the order and for the construction of the bridge.

(2) An order or scheme under any of the following enactments, that is to say, sections 7, 9, 11, 13 and 20 of the principal Act, section 3 of the Act of 1961 and section 1 of this Act, being an order or scheme which provides for the construction of a bridge over or a tunnel under any navigable waters, may authorise the highway authority by whom the bridge or tunnel is to be constructed to divert such part of any navigable watercourse as may be specified in the order or scheme if, in the opinion of that authority, the diversion of that part is necessary or desirable for purposes connected with the bridge or tunnel, or its construction.

(3) An order under section 9 of the principal Act, section 13 thereof or section 1 of this Act may authorise the highway authority by whom the order is made to divert such part of any navigable watercourse as may be specified in the order if, in the opinion of that authority, the diversion of that part is necessary or desirable in connection with—

- (a) the construction or improvement of the trunk road, special road or classified road, as the case may be, to which the order relates ;
- (b) the construction or alteration of any other highway to which the order relates ;
- (c) the provision in pursuance of the order of a new means of access to any premises ; or
- (d) the provision of a maintenance compound in connection with the trunk road, special road or classified road, as the case may be, to which the order relates or, in the case of an order under the said section 13, the provision of a service area.

(4) Where by virtue of any order or scheme falling within subsection (2) or (3) above a highway authority are authorised to divert any part of a navigable watercourse they may also divert any towing path or other way adjacent to that part.

(5) Before making an order under section 9 or 13 of the principal Act, or confirming an order made under the said section 13 or section 1 of this Act, being an order which provides for the construction of a bridge over or a tunnel under any navigable waters, the Secretary of State shall take into consideration the reasonable requirements of navigation over the waters affected by the order.

(6) Any such order as is mentioned in subsection (5) above which provides for the construction of a bridge over any navigable waters 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 Secretary of State considers expedient for regulating its operation.

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(7) Any such order as is mentioned in subsection (5) above which provides for the construction of a tunnel under navigable waters 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.

12.—(1) For the purpose of—

Provisions
supplementary
to ss. 10 and 11.

- (a) applying Part I of Schedule 1 to the principal Act (procedure for making or confirming certain orders) to an order under section 10 of this Act; and
- (b) modifying the said Part I in its application to an order under section 7, section 9 or section 13 of the principal Act or section 1 of this Act, where the order provides for the construction of a bridge over or a tunnel under navigable waters or for the diversion of a navigable watercourse,

the provisions of the said Part I specified in Part III of Schedule 1 to this Act shall have effect subject to the amendments set out in the said Part III.

(2) If objection to an order proposed to be made under the said section 9 or the said section 13, or made under the said section 13 or the said section 1 and proposed to be confirmed, is duly made in accordance with the provisions of Schedule 1 to the principal Act by any navigation authority or river authority on whom notice is required to be served under paragraph 3 of that Schedule, on the ground that the bridge or tunnel for the construction of which the order provides 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, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.

(3) Where a navigable watercourse is to be diverted in pursuance of an order under section 10 of this Act or of any such order or scheme as falls within section 11(2) or (3) thereof, any new length of watercourse provided in pursuance of that order or scheme shall be such as will, or, but for any bridge

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or tunnel constructed over or under it in pursuance of any such order or scheme as falls within section 11(2), would, be navigable in a reasonably convenient manner by vessels of a kind which immediately before the date of the coming into operation of that order or scheme were accustomed to use that part of the watercourse which is to be replaced by the new length.

(4) Where works for the diversion of a watercourse have been carried out by a highway authority in accordance with any such order or scheme and any person has suffered damage in consequence thereof by the depreciation of any interest in any land to which he is entitled or by reason of the fact that his right of access to a watercourse has been extinguished or interfered with, then, unless the works were carried out on land, or in the exercise of rights, acquired compulsorily in the exercise of highway land acquisition powers, that person shall be entitled to recover from the highway authority compensation under this subsection in respect of that damage.

(5) It is hereby declared for the avoidance of doubt that in the principal Act, the Act of 1961 and this Act "navigable waters" and "navigable watercourse" means waters or a watercourse, as the case may be, over which a public right of navigation exists.

1962 c. 46.
1968 c. 73.

(6) Any waterway comprised in the undertaking of the British Waterways Board established under section 1 of the Transport Act 1962 which is for the time being specified in Part I or Part II of Schedule 12 to the Transport Act 1968 (commercial and cruising waterways) shall be deemed to be navigable waters and a navigable watercourse for the purposes of the Acts mentioned in subsection (5) above.

Power to divert non-navigable watercourses and to carry out other works on any watercourse.

13.—(1) Subject to the provisions of this section, a highway authority may divert any part of a watercourse, not being a navigable watercourse, or carry out any other works on any part of a watercourse, whether navigable or not, if, in the opinion of that authority, the carrying out of the works is necessary or desirable in connection with—

- (a) the construction, improvement or alteration of a highway ;
- (b) the provision of a new means of access to any premises from a highway ; or
- (c) the provision of a maintenance compound, a trunk road picnic area, a lorry area or a service area.

(2) This section shall not apply to any works which a highway authority are authorised to carry out by virtue of an order or scheme which has been made or confirmed in accordance with Schedule 1 to the principal Act.

(3) Before carrying out any works under this section, the highway authority shall consult every council in whose area the works are to be carried out. PART I

(4) A highway authority shall not be entitled by virtue of this section to interfere with any watercourse, or any drainage or other works, vested in or under the control of a navigation authority, or a river authority or other drainage authority within the meaning of the Land Drainage Act 1930, without the consent of that authority. 1930 c. 44.

A consent required for the purposes of this 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.

(5) Where works have been carried out by a highway authority under this section and any person has suffered damage in consequence thereof by the depreciation of any interest in any land to which he is entitled or by reason of the fact that his right of access to a watercourse has been extinguished or interfered with, then, unless the works were carried out on land, or in the exercise of rights, acquired compulsorily in the exercise of highway land acquisition powers, that person shall be entitled to recover from the highway authority compensation under this subsection in respect of that damage.

(6) Subject to subsection (8) below, a highway authority who propose to carry out any works under this section shall serve on the owner and the occupier of the land affected a notice stating their intention to carry out those works and describing them and informing him that he may within twenty-eight days after service of the notice on him by notice to the authority object to the proposed works.

(7) If within the said period of twenty-eight days the owner or occupier of the land affected objects to the proposed works and the objection is not withdrawn, then—

- (a) if the objection is to works proposed to be carried out by the Secretary of State, he shall consider the objection before carrying them out ; and
- (b) if the objection is to works proposed to be carried out by a local highway authority, they shall not carry them out without the consent of the Secretary of State who may grant such consent either unconditionally or subject to such terms and conditions as he thinks just.

(8) Subsections (6) and (7) above shall not have effect in relation to works which are to be carried out—

- (a) on land which has been acquired by the highway

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- authority in question, either compulsorily or by agreement in the exercise of highway land acquisition powers, for the purpose of carrying out those works, or
- (b) in the exercise of rights so acquired by that authority for that purpose.

Provisions relating to making, etc. of certain orders and schemes

Amendments
of procedure
for making
certain orders
and schemes.

14.—(1) The period—

- (a) during which by virtue of a provision of Schedule 1 to the principal Act (procedure for making or confirming certain orders and schemes) the draft of an order or scheme proposed to be made by the Secretary of State or an order or scheme made by a local highway authority as submitted to the Secretary of State, and any relevant map or plan, may be inspected at a place named in the notice required to be published in connection with the making or confirmation of the order or scheme, or
- (b) within which any person may by virtue of a provision of the said Schedule 1 object to the making or confirmation of such an order or scheme,

shall, instead of being a period of three months from the date of the publication of the notice, be a period specified in the notice, being a period of not less than six weeks from the said date.

(2) If, on or after publishing such a notice as is referred to in subsection (1) above in connection with the making or confirmation of an order or scheme, it appears to the Secretary of State or a local highway authority desirable to do so, he or they shall take such steps, in addition to those required by the said Schedule 1 to be taken, as will in his or their opinion secure that additional publicity is given in the area affected by the order or scheme to the proposals contained in it.

(3) Any person who objects to the making or confirmation of an order or scheme to which the said Schedule 1 applies shall include in the notice of objection a statement of the grounds of objection.

(4) If any notice of objection to the making or confirmation of an order or scheme to which the said Schedule 1 applies does not state the grounds of objection, the Secretary of State may disregard the objection.

(5) Where objections to the making or confirmation of an order or scheme to which the said Schedule 1 applies are to be the subject of a local inquiry, the Secretary of State may, by

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notice served on the persons making such objections or by the notice announcing the holding of the inquiry, direct that any person who intends at the inquiry to submit—

- (a) that any highway or proposed highway to which the order or scheme in question relates should follow an alternative route, or
- (b) that, instead of improving, diverting or altering a highway in accordance with the order in question, a new highway should be constructed on a particular route,

shall send to the Secretary of State within such period as may be specified in the notice, being a period of not less than fourteen days and ending not less than fourteen days before the date fixed for the holding of the inquiry, sufficient information about the alternative route or the route of the new highway, as the case may be, to enable it to be identified.

(6) Where the Secretary of State has given a direction under subsection (5) above in relation to an inquiry, the person holding the inquiry and the Secretary of State may disregard so much of any objection as consists of a submission to which the direction applies unless the person making the objection has complied with the direction.

(7) Proceedings required by Schedule 1 to the principal Act to be taken for the purposes of an order under section 9 of that Act relating to a trunk road or for the purposes of an order under section 13 thereof relating to a special road may be taken concurrently (so far as practicable) with proceedings required by the said Schedule 1 to be taken for the purposes of an order under section 7 of that Act, or, as the case may be, for the purposes of a scheme under section 11 thereof, relating to that road.

(8) Where—

- (a) proceedings required to be taken for the purposes of an order under section 9 of the principal Act relating to a trunk road are taken after the making by the Secretary of State of an order under section 7 of that Act relating to that road, or
- (b) proceedings required to be taken for the purposes of an order under section 13 of that Act relating to a special road are taken after the making or confirmation by the Secretary of State of a scheme under section 11 of that Act relating to that road,

the Secretary of State may disregard any objection to the order under the said section 9 or 13 which in his opinion amounts in substance to an objection to the order under the said section 7 or, as the case may be, to the scheme under the said section 11.

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(9) The provisions of Schedule 1 to the principal Act specified in Part IV of Schedule 1 to this Act shall have effect subject to the amendments set out in the said Part IV, being amendments designed to empower the Secretary of State or a local highway authority to extend the period within which the draft of an order or scheme, or an order or scheme, to which that Schedule applies may be inspected and within which persons may object to the making or confirmation of the order or scheme and amendments consequential on the provisions of this section.

(10) Section 284(2) of the principal Act (regulations for securing that proceedings required to be taken for the purposes of an order under section 9 or 13 of the Act may be taken concurrently with certain other proceedings) shall cease to have effect.

Amendments relating to the power to make or confirm certain orders and schemes.

15.—(1) The power conferred on the Secretary of State—

- (a) by paragraph 6 of Schedule 1 to the principal Act to make an order under section 7 (trunk roads), section 9 (side roads affected by trunk roads) or section 20 (construction as part of trunk or special road of bridge or tunnel) of that Act or to make or confirm an order under section 13 thereof (side roads affected by special roads), or
- (b) by the said paragraph 6 to confirm an order under section 1 of this Act or to make or confirm an order under section 10 thereof, or
- (c) by paragraph 10 of the said Schedule 1 to make or confirm a scheme under section 11 of the principal Act (special roads) or to confirm a scheme under section 3 of the Act of 1961 (construction as part of maintainable highway of bridge over or tunnel under navigable waters),

shall include power to make or confirm the order or scheme, as the case may be, so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as he thinks fit) while deferring consideration of the remaining part; and where the Secretary of State makes or confirms part of any such order or scheme, that part and the remaining part shall each be deemed for the purposes of the principal Act, the Act of 1961 and this Act to be a separate order or scheme.

(2) Where the Secretary of State in exercise of the power conferred on him by the said paragraph 6 or the said paragraph 10 proposes to make or confirm an order or scheme subject to modifications, and the modifications will in his opinion make a substantial change in that order or scheme, he shall notify any person who appears to him to be likely to be affected by the

proposed modifications and shall give that person an opportunity of making representations to him with respect thereto within such reasonable period as he may specify; and before exercising the power the Secretary of State shall consider any representations made to him with respect to the proposed modifications within that period.

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(3) An order under section 9 of the principal Act relating to a trunk road may come into operation on the same day as the order under section 7 of that Act relating to that road.

(4) An order under section 13 of the principal Act relating to a special road may come into operation on the same day as the scheme under section 11 of that Act relating to that road; and, accordingly, in subsection (1) of the said section 13 the words from the beginning to "operation" shall be omitted and in paragraph (a) of that subsection for the words from "as part" to "order" there shall be substituted the words "as from such date as may be specified in the order, as part of a special road the provision of which is authorised by a scheme under section 11 of this Act".

16. Schedule 2 to the principal Act (validity and date of operation of certain schemes and orders) shall apply to an order under section 1, section 2 or section 10 of this Act as it applies to any other order to which it applies, subject to the following modifications:—

Validity and date of operation of certain orders.

- (a) the notice of the making or confirmation of an order which is required by paragraph 1 to be published by the Secretary of State shall, if the order is one under the said section 2 which has been confirmed by a local highway authority, be published by that authority; and
- (b) the requirement made by the said paragraph 1 to publish such a notice in the London Gazette shall not apply to a notice of the making or confirmation of an order under the said section 2.

17.—(1) The Secretary of State shall make regulations for securing that the centre line of—

Centre line of certain highways to be indicated on map; limits of deviation from centre line.

- (a) a special road authorised by a scheme under section 11 of the principal Act;
- (b) a proposed highway directed by an order under section 7 of that Act to become a trunk road;
- (c) a new highway to be constructed in pursuance of an order under section 9 or 13 of that Act; or

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(d) a new highway to be constructed in pursuance of an order under section 1 of this Act,

shall be indicated on a map on such scale as may be prescribed by the regulations and for securing that any limits of deviation which apply in relation to the centre line of that road or highway or any part thereof by virtue of subsection (2) below are indicated or stated in such manner as may be prescribed by the regulations.

(2) Where any such scheme or order as is referred to in subsection (1) above so provides in relation to a road or highway to which it relates or any part thereof, being such a road or highway as is referred to in that subsection, the centre line of that road or highway or that part thereof, as the case may be, may deviate from the centre line as indicated on the map referred to in that subsection within such limits of deviation, not exceeding 55 yards on either side of the centre of that line, as may be specified in the scheme or order.

(3) Section 284(5) of the principal Act (which makes in relation to special roads provision to the like effect as subsection (1) above) shall cease to have effect.

Creation of footpaths in buildings by agreement

Agreements
for the
provision of
walkways.

18.—(1) A local highway authority may enter into an agreement with any person having an interest in any land on which a building is, or is proposed to be, situated, being a person who by virtue of that interest has the necessary power in that behalf,—

- (a) for the provision of ways over, through or under parts of the building, or the building when constructed, as the case may be, or parts of any structure attached, or to be attached, to the building; and
- (b) for the dedication by that person of those ways as footpaths subject to such limitations and conditions, if any, affecting the public right of way thereover as may be specified in the agreement and to any rights reserved by the agreement to that person and any person deriving title to the land under him.

A footpath created in pursuance of an agreement under this section is hereinafter referred to as a “walkway”.

- (2) An agreement under this section may make provision for—
 - (a) the maintenance, cleansing and drainage of any walkway to which the agreement relates;
 - (b) the lighting of such walkway and of that part of the building or structure which will be over or above it;

- (c) the provision and maintenance of support for such walkway ; PART I
- (d) entitling the local highway authority to enter on any building or structure in which such walkway will be situated and to execute any works necessary to secure the performance of any obligation which any person is for the time being liable to perform by virtue of the agreement or of subsection (3) of this section ;
- (e) the making of payments by the local highway authority to any person having an interest in the land or building affected by the agreement ;
- (f) the termination, in such manner and subject to such conditions as may be specified in the agreement, of the right of the public to use such walkway ;
- (g) any incidental and consequential matters.

(3) Subject to subsection (4) below, any covenant (whether positive or restrictive) contained in an agreement under this section and entered into by a person having an interest in any land affected by the agreement shall be binding upon persons deriving title to the land under the covenantor to the same extent as it is binding upon the covenantor notwithstanding that it would not have been binding upon those persons apart from the provisions of this subsection, and shall be enforceable by the local highway authority against those persons.

(4) A covenant contained in an agreement under this section shall not be enforceable by virtue of subsection (3) above against a purchaser for money or money's worth of a legal estate in any land affected by the agreement unless before the completion of the purchase the agreement has been registered in the prescribed manner in the register of local land charges of the local authority in whose area the land is situated.

The power conferred by section 15(6) of the Land Charges 1925 c. 22. Act 1925 to make rules for giving effect to the provisions of that subsection shall be exercisable for giving effect to this subsection ; and in this subsection "prescribed" means prescribed by rules made in the exercise of that power and "purchaser" has the same meaning as in that Act.

(5) A local highway authority by whom an agreement under this section has been made may make byelaws regulating—

- (a) the conduct of persons using any walkway to which the agreement relates ;
- (b) the times at which any such walkway may be closed to the public ;
- (c) the placing or retention of anything (including any structure or projection) in, on or over any such walkway.

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(6) Not less than two months before they propose to make byelaws under subsection (5) above a local highway authority shall display in a conspicuous position on or adjacent to the walkway in question notice of their intention to make such byelaws, and the notice shall specify the place where a copy of the proposed byelaws may be inspected and the period, being a period of not less than six weeks from the date on which the notice was first displayed as aforesaid, within which representations may be made to the local highway authority, and that authority shall consider any representations made to them within that period.

1933 c. 51.

(7) The Minister of the Crown having power by virtue of section 250 of the Local Government Act 1933 to confirm byelaws made under subsection (5) above shall have power to confirm them with or without modifications; and if he proposes to confirm the byelaws with modifications he may, before confirming them, direct the local highway authority by whom the byelaws were made to give notice of the proposed modifications to such persons and in such manner as may be specified in the direction.

(8) Subject to subsection (9) below, the Secretary of State, after consulting such representative organisations as he thinks fit, may make regulations—

- (a) for preventing any enactment or instrument relating to highways or to things done on or in connection with highways from applying to walkways which have been, or are to be, created in pursuance of agreements under this section or to things done on or in connection with such walkways;
- (b) for amending, modifying or adapting any such enactment or instrument in its application to such walkways;
- (c) without prejudice to the generality of paragraphs (a) and (b) above, for excluding, restricting or regulating the rights of statutory undertakers, sewerage authorities and the Post Office to place and maintain apparatus in, under, over, along or across such walkways;
- (d) without prejudice as aforesaid, for defining the circumstances and manner in which such walkways may be closed periodically or temporarily or stopped up and for prescribing the procedure to be followed before such a walkway is stopped up.

(9) Regulations under this section shall not exclude the rights of statutory undertakers, sewerage authorities or the Post Office to place and maintain apparatus in, under, along or across any part of a walkway, being a part which is not supported by any structure.

(10) Without prejudice to subsection (9) above, regulations under this section may make different provisions for different classes of walkways and may include such incidental, supplemental and consequential provisions (and, in particular, provisions relating to walkways provided in pursuance of agreements made before the coming into operation of the regulations) as appear to the Secretary of State to be expedient for the purposes of the regulations.

(11) Nothing in this section shall be taken as affecting any other enactment by virtue of which highways may be created.

Provisions relating to improvement of highways

19.—(1) After subsection (2) of section 67 of the principal Act (which requires highway authorities to provide footways in certain highways and empowers them to provide raised pavings and other works therein for safety purposes) there shall be inserted the following subsection:—

“ (2A) A highway authority may provide and maintain in a highway maintainable at the public expense by them, being a footpath, such barriers, rails or fences as they think necessary for the purpose of safeguarding persons using the highway.”

(2) After subsection (3) of the said section 67 there shall be inserted the following subsection:—

“ (3A) The power conferred by subsection (2A) of this section, and the power to alter or remove any works provided under the said subsection (2A), shall not be exercised so as to obstruct any private access to any premises or interfere with the carrying out of agricultural operations.”

(3) In subsections (4), (5) and (6) of the said section 67 (which provide that the powers of a highway authority under subsection (2) of that section may be exercised by certain councils and require the payment of compensation for damage sustained by reason of the execution of works under the said subsection (2)) after the words “ subsection (2) ”, in each place where they occur, there shall be inserted the words “ or (2A) ”.

(4) In paragraph (c) of the proviso to section 64(2) of the principal Act (which provides that works of the descriptions specified in the proviso shall be carried out only under the powers specifically conferred by other provisions of Part V of that Act and not under that section) after the word “ walls ” there shall be inserted the word “ barriers ”.

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Footbridges
over highways.

20. After section 69 of the principal Act there shall be inserted the following section:—

“Foot-
bridges
over
highways.

69A.—(1) Without prejudice to any other powers of theirs to construct or reconstruct bridges, the highway authority for any highway may, for the purpose of protecting traffic along the highway from danger, or of making the crossing of it less dangerous to, or easier for, pedestrians, construct, light and maintain a bridge over the highway for the use of pedestrians, and may alter or remove any such bridge and may close it temporarily.

(2) A bridge constructed under this section may form part of a bridge constructed for the use of vehicles or of a bridge providing a way from premises on one side of a highway to premises on the other or a means of access from a highway to any premises.

(3) The supports of, and approaches to, a bridge constructed under this section may be situated—

(a) in the highway over which the bridge is to be constructed; or

(b) subject to subsection (4) below, in any other highway that crosses or enters the route of the first-mentioned highway.

(4) The supports of, or approaches to, a bridge to be constructed under this section shall not be constructed in such a highway as is mentioned in subsection (3)(b) above unless the highway authority by whom the bridge is to be constructed are the highway authority for that highway or the highway authority therefor have given their consent.

(5) Where any bridge proposed to be constructed under this section by a highway authority will provide or improve an access to a highway from any street vested in some other highway authority or any other premises, the highway authority may enter into agreements with that other authority or any person having an interest in those premises—

(a) for the making by the other party to the agreement of contributions towards the expenses to be incurred by the highway authority in constructing, lighting and maintaining the bridge;

(b) with respect to the use of the bridge and its maintenance.

(6) A highway authority shall pay compensation to any person who has sustained damage by reason

of the execution by them under this section of works in or over a highway.” PART I

21. In subsection (2) of section 100 of the principal Act (which empowers a highway authority to agree with the owners of a bridge which carries a highway consisting of or comprising a carriageway over a railway, canal, river, etc. for, among other matters, the payment by the authority of contributions towards the cost of the reconstruction, improvement or maintenance of the bridge or for the transfer to the authority of the responsibility for the improvement and maintenance of the highway carried by the bridge or of the property in the bridge) the words “consisting of or comprising a carriageway” shall be omitted and after the word “railway” there shall be inserted the words “or highway”.

Extension of s. 100 of principal Act.

22.—(1) Section 103 of the principal Act (drainage of highways) shall be amended in accordance with subsections (2) to (9) below; and in accordance with those subsections, that section shall have effect as it is set out in Schedule 2 to this Act.

Extension of powers relating to drainage of highways.

(2) In subsection (1)—

- (a) for the words from “ditches” to “pipes” in paragraph (a), and for the words from “ditches” to “water-courses” in paragraph (c), there shall be substituted the word “drains”; and
- (b) for the words from “ditch” to “pipe” in paragraph (b) there shall be substituted the word “drain”.

(3) After subsection (1) there shall be inserted the following subsection:—

“(1A) Where under subsection (1) of this section a drain has been constructed or laid, or barriers have been erected, for the purpose of draining surface water from a highway or, as the case may be, diverting it into an existing drain, the water may be discharged into or through that drain and into any inland waters, whether natural or artificial, or any tidal waters.”

(4) In subsection (2)—

- (a) the words “not being waste or common land” shall be omitted; and
- (b) for the words “their powers under the foregoing subsection” there shall be substituted the words “any power under subsection (1) or (1A) of this section”.

(5) In subsection (3) for the words from “ditch” to “pipe” there shall be substituted the word “drain”.

(6) In subsection (4) for the words from the beginning to “trunk road” there shall be substituted the words “Without

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prejudice to their powers under the foregoing provisions of this section, a highway authority may, for the purpose of the drainage of a highway or proposed highway for which they are, or, as the case may be, will be, the highway authority”.

(7) After subsection (4) there shall be inserted the following subsection:—

1936 c. 49. “ (4A) Before a local highway authority, being a county council, exercise any powers under the Public Health Act 1936 by virtue of subsection (4) of this section, they shall give notice of their intention to do so to the council of the county district within whose area the powers are proposed to be exercised.”

(8) In subsection (5) for the words “ subsection (1) ”, where first occurring, there shall be substituted the words “ subsections (1) and (1A) ” and after those words, where last occurring, there shall be inserted the words “ or (1A) ”.

(9) In subsection (6) after the word “ section ” there shall be inserted the words “ —

‘ drain ’ includes a ditch, gutter, watercourse, soak-away, bridge, culvert, tunnel and pipe ; and ”.

(10) Where in land, or in the exercise of rights, acquired by a highway authority in the exercise of highway land acquisition powers any drain or other work has been constructed or laid for the purpose of draining surface water from a highway, proposed highway, maintenance compound, trunk road picnic area, lorry area or service area, the water may be discharged into or through that work and into any inland waters, whether natural or artificial, or any tidal waters.

(11) Subsection (2) of the said section 103 shall have effect as if the reference to subsection (1A) of that section included a reference to subsection (10) above.

1930 c. 44. (12) Neither a highway authority nor any other person shall be entitled by virtue of the said section 103 or subsection (10) above to use or interfere with any watercourse, or any drainage or other works, vested in or under the control of a navigation authority, or a river authority or other drainage authority within the meaning of the Land Drainage Act 1930, without the consent of that authority.

A consent required for the purposes of this 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.

(13) The provisions of the said section 103 and of sub-section (10) above are without prejudice to the provisions of any enactment the purpose of which is to protect water against pollution.

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23.—(1) After section 103 of the principal Act there shall be inserted the following section:—

“ Provision of works for protecting highways against hazards of nature. 103A.—(1) The highway authority for a highway maintainable at the public expense may provide and maintain such barriers or other works as they consider necessary for the purpose of affording to the highway protection against snow, flood, landslide or other hazards of nature ; and those works may be provided on the highway or on land which, or rights over which, has or have been acquired by the highway authority in the exercise of highway land acquisition powers for that purpose.

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

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

(4) If a person, without lawful authority or excuse, wilfully damages any works provided by a highway authority under this section he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding £20 or, in the case of a second or subsequent offence, to a fine not exceeding £50.”

(2) At the end of the proviso to section 64(2) of the principal Act (which provides that works of the descriptions specified in the proviso shall be carried out only under the powers specifically conferred by other provisions of Part V of that Act and not under that section) there shall be added the following paragraph:—

“(h) the provision of barriers or other works for the purpose of affording to a highway protection against hazards of nature.”

24.—(1) Where, in pursuance of an order under section 9 or 13 of the principal Act or of an order under section 1 of this Act, the Secretary of State, a special road authority or a local highway authority, as the case may be, execute works in, or with respect to, a highway, being works which the highway authority for that highway have power to execute under Part V of the principal Act, the Secretary of State, the special road authority

Compensation payable for damage caused by execution of certain works.

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(2) Where any person is entitled to compensation in respect of any matter under section 18(2) of the principal Act (compensation where access to premises is stopped up in pursuance of order under section 13 of the Act or is limited by virtue of certain restrictions) he shall not be entitled to recover compensation in respect of the same matter under any other enactment.

Use by local authorities of vehicles and appliances on footpaths and bridleways.
1961 c. 64.

25.—(1) In section 49(1) of the Public Health Act 1961 (which authorises the use by local authorities of vehicles and appliances on footpaths and bridleways for cleansing and maintaining them) for the words “or maintaining” there shall be substituted the words “maintaining or improving”, and at the end of that subsection there shall be added the words “or for maintaining or altering structures or other works situated therein”.

(2) Regulations made under section 49(2) of the said Act of 1961 (regulations prescribing the conditions under which the rights conferred by that section may be exercised) and in force immediately before the coming into operation of this section shall have effect in relation to the rights conferred by that section, as amended by this section.

Provision of picnic sites and public conveniences for users of certain highways

Provision of picnic sites and public conveniences for users of trunk roads.

26.—(1) The Secretary of State shall have power to provide on land adjoining, or in the vicinity of, a trunk road, not being a special road, a picnic site for motorists and others likely to use the road with space for parking vehicles and a means of access to and from a highway.

(2) The Secretary of State shall have power to erect buildings and execute works on a trunk road picnic area for the purpose of providing all or any of the following, that is to say—

- (a) parking places for vehicles,
- (b) a means of access to or from the area from or to a highway,
- (c) public sanitary conveniences, and
- (d) facilities for the provision and consumption of meals and refreshments,

and power to equip buildings erected by him under this subsection with such furniture and apparatus as may be necessary for the purpose of providing such conveniences or facilities.

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(3) The Secretary of State shall have power to manage a trunk road picnic area, but shall not have power to provide meals or refreshments on such an area.

(4) The Secretary of State shall have power to make arrangements with some other person, not being a council,—

(a) for such conveniences or facilities as are referred to in subsection (2) above to be provided by that other person ; or

(b) for meals or refreshments to be provided on the trunk road picnic area by that other person ;

and the powers of the Secretary of State under this subsection include power to lease the trunk road picnic area or any part thereof to that other person.

(5) The Secretary of State shall have power to provide public sanitary conveniences in proper and convenient situations on or under land forming part of a trunk road, not being a special road, or adjoining, or in the vicinity of, such a road and power to manage such conveniences.

(6) The Secretary of State shall pay compensation to any person who has sustained damage by reason of the execution by him under this section of any works on or under a trunk road.

(7) The council of a county, county borough or county district, the Greater London Council, the council of a London borough or the Common Council may contribute towards any expenses incurred by the Secretary of State under this section.

(8) Nothing in section 88 of the Public Health Act 1936 1936 c. 49. (restriction on erection of public sanitary conveniences in, or accessible from, streets) shall affect the powers of the Secretary of State under this section.

(9) In this section “sanitary conveniences” includes lavatories.

27.—(1) The Secretary of State may by agreement with a local authority delegate to that authority all or any of his functions with respect to the management of a trunk road picnic area or with respect to the management of public sanitary conveniences provided by him under section 26(5) of this Act.

(2) Section 10(2) and (3) of the principal Act (discharge of functions delegated by Secretary of State to council and termination of delegation) shall apply in relation to functions delegated, and a delegation, to a local authority under subsection (1) above as they apply in relation to functions delegated, and a delegation, to a council under subsection (1) of that section.

PART I (3) The Secretary of State may enter into agreements with a local authority—

- (a) for the provision by that authority on a trunk road picnic area of a picnic site for motorists and others likely to use the road ;
- (b) for the doing by that authority of anything which he has power to do on that area under subsection (2) or (3) of section 26 of this Act ; or
- (c) for the discharge by that authority of all or any of his functions under subsection (5) of that section,

so, however, that the said section 10(2) shall apply to the discharge of the functions of a local authority under any such agreement and to the conditions to be included in any such agreement as it applies to the discharge of functions delegated under that section to a council and to the conditions to be attached to any such delegation.

(4) Plant and materials belonging to a local authority to whom functions are delegated under subsection (1) above or with whom an agreement is made under subsection (3) above may be used by them for the purposes of those functions or of that agreement, subject to the terms of the delegation or agreement.

(5) Where any functions of the Secretary of State as respects a trunk road picnic area stand delegated to a local authority under subsection (1) above, or are functions of a local authority by virtue of an agreement made under subsection (3) above, then, except in so far as any conditions attached to the delegation or included in the agreement, as the case may be, otherwise provide—

- (a) subsections (1) and (3) to (7) of section 41 of the Countryside Act 1968 (power of local authority to make byelaws as respects certain land) shall apply in relation to that area as if it were a picnic site provided by that authority under section 10 of that Act ;
- (b) subsections (8) and (9) of the said section 41 (appointment of wardens) shall have effect as if references therein to that section included references to that section as applied by this subsection ;
- (c) section 43 of that Act (provisions as to local authority powers), except subsection (4), shall have effect as if facilities or services provided by the local authority in exercise of powers exercisable by them by virtue of that delegation or agreement, as the case may be, were provided by them under that Act and as if any power so exercisable were a power under that Act ; and

1968 c. 41.

(d) that authority may arrange with some other person, not being a council, for the provision by that other person of meals or refreshments on the trunk road picnic area.

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(6) Where any functions of the Secretary of State with respect to the management or provision of public sanitary conveniences stand delegated to a local authority under subsection (1) above, or are functions of a local authority by virtue of an agreement made under subsection (3) above, that authority may make byelaws as to the conduct of persons using or entering those conveniences.

(7) In this section "local authority" means the council of a county, the council of a county borough, the council of a county district, the Greater London Council, the council of a London borough or the Common Council.

28.—(1) Without prejudice to section 87 of the Public Health Act 1936 (provision of public conveniences by local authorities), a local highway authority, being a county council, shall have power to provide public sanitary conveniences (including lavatories) in proper and convenient situations on or under land adjoining, or in the vicinity of, a highway or proposed highway for which they are, or, as the case may be, will be, the highway authority and power to manage such conveniences.

Provision of public conveniences for users of county roads. 1936 c. 49.

(2) Before providing any such conveniences in exercise of the power conferred by subsection (1) above a county council shall give notice of their intention to do so to the council of the county district in which the conveniences will be situated.

(3) A county council who, in exercise of the power conferred by subsection (1) above, provide such conveniences may make byelaws as to the conduct of persons using or entering them.

(4) Nothing in section 88 of the said Act of 1936 (restriction on erection of public sanitary conveniences in, or accessible from, streets) shall affect the powers of a county council under this section.

29. The power of the Secretary of State under section 235 of the principal Act to make, with Treasury approval, advances to highway authorities shall include power to make such advances in respect of expenses incurred by such an authority in connection with the provision of public sanitary conveniences on or under land forming part of, or adjoining, or in the vicinity of, a highway or proposed highway.

PART I
Provision
of areas for
parking
heavy goods
vehicles, etc.

Provision of areas for parking heavy goods vehicles, etc.

30.—(1) A highway authority shall have power to provide on land adjoining, or in the vicinity of, a highway or proposed highway for which they are, or, as the case may be, will be, the highway authority an area, which may be used for all or any of the following purposes, that is to say—

- (a) the parking of heavy goods vehicles ;
- (b) the transfer of goods to or from any such vehicle from or to any other vehicle ; and
- (c) the temporary storage of goods which have been or are to be carried or hauled by heavy goods vehicles.

An area provided under this section is in this Act referred to as a “ lorry area ”.

(2) For the purpose of enabling a lorry area to be used as mentioned in subsection (1) above, the highway authority by whom the area is provided shall have power to erect buildings and execute works on the area for the purpose of providing all or any of the following, that is to say—

- (a) parking places for heavy goods vehicles and, if the lorry area is to be used for either or both of the purposes mentioned in subsection (1)(b) and (c) above, parking places for other vehicles which will be on the area in connection with that purpose or those purposes ;
- (b) a means of access to or from the area from or to a highway ;
- (c) facilities for the accommodation of persons who will be on the lorry area in connection with any purpose for which the area may be used in pursuance of subsection (1) above or with the provision on the area of any such facilities as are mentioned in this subsection ;
- (d) facilities for the provision of meals and refreshments for such persons as are mentioned in paragraph (c) above ;
- (e) facilities for handling and storing goods which have been or are to be carried or hauled by heavy goods vehicles ;
- (f) service station facilities for such vehicles and for other vehicles entitled to be on the lorry area ;
- (g) sanitary conveniences (including lavatories) for such persons as are mentioned in paragraph (c) above ;

and power to instal or provide in buildings erected by them under this subsection or elsewhere on the lorry area such equipment, furniture and apparatus as may be necessary for the purpose of providing such facilities or conveniences.

(3) A highway authority shall have power to make arrangements with some other person, not being a council, for anything which that authority have power to do under subsection (2)

above to be done by that other person and power to lease the lorry area or any part thereof to that other person, but shall not themselves have power to operate any such facilities as are mentioned in paragraphs (c), (d), (e) and (f) of that subsection.

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(4) Where a lorry area is provided by the Secretary of State under this section he may enter into agreements with a local authority for the exercise by that authority of all or any of his powers under subsection (2) above or of the powers conferred on him in his capacity as a highway authority by virtue of subsection (5) below, so, however, that section 10(2) of the principal Act (discharge of functions delegated by the Secretary of State to a council) shall apply to the exercise of the powers of a local authority under any such agreement and to the conditions to be included in any such agreement as it applies to the discharge of functions delegated under that section to a council and to the conditions to be attached to any such delegation.

(5) Section 31 of the Road Traffic Regulation Act 1967 1967 c. 76. (power to make orders as to use of certain parking places) shall apply in relation to a lorry area as it applies in relation to an off-street parking place provided under section 28 of that Act as if for references to a local authority and such a parking place there were substituted references to a highway authority and a lorry area respectively, and sections 84A, 84B, 84C, 84D and 85 of that Act (provisions with respect to certain orders and offences, including orders and offences under the said section 31) shall have effect as if—

- (a) references therein to the said section 31 and a local authority included references to that section as applied by this subsection and a local highway authority respectively ;
- (b) references in section 84D to a parking place included references to a lorry area ; and
- (c) the reference in section 85(2) to the local authority for the parking place included a reference to the highway authority by whom the lorry area was provided.

(6) The power of the Secretary of State under section 235 of the principal Act to make, with Treasury approval, advances to a highway authority shall include power to make such advances in respect of expenses incurred by such an authority in connection with the provision of a lorry area or in the exercise of any other power under this section.

(7) A local authority may contribute towards any expenses incurred by the Secretary of State under this section.

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(8) In this section—

“ goods ” includes goods or burden of any description ;

“ heavy goods vehicle ” means a motor vehicle constructed or adapted for use for the carriage or haulage of goods, being a vehicle having an unladen weight of two tons or more, or a trailer ;

“ local authority ” has the same meaning as in section 27 of this Act ;

1960 c. 16.

“ motor vehicle ” has the same meaning as in the Road Traffic Act 1960 ;

“ trailer ” means a vehicle constructed or adapted for use for the carriage of goods and drawn or intended to be drawn by a motor vehicle.

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LAWFUL AND UNLAWFUL INTERFERENCE WITH HIGHWAYS AND STREETS

*Obstruction of highways and streets*Control of
builders' skips.**31.**—(1) A builder's skip shall not be deposited on a highway without the permission of the highway authority for the highway.

(2) A permission under this section shall be a permission for the person to whom it is granted to deposit, or cause to be deposited, a skip on the highway specified in the permission, and a highway authority may grant such permission either unconditionally or subject to such conditions as may be specified in the permission including, in particular, conditions relating to—

(a) the siting of the skip ;

(b) its dimensions ;

(c) the manner in which it is to be coated with paint and other material for the purpose of making it immediately visible to oncoming traffic ;

(d) the care and disposal of its contents ;

(e) the manner in which it is to be lighted or guarded ;

(f) its removal at the end of the period of permission.

(3) If a builder's skip is deposited on a highway without a permission granted under this section, the owner of the skip shall, subject to subsection (6) below, be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(4) Where a builder's skip has been deposited on a highway in accordance with a permission granted under this section, the owner of the skip shall secure—

(a) that the skip is properly lighted during the hours of darkness ;

- (b) that the skip is clearly and indelibly marked with the owner's name and with his telephone number or address ;
- (c) that the skip is removed as soon as practicable after it has been filled ;
- (d) that each of the conditions subject to which that permission was granted is complied with ;

and, if he fails to do so, he shall, subject to subsection (6) below, be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(5) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(6) In any proceedings for an offence under this section it shall, subject to subsection (7) below, be a defence for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(7) A person charged with an offence under this section shall not, without leave of the court, be entitled to rely on the defence provided by subsection (6) above unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(8) Where any person is charged with an offence under any other enactment for failing to secure that a builder's skip which has been deposited on a highway in accordance with a permission granted under this section was properly lighted during the hours of darkness, it shall be a defence for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(9) Where a person is charged with obstructing, or interrupting any user of, a highway by depositing a builder's skip thereon, it shall be a defence for the person charged to prove that the skip was deposited thereon in accordance with a permission granted under this section and either—

- (a) that each of the requirements of subsection (4) above had been complied with ; or

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(b) that the commission of any offence under that subsection was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(10) Nothing in this section shall be taken as authorising the creation of a nuisance or of a danger to users of a highway or as imposing on a highway authority by whom a permission has been granted under this section any liability for any injury, damage or loss resulting from the presence on a highway of the skip to which the permission relates.

(11) In this and the next following section—

“builder’s skip” means a container designed to be carried on a road vehicle and to be placed on a highway or other land for the storage of builders’ materials, or for the removal and disposal of builders’ rubble, waste, household and other rubbish or earth; and

“owner”, in relation to a builder’s skip which is the subject of a hiring agreement, being an agreement for a hiring of not less than one month, or a hire purchase agreement, means the person in possession of the skip under that agreement.

Removal of
builders’ skips.

32.—(1) The following provisions of this section shall have effect in relation to a builder’s skip deposited on a highway notwithstanding that it was deposited thereon in accordance with a permission granted under section 31 of this Act.

(2) The highway authority for the highway or a constable in uniform may require the owner of the skip to remove or reposition it or cause it to be removed or repositioned.

(3) A person required to remove or reposition, or cause to be removed or repositioned, a skip under a requirement made by virtue of subsection (2) above shall comply with the requirement as soon as practicable, and if he fails to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(4) The highway authority for the highway or a constable in uniform may themselves remove or reposition the skip or cause it to be removed or repositioned.

(5) Where a skip has been removed under subsection (4) above, the highway authority or, as the case may be, the chief officer of police shall, where practicable, notify the owner of its removal, but if the owner cannot be traced, or if after a reasonable period of time after being so notified he has not recovered the skip, the highway authority or chief officer of police may dispose of the skip and its contents.

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(6) Any expenses reasonably incurred by a highway authority or chief officer of police in the removal or repositioning of a skip under subsection (4) above or the disposal of a skip under subsection (5) above may be recovered from the owner of the skip in any court of competent jurisdiction or summarily as a civil debt.

(7) Any proceeds of such a disposal as is mentioned in subsection (5) above shall be used in the first place to meet the expenses reasonably incurred in the removal and disposal of the skip and thereafter any surplus shall be given to the person entitled thereto if he can be traced and if not may be retained by the highway authority or the chief officer of police, as the case may be; and any surplus so retained by a chief officer of police shall be paid into the police fund.

(8) References in this section to expenses incurred in the removal of a skip shall include references to expenses incurred in storing the skip until it is recovered by the owner or, as the case may be, disposed of.

(9) The owner of a skip shall not be guilty of an offence under section 31(4) of this Act of failing to secure that a condition relating to the siting of the skip was complied with if the failure resulted from the repositioning of the skip under subsection (3) or (4) above.

33. In section 135 of the principal Act (which penalises the owner of animals found straying on a highway) for the word "owner", where that word occurs in subsection (1) and subsection (3), there shall be substituted the word "keeper"; and after subsection (4) there shall be inserted the following subsection:—

"(4A) In this section 'keeper', in relation to any animals, means the person in whose possession they are."

Danger or annoyance to users of highways and streets

34.—(1) At the end of section 144 of the principal Act (which confers on local authorities certain powers in relation to land or on which there is a source of danger to persons using a street) there shall be added the following subsection:—

"(4) Where the power conferred by subsection (1) of this section is exercisable in relation to land adjoining a street and has not been exercised by the local authority empowered to exercise it, then, if that authority are not the highway authority for the street, the highway authority for the street may request the local authority to exercise the power; and if the local authority refuse to comply with the request or fail within a reasonable time after the request is made to

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them to do so, that highway authority may exercise the power.

Where a highway authority exercise the power conferred by the said subsection (1) references to a local authority in subsections (2) and (3) of this section shall be construed as references to that highway authority."

1964 c. 83.

(2) In section 3(6) of the New Forest Act 1964 (which provides for the fencing of a source of danger in the New Forest and contains a saving for the powers of a local authority under the said section 144) after the words "local authority" there shall be inserted the words "or highway authority".

Powers relating to retaining walls near streets.

35.—(1) This section applies to any length of a retaining wall, being a length—

- (a) any cross-section of which is wholly or partly within 4 yards of a street ; and
- (b) which is at any point of a greater height than 4 feet and 6 inches above the level of the ground at the boundary of the street nearest that point ;

but shall not apply to any length of a retaining wall erected on land belonging to any transport undertakers so long as that land is used by them primarily for the purpose of their undertaking or to any length of a retaining wall for the maintenance of which a highway authority are responsible.

(2) No length of retaining wall, being a length which when erected will be a length of retaining wall to which this section applies, shall be erected otherwise than in accordance with plans, sections and specifications approved by the local authority in whose area the street is situated ; and before giving such approval that authority, if they are not the highway authority for the street, shall consult the highway authority therefor.

(3) Any person aggrieved by the refusal of a local authority to approve any plans, sections and specifications submitted to them under this section may appeal to a magistrates' court.

(4) If a person erects a length of retaining wall in contravention of the provisions of this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(5) If a length of retaining wall to which this section applies is in such condition (whether for want of repair or some other reason) as to be liable to endanger persons using the street, the local authority in whose area the street is situated may, by notice served on the owner or occupier of the land on which that length of wall is, require him to execute such works as will obviate the danger.

(6) Where the power conferred by subsection (5) above is exercisable in relation to a length of wall and has not been exercised by the local authority empowered to exercise it, then, if that authority are not the highway authority for the street in question, the highway authority therefor may request the local authority to exercise the power; and if the local authority refuse to comply with the request or fail within a reasonable time after the request is made to them to do so, that highway authority may exercise the power.

(7) Subsections (2) to (7) of section 290 of the Public Health Act 1936 (which provides for appeals against, and the enforcement of, certain notices under that Act) shall apply to any notice served under subsection (5) above as they apply to such notices as are mentioned in subsection (1) of that section, but subject to the following modifications, that is to say—

- (a) references to the local authority shall be construed as including references to the highway authority;
- (b) for paragraph (f) of subsection (3) there shall be substituted the following paragraph:—
 - “ (f) that some other person ought to contribute towards the expense of executing any works required by the notice ”.

(8) Sections 300 to 302 of the Public Health Act 1936 (which contain supplementary provisions relating to appeals under the said section 290) shall, with the necessary modifications, apply to appeals brought by virtue of subsection (7) above.

(9) In this section “ retaining wall ” means a wall, not forming part of a permanent building, which serves, or is intended to serve, as a support for earth or other material on one side only.

Precautions to be taken in doing certain works in or near streets or highways

36.—(1) If in the course of the carrying out of any building operation in or near a street an accident occurs, being an accident which—

- (a) gives rise to the risk of serious bodily injury to a person in the street, whether or not the death or disablement of any person is caused thereby; or
- (b) would have given rise to such risk but for the fact that a local authority or highway authority had in the exercise of their powers under section 25 of the Public Health Act 1961 (emergency measures to deal with dangerous buildings) or any other enactment taken

Building operations affecting public safety.

1961 c. 64.

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steps to ensure that if an accident occurred it would not give rise to such risk,

then, subject to the provisions of this section, the owner of the land or building on which the building operation is being carried out shall, without prejudice to any liability to which he or any other person may be subject apart from this section, be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(2) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(3) In any proceedings for an offence under this section it shall, subject to subsection (4) below, be a defence for the person charged to prove—

(a) that he took all reasonable precautions to secure that the building operation was so carried out as to avoid causing danger to persons in a street; or

(b) that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(4) A person charged with an offence under this section shall not, without leave of the court, be entitled to rely on the defence provided by subsection (3)(b) above unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(5) In this section “building operation” means the construction, structural alteration, repair or maintenance of a building (including re-pointing, external re-decoration and external cleaning), the demolition of a building, the preparation for, and laying the foundations of, an intended building and the erection or dismantling of cranes or scaffolding.

Precautions to be taken by persons executing works in streets. 1950 c. 39.

37. For section 149 of the principal Act (which provides for precautions to be taken by urban authorities executing works in streets) there shall be substituted the following section:—

“Precautions to be taken by persons executing works in streets.

149.—(1) Without prejudice to section 8 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 in the exercise of a power conferred by or under any enactment or otherwise any person is executing works in any street he—

- (a) shall erect such barriers and traffic signs for preventing danger to traffic, for regulating traffic, and for warning traffic of danger, as may be necessary and remove them as soon as they cease to be needed for any of those purposes ;
- (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) Subject to subsection (3) of this section, if any person fails to satisfy an obligation to which he is subject by virtue of subsection (1) of this section he shall be guilty of an offence and shall, without prejudice to any other liability to which he may be subject apart from this subsection, be liable in respect thereof to a fine not exceeding £10 in respect of each day of such failure.

(3) Where a person is subject to the same obligation by virtue of subsection (1) of this section and by virtue of some other enactment, then, without prejudice to section 33 of the Interpretation Act 1889 1889 c. 63. (which relates to offences under two or more laws), if a failure by him to satisfy that obligation is an offence under an enactment other than subsection (2) of this section, the said subsection (2) shall not apply in relation to a failure by him to satisfy that obligation.

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

- (a) takes down, alters or removes any barrier, traffic sign, support or light erected or placed in pursuance of subsection (1) of this section or any fence, barrier, traffic sign or light erected or placed on or near a street in pursuance of any other enactment for the purpose of warning users of the street of any obstruction, whether caused by the execution of works in or near the street or otherwise, or of protecting them from danger arising out of such an obstruction, or

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(b) extinguishes any light so placed, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding £100.

(5) For the purposes of section 271 of this Act in its application to an offence under this section statutory undertakers and the Post Office shall each be deemed to be a person aggrieved."

Miscellaneous

Restriction on construction of buildings over highways.

38.—(1) No person shall—

- (a) except in the exercise of statutory powers, construct a building over any part of a highway maintainable at the public expense (whether it is intended to span the highway or not), or alter a building so constructed, without a licence granted under this section by the highway authority for that highway or otherwise than in accordance with the terms and conditions of a licence so granted ;
- (b) use a building constructed or altered in pursuance of a licence so granted otherwise than in accordance with the terms and conditions thereof ;

and any person who contravenes any provision of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400, and if the offence in respect of which he has been convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day on which the offence is so continued.

(2) Subject to subsections (3) and (4) below, a licence under this section may contain such terms and conditions, including terms and conditions with respect to the construction (including the headway over the highway), maintenance, lighting and use of the building, as the highway authority think fit ; and, subject to the provisions of section 15 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), any such term or condition shall be binding on the successor in title to every owner, and every lessee and occupier, of the building.

1925 c. 22.

(3) No fine, rent or other sum of money shall be payable in respect of a licence granted under this section except—

- (a) a reasonable sum in respect of legal or other expenses incurred in connection with the grant of the licence ;
- and

(b) an annual charge of a reasonable amount for administering the licence ;

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and any sum payable by virtue of paragraph (a) above shall be recoverable from the applicant for the licence and any sum payable by virtue of paragraph (b) above shall be recoverable from the owner of the building.

(4) No such licence shall 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 statutory undertakers or of the Post Office.

(5) Where a licence under this section makes provision for the execution of any works or the provision of any facilities which in the opinion of the highway authority require to be executed or provided by them in connection with the building or its construction or alteration, the authority may execute those works or, as the case may be, provide those facilities and may recover the expenses reasonably incurred by them in so doing from the licensee or from the owner of the building.

(6) A person aggrieved by the refusal of an authority to grant a licence under this section or by a term or condition of the licence may appeal to the Crown Court, except that no such appeal shall lie—

- (a) if the land on which the highway in question is situated is owned by the highway authority for the highway, or
- (b) against any term or condition which the highway authority declare to be necessary for the purpose of securing the safety of persons using the highway or of preventing interference with traffic thereon.

(7) Where a person has constructed or altered a building for the construction, or, as the case may be, alteration, of which a licence is required by this section without such a licence or otherwise than in accordance with the terms and conditions of the licence, the highway authority may by notice served on the licensee or the owner of the building require him to demolish the building within such time as may be specified in the notice or, as the case may be, to make such alterations therein and within such time as may be so specified.

(8) Where there has been a failure to comply with any terms or conditions of a licence under this section with respect to the maintenance or use of a building, the highway authority may by notice served on the licensee or the owner of the building require him to execute such works or take such steps as are necessary to secure compliance with those terms or conditions within such time as may be specified in the notice.

(9) If a person on whom a notice is served under subsection (7) or (8) above fails to comply with the notice within the time

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(10) Where by virtue of subsection (9) above a highway authority demolish a building, they may dispose of the materials resulting from the demolition.

1925 c. 22. (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 a building imposed by the Secretary of State by virtue of any term or condition contained in a licence granted by him under this section as if the term or condition were a local land charge, and any such term or condition shall be registered accordingly by the proper officer of the local authority within whose area the building to which it relates is situated.

1878 c. 76. (12) Any work authorised or required by a licence under this section to be executed by the licensee shall for the purposes of section 7 of the Telegraph Act 1878 (which provides for the alteration of the telegraphic lines of the Post Office) be deemed to be work done in the execution of an undertaking authorised by an Act of Parliament and the person executing the work shall be deemed to be the undertakers.

(13) This section does not apply to a building which constitutes a bridge within the meaning of section 151 of the principal Act, but subject to that in this section "building" includes any structure and any part of a building.

(14) Where the land on which a highway is situated is owned by the highway authority for the highway, nothing in subsection (3) above shall be taken as affecting the rights of that authority as the owner of that land to sell or lease the air-space above the surface of that land or grant any rights in relation to it.

1971 c. 23. (15) Before the coming into force of section 3 of the Courts Act 1971 subsection (6) above shall have effect as if for the reference to the Crown Court there were substituted a reference to a court of quarter sessions.

Definition of bridge for the purposes of s. 151 of principal Act.

39. In section 151 of the principal Act (which makes provision in connection with the construction of a way by means of a bridge over a highway) the words "a way by means of" in subsection (1) shall be omitted and at the end of that section there shall be added the following subsection:—

"(4) In this section 'bridge' means a structure the sole purpose of which is to provide a way over a highway."

40.—(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 mechanically propelled vehicle across a kerbed footway or a verge in the highway to or from those premises, the highway authority for the highway may, subject to subsection (2) below, serve a notice on the owner and the occupier of the premises—

PART II
Vehicle
crossings over
footways
and verges.

- (a) stating that they propose to execute such works for the construction of a vehicle crossing over the footway or verge as may be specified in the notice; or
- (b) imposing such reasonable conditions on the use of the footway or verge as a crossing as may be so specified.

(2) A highway authority shall not be entitled by virtue of subsection (1) above to construct a vehicle crossing on, or on any part of, the site of a made-up vehicle crossing which has been constructed either under this section or before the commencement thereof, or to impose conditions on the use of such a crossing.

(3) Where any land is being, or is to be, developed in accordance with a planning permission granted, or deemed to have been granted, under the Town and Country Planning Act 1962, and it appears to the highway authority for a highway maintainable at the public expense that the development makes it necessary—

1962 c. 38.

- (a) to construct a crossing over a kerbed footway or a verge in the highway so as to provide an access for mechanically propelled vehicles to or from the carriageway of the highway from or to premises adjoining or having access to the highway; or
- (b) to improve or otherwise alter a made-up vehicle crossing that provides such an access as is mentioned in paragraph (a) above, whether constructed before or after the commencement of this section,

that authority may serve on the owner and the occupier of the premises a notice stating that they propose to execute such works for the construction or, as the case may be, alteration of the crossing as may be specified in the notice.

(4) Unless the development giving rise to a notice under subsection (3) above consists solely of the provision of a new means of access to or from a highway from or to premises, there may be specified in a notice under that subsection works for the construction as part of the vehicle crossing proposed to be constructed or altered, as the case may be, of acceleration and deceleration lanes.

(5) In determining whether to exercise their powers under subsection (1) or (3) above, a highway authority shall have regard

PART II

to the need to prevent damage to a footway or verge, and in determining the works to be specified in a notice under subsection (1)(a) or (3) an authority shall have regard to that and the following other matters, namely—

(a) the need to ensure, so far as practicable, safe access to and egress from premises ; and

(b) the need to facilitate, so far as practicable, the passage of vehicular traffic in highways.

(6) Schedule 3 to this Act shall have effect with respect to the making of objections to a notice under subsection (1) or (3) above and to the date on which such a notice becomes effective.

(7) Where a notice under subsection (1)(a) or (3) above has become effective, the highway authority by whom the notice was served may execute such works as are specified in the notice, subject to such modifications (if any) as may have been made by the Secretary of State, and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the premises in question.

(8) A notice under subsection (1) or (3) above shall inform the person on whom it is served of his right to object to the notice and (except in the case of a notice under subsection (1)(b)) shall state the effect of subsection (7) above.

(9) Where a person who is carrying out, or proposes to carry out, such a development as is referred to in subsection (3) above offers to execute the works specified in a notice under that subsection, the highway authority by whom the notice was served may authorise him to execute those works in accordance with plans approved by them ; and in relation to works executed under this subsection, Part II of the Public Utilities Street Works Act 1950 (code which has effect where undertakers' apparatus is affected by certain works) shall apply as if the works were executed for road purposes and were mentioned in section 21(1)(a) of that Act and as if the person executing them were the promoting authority within the meaning of the said Part II.

(10) If a person authorised under subsection (9) above to execute any works fails to execute them to the satisfaction of the highway authority before the development is completed, the authority may execute the works or alter the works executed by that person and recover the expenses reasonably incurred by them in so doing from him.

(11) Any person may request the highway authority for a highway maintainable at the public expense to execute such works as are specified in the request for constructing a vehicle crossing over a footway or verge in the highway, and the authority may approve the request with or without modification,

or may propose alternative works or reject the request; and in determining how to exercise their powers under this subsection an authority shall have regard to the matters mentioned in subsection (5) above.

PART II

(12) An authority to whom a request under subsection (11) above 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 a quotation of the cost of the works as approved or proposed by them, and he may, on depositing with them the amount quoted, require them to execute those works.

(13) 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.

(14) If apart from this subsection Part II of the said Act of 1950 would not apply in relation to works executed by a highway authority under any provision of this section, the said Part II shall apply as if the works were executed for road purposes and were mentioned in section 21(1)(a) of that Act.

(15) The expenses recoverable under subsection (7) or (10) above and the cost of the works for the purposes of subsection (12) above shall include the cost of any works which are required by the said Act of 1950 to be executed in consequence of the construction of the crossing.

(16) Nothing in this section shall impose on any person, other than a highway authority, any obligation to maintain a vehicle crossing.

(17) If a person knowingly uses a footway or verge as a crossing in contravention of any condition imposed under subsection (1)(b) above, or knowingly permits it to be so used, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20 or, in the case of a second or subsequent offence, to a fine not exceeding £50.

(18) Section 155 of the principal Act (carriage crossings over footways) shall cease to have effect.

41.—(1) If a person, without lawful authority or excuse, places any apparatus in or under a highway or breaks open a highway for the purpose of placing, maintaining, repairing or reinstating any apparatus in or under it, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20 or, in the case of a second or subsequent offence, to a fine not exceeding £50.

Provisions relating to placing, etc. of certain apparatus in or under a highway.

(2) The highway authority for a highway may by a licence granted under this section permit any person to place and leave,

PART II

or to retain, and thereafter (in either case) to maintain, repair or reinstate, apparatus in or under the highway and to break open and to have access to the highway for those purposes.

(3) The highway authority may, as they think fit,—

- (a) grant a licence under this section to any person and insert in the licence a provision prohibiting assignment of the licence ; or
- (b) grant such a licence to any person and insert in the licence a provision permitting assignment of the licence ; or
- (c) grant such a licence to the owner of any premises adjoining the highway and his successors in title, the licence, unless and until withdrawn or surrendered, to be annexed to those premises ;

and, except as otherwise provided, references in this section to the licensee shall be construed as references to the person who is for the time being entitled by virtue of such a licence to do anything permitted by it to be done.

(4) No fine, rent or other sum of money shall be payable in respect of such a licence except—

- (a) a reasonable sum in respect of legal or other expenses incurred in connection with the grant of the licence ; and
- (b) an annual charge of a reasonable amount for administering the licence ;

and any such sum shall be recoverable from the licensee.

(5) Before granting a licence under this section a highway authority shall give not less than fourteen days' notice of their intention so to do to any statutory undertakers or sewerage authority whose apparatus or plans for the installation of apparatus are likely to be affected by the works to be authorised by the licence.

(6) A highway authority may attach to any such licence such conditions as they consider necessary to protect the apparatus of statutory undertakers and sewerage authorities, to ensure the safety and convenience of passengers in the highway and to prevent traffic therein being delayed, and it shall be a condition of every such licence that—

- (a) before executing any works for the purpose of placing apparatus in or under the highway or of the maintenance, repair or reinstatement thereof (except works for the purpose of carrying out emergency repairs), the licensee shall give not less than seven days' notice in writing, stating the nature and place of the works proposed, to the highway authority and to any statutory undertakers or sewerage authority whose apparatus is likely to be affected, and shall satisfy their

PART II

requirements as to the method of executing the works and to the supervision thereof by them ;

- (b) as soon as reasonably practicable after executing works for the purpose of carrying out emergency repairs to any apparatus placed and left in or under the highway the licensee shall inform any statutory undertakers or sewerage authority whose apparatus may have been affected ;
- (c) any apparatus shall, wherever practicable, be laid by thrust boring ;
- (d) while executing any works in or under the highway the licensee shall cause the works to be properly fenced and guarded and to be properly lighted during the hours of darkness ;
- (e) as soon as reasonably practicable after executing any such works as are mentioned in paragraph (a) or (b) above, the licensee shall make good any damage to the highway occasioned by those works ;
- (f) the licensee shall give the authority not less than six weeks' notice of his intention to cease using or abandon the apparatus or, if the licence is one the assignment of which is prohibited, of his intention to part with his interest in the apparatus.

(7) A highway authority may attach to a licence granted by them by virtue of subsection (3)(b) above a condition that before assigning the licence to any other person the licensee shall obtain their consent to the assignment ; and it shall be a condition of every licence granted by virtue of subsection (3)(c) above that within one month after any change in the ownership of the premises in question takes place the licensee shall inform the highway authority of it.

(8) A highway authority may by notice served on the licensee withdraw a licence granted by them under this section—

- (a) on the expiration of such period as may be specified in the notice, being a period of not less than seven days beginning with the date of service of the notice on the licensee, if any condition of the licence is contravened by the licensee, or if the highway authority become aware of the fact that the licensee intends to cease using or abandon the apparatus or, if the licence is one the assignment of which is prohibited, that the licensee intends to part with his interest in the apparatus ;
- (b) on the expiration of such period as may be so specified, being a period of not less than three months beginning with the said date, if the authority consider the withdrawal of the licence is necessary for the purpose of the exercise of their functions as a highway authority.

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(9) Where a licence under this section expires or is withdrawn or surrendered, the highway authority by whom it was granted—

(a) may remove the apparatus to which the licence relates or alter it in such manner as they think fit and reinstate the highway and may recover the expenses reasonably incurred by them in so doing from the licensee; or

(b) if satisfied that the licensee can, within such reasonable time as they may specify, remove such apparatus or alter it in such manner as they may require and reinstate the highway, may authorise him to do so at his own expense.

In this and the next following subsection “the licensee” means the person who immediately before the expiration, withdrawal or surrender of the licence in question was the licensee or, if that person has died, his personal representatives.

(10) Before executing any works under subsection (9) above a highway authority or the licensee, as the case may be, shall give not less than seven days’ notice to any statutory undertakers or sewerage authority whose apparatus is likely to be affected and shall satisfy their requirements as to the method of executing the works and as to the supervision thereof by them.

(11) The licensee and the person who immediately before the expiration, withdrawal or surrender of a licence under this section was the licensee or, if that person has died, his personal representatives shall indemnify the highway authority against any claim in respect of injury, damage or loss arising out of the placing or presence in or under a highway of apparatus to which the licence relates, or of the execution by any person of any works authorised by the licence or by the highway authority under subsection (9) above or of the execution by or on behalf of the highway authority of any works under that subsection; but the foregoing provision shall not be taken as requiring any person to indemnify the highway authority against any claim in respect of injury, damage or loss which is attributable to the negligence of that authority.

899 c. 19. (12) The licensee shall not for the purposes of section 17 of the Schedule to the Electric Lighting (Clauses) Act 1899 (power to alter apparatus under streets, etc.) be a person in whom powers in relation to a street or place are vested nor shall any works carried out by the licensee in pursuance of a licence under this section be undertakers’ works within the meaning of section 1 of the Public Utilities Street Works Act 1950.

950 c. 39.

(13) A licence under this section shall not authorise any interference with the apparatus or works of any statutory undertakers or sewerage authority without the consent of those undertakers or that authority, as the case may be, nor shall such a

licence authorise the installation of any apparatus for the installation or use of which the licence of the Minister of Posts and Telecommunications or the Post Office, or of both that Minister and the Post Office, is required by virtue of any enactment unless and until that licence has been granted.

PART II

(14) This section shall not apply to the apparatus of statutory undertakers or sewerage authorities.

(15) In this section references to statutory undertakers shall be construed as including references to the Post Office.

(16) Where the land on which a highway is situated is owned by the highway authority for the highway, nothing in subsection (4) above shall be taken as affecting the rights of that authority as the owner of that land to grant to any person, for such consideration as they think fit, the right to place any thing in or under that land.

42.—(1) Where the apparatus in respect of which an application for a licence under section 41 of this Act is made to a local highway authority is to be placed or retained along a line crossing a highway, not being a special road, and not along the line of that highway, any person aggrieved—

Appeal against certain decisions of local highway authority under s. 41.

- (a) by the refusal of that authority to grant him the licence, or
- (b) by their refusal to grant him a licence on the application other than a licence containing such a provision as is mentioned in subsection (3)(a) of the said section 41, or
- (c) where the application is granted, by any term or condition of the licence granted to him, not being a compulsory condition,

may appeal to the Secretary of State.

(2) Before determining an appeal under this section the Secretary of State may consult any person whose interests are in the opinion of the Secretary of State liable to be affected by anything done in pursuance of the licence to which the appeal relates and shall consider any representations made by the local highway authority.

(3) Where on an appeal under this section the Secretary of State reverses or varies any decision of a local highway authority, it shall be the duty of that authority to give effect to the decision of the Secretary of State.

(4) In this section “ compulsory condition ” means a condition specified in any paragraph of subsection (6) of the said section 41 and, in the case of a licence granted by virtue of subsection (3)(c) of that section, the condition which subsection (7) of that section provides shall be a condition of every such licence.

PART II
Licence to
plant trees,
shrubs, etc. in
a highway.

43.—(1) The highway authority for a highway may by a licence granted under this section permit the occupier or the owner of any premises adjoining the highway to plant and maintain, or to retain and maintain, trees, shrubs, plants or grass in such part of the highway as may be specified in the licence.

(2) The highway authority may, as they think fit—

- (a) grant a licence under this section to the person who at the time of the grant is the occupier of such premises and insert in the licence provisions prohibiting assignment of the licence and providing for its duration ; or
- (b) grant such a licence to the owner of such premises and his successors in title and insert in the licence provisions providing for the licence to be annexed to those premises and providing for its duration ;

and, except as otherwise provided, references in this section to the licensee shall be construed as references to the person who is for the time being entitled by virtue of such a licence to do anything permitted by it to be done.

(3) No fine, rent or other sum of money shall be payable in respect of such a licence except—

- (a) a reasonable sum in respect of legal or other expenses incurred in connection with the grant of the licence ; and
- (b) an annual charge of a reasonable amount for administering the licence ;

and any such sum shall be recoverable from the licensee.

(4) It shall be a condition of every licence granted by virtue of subsection (2)(b) above that within one month after any change in the ownership of the premises in question takes place the licensee shall inform the highway authority of it.

(5) A highway authority may attach to any such licence such conditions as they consider necessary to ensure the safety and convenience of passengers in the highway and to prevent traffic therein being delayed, to prevent any nuisance or annoyance being caused to the owners or occupiers of other premises adjoining the highway and to protect the apparatus of statutory undertakers, sewerage authorities and the Post Office.

(6) A highway authority may by notice served on the licensee withdraw a licence granted by them under this section—

- (a) on the expiration of such period as may be specified in the notice, being a period of not less than seven days beginning with the date of service of the notice on the licensee, if any condition of the licence is contravened by the licensee ;
- (b) on the expiration of such period as may be so specified, being a period of not less than three months beginning

with the said date, if the authority consider the withdrawal of the licence is necessary for the purpose of the exercise of their functions as a highway authority.

(7) Where a licence under this section expires or is withdrawn or surrendered, the highway authority by whom it was granted—

- (a) may remove all or any of the trees, shrubs, plants or grass to which the licence relates and reinstate the highway and may recover the expenses reasonably incurred by them in so doing from the licensee ; or
- (b) if satisfied that the licensee can, within such reasonable time as they may specify, remove such trees, shrubs, plants or grass or such of them as they may specify and reinstate the highway, may authorise him to do so at his own expense.

In this subsection “ the licensee ” means the person who immediately before the expiration, withdrawal or surrender of the licence in question was the licensee or, if that person has died, his personal representatives.

(8) The licensee and the person who immediately before the expiration, withdrawal or surrender of a licence under this section was the licensee or, if that person has died, his personal representatives shall indemnify the highway authority against any claim in respect of injury, damage or loss arising out of the planting or presence in a highway of trees, shrubs, plants or grass to which the licence relates, or of the execution by any person of any works authorised by the licence or by the highway authority under subsection (7) above or of the execution by or on behalf of the highway authority of any works under that subsection ; but the foregoing provision shall not be taken as requiring any person to indemnify the highway authority against any claim in respect of injury, damage or loss which is attributable to the negligence of that authority.

(9) If any person plants a tree or shrub in a highway otherwise than in pursuance of a licence granted under this section, the tree or shrub shall, for the purposes of section 123 of the principal Act (which restricts the planting of trees or shrubs in or near a made-up carriageway), be deemed to have been planted in contravention of that section.

(10) Where the land on which a highway is situated is owned by the highway authority for the highway, nothing in subsection (3) above shall be taken as affecting the rights of that authority as the owner of that land to grant to any person, for such consideration as they think fit, the right to plant any thing in that land.

(11) In subsection (1) of the said section 123 after the word “ Act ” there shall be inserted the words “ and of section 43 of the Highways Act 1971 ”.

PART III

ACQUISITION OF LAND AND INTERESTS IN LAND FOR
HIGHWAY PURPOSES*Extension of existing powers*

Acquisition
for highway
construction,
improvement,
etc.

44.—(1) A highway authority may acquire land which is required for, or for use by them in connection with, the carrying out of works authorised by section 7 of this Act, or by an order under section 1 thereof.

(2) Without prejudice to any powers conferred by the principal Act or the foregoing subsection—

- (a) a highway authority may acquire land which is required for use by them in connection with the construction or improvement of a highway, or with the carrying out of works authorised by an order under section 9 or 13 of the principal Act, or section 10 of this Act; and
- (b) any power of a highway authority under that Act or subsection (1) above to acquire land for a purpose whose achievement involves the diversion of a navigable watercourse or the carrying out of works under section 13 of this Act shall include power to acquire land which is required for carrying out the diversion or, as the case may be, the works.

(3) A highway authority, being the Secretary of State, may acquire land which is required for the purpose of—

- (a) providing a trunk road picnic area; or
- (b) providing public sanitary conveniences in the exercise of his powers under section 26(5) of this Act.

(4) A local highway authority may acquire land which is required for the purpose of providing public sanitary conveniences in the exercise of their powers under section 28 of this Act.

(5) A highway authority may acquire land which is required for the purpose of providing a lorry area in the exercise of their powers under section 30 of this Act.

(6) Where under the powers of this section a highway authority have acquired, or propose to acquire, for any purpose 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 authority may acquire that other land.

(7) Subject to section 51 of this Act, any power under this section to acquire land shall be exercisable either by agreement or compulsorily.

(8) Sections 214(9) and 215(4) of the principal Act (exemption from compulsory purchase for certain highway purposes of land required to be retained as part of a park, pleasure ground or home farm attached to a mansion house etc.) shall cease to have effect.

PART III

45.—(1) A power to acquire land compulsorily conferred by section 44 of this Act on a local highway authority shall be exercisable in any particular case on their being authorised by the Secretary of State to exercise it. Procedural and other provisions supplementary to s. 44.

(2) In relation to the compulsory acquisition of land under that section by a local highway authority, the Act of 1946 shall have effect as if that section had been in force immediately before the commencement of that Act.

(3) In relation to the compulsory acquisition of land under that section by the Secretary of State, the Act of 1946 shall have effect as if that section had been in force immediately before the commencement of that Act and as if that section were included among the enactments specified in section 1(1)(b) of that Act.

(4) As respects assessment of compensation payable on the compulsory acquisition of land by a highway authority under powers conferred by section 44 of this Act, section 222(6) of the principal Act (matters to be taken into account by Lands Tribunal) shall apply as it does in relation to compulsory acquisition under section 214 or 215 of that Act.

(5) Where there are proposals for the provision of a lorry area on land adjoining, or in the vicinity of, a special road or proposed special road, then, if that land, or any land of which that land forms part, is compulsorily acquired under section 44(5) of this Act or in pursuance of a notice under section 129, 135 or 136 of the Town and Country Planning Act 1962 (which relate to the protection of owners of land affected by certain planning decisions) or in pursuance of a notice under section 139 of that Act (which relates to the protection of owner-occupiers of land affected by planning proposals), section 139 of the Transport Act 1968 (which provides for the assessment of compensation in certain cases of the compulsory acquisition of land required as a service area for a special road) shall have effect for the purpose of assessing compensation in respect of the compulsory acquisition—

- (a) as if for references in subsection (1) to section 215(2)(c) of the principal Act (acquisition of land required for the provision of service stations, etc. for use in connection with a special road) there were substituted references to the said section 44(5); and
- (b) as if service area development, as defined by subsection (2), included development for the purpose of providing

PART III

a lorry area for use in connection with a special road or proposed special road.

1965 c. 56.

(6) In section 222(11) of the principal Act (application of Compulsory Purchase Act 1965 to acquisition of land by agreement under Part X of the principal Act), the reference to Part X of the principal Act shall include a reference to this Part of this Act.

Acquisition in advance of requirements.

46.—(1) Subject to this section, where under an enactment specified in column 1 of Schedule 4 to this Act a highway authority have power to acquire, or have acquired, land (“the initial stage area”) for a purpose specified in column 2, then any power of the authority under the principal Act or this Act to acquire land compulsorily for a purpose specified in column 3 shall, in the case of other land adjacent to the initial stage area (“the subsequent stage area”), be exercisable by them notwithstanding that the other land is not immediately required for the purpose specified in column 3.

(2) A highway authority shall not acquire land compulsorily by virtue of subsection (1) above unless one or more of the following conditions are satisfied, namely—

- (a) the authority intend, when they have acquired the subsequent stage area, forthwith to incorporate it within the boundaries of the highway or proposed highway or, as the case may be, of the service area, maintenance compound, trunk road picnic area or lorry area, for the purposes of which the initial stage area is to be, or has been, acquired;
- (b) the authority’s proposed use of the initial stage area involves the carrying out of works wholly or partly on, or under or over, the subsequent stage area;
- (c) plans for the use of the subsequent stage area (for the purpose for which the authority have power by virtue of this section to acquire it) have been made or approved by the Secretary of State.

(3) A highway authority shall not by virtue of subsection (1) above acquire land compulsorily for any purpose where, apart from this section, they would not have power to acquire it compulsorily if it were required immediately for that purpose.

Acquisition of rights over land

Land acquisition powers to extend to acquisition of rights instead of title.

47.—(1) A compulsory purchase order made in the exercise of highway land acquisition powers may provide for the acquisition of rights over land by creating them as well as for the acquisition of rights already in existence.

(2) In this Act “highway land acquisition powers” means powers in respect of acquisition of land which are exercisable

by a highway authority under any of the enactments specified in Schedule 5 to this Act. PART III

(3) Where rights over land are, or are to be, acquired by a highway authority by means of a compulsory purchase order made in the exercise of such powers, and the land forms 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 those rights, the authority may acquire by agreement or compulsorily that other land; and section 45 of this Act shall apply in relation to this subsection as it applies in relation to section 44.

(4) In section 222(1) to (4) of the principal Act (procedure for exercising highway land acquisition powers) references to acquisition of land shall include references to compulsory acquisition of rights by virtue of this section; and in relation to such an acquisition, the following paragraphs shall be substituted for paragraphs (a) to (c) of section 222(6) (matters to which Lands Tribunal are to have regard in assessing compensation)—

- “ (a) shall have regard to the extent to which the land over which the right in question is, or is to be, acquired, or any contiguous land belonging to the same person, may be benefited by the purpose for which the right is authorised to be acquired;
- (b) shall, in the case of a right acquired, or to be acquired, in connection with the widening of a highway, take into account as abatement of compensation any increase in the value of the land, or of other land belonging to the same person, which will accrue 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 manner in which the right will be exercised.”

(5) Where by a compulsory purchase order made in the exercise of highway land acquisition powers a highway authority acquire two or more rights over land belonging to the same person, or acquire not only rights (one or more) but also adjoining or adjacent land so belonging, then in applying section 222(6) of the principal Act (as originally enacted or as having effect by virtue of subsection (4) above) the Lands Tribunal shall consider together the compensation payable in respect of both or all of the rights or, as the case may be, in respect of the right or rights and also the adjoining or adjacent land.

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(6) The Acts of 1946 and 1965 shall have effect with the modifications necessary to make them apply to the compulsory acquisition of a right by virtue of this section as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those Acts to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is, or is to be, exercisable, according to the requirements of the particular context.

(7) For the purpose of giving effect to this section, and without prejudice to the general adaptation of enactments under subsection (6) above—

- (a) Part I of Schedule 6 to this Act shall have effect for the adaptation of Part III of Schedule 1 to the Act of 1946 (requirement of special parliamentary procedure in case of acquisition of certain descriptions of land) to cases of compulsory acquisition of rights;
- (b) Part II of that Schedule shall have effect for the adaptation of Part I of the Act of 1965 to such cases; and
- (c) as respects compensation in such cases, the enactments relating to compensation for the compulsory purchase of land shall apply, with the necessary modifications, as they apply to compensation on the compulsory purchase of land and interests in land.

(8) References in any enactment or instrument to the acquisition of land, in a context relating to compulsory acquisition under highway land acquisition powers, shall be construed (except in so far as the context otherwise requires) as including references to the compulsory acquisition of a right or rights by virtue of this section.

(9) The provisions of this section are without prejudice to those of sections 218(3), 223 and 224 of the principal Act (which in certain circumstances provide for the acquisition by highway authorities of rights over land belonging to others) and to any provision of that Act or this Act which, by virtue of the definition of "land" in section 295(1) of that Act, authorises the acquisition of interests or rights in, over or under land.

Rights
acquired to
be binding
on successive
owners of
the land.

48.—(1) Where by a deed or other instrument in which—

- (a) it is stated that it is made in pursuance of a compulsory acquisition of rights by virtue of section 47 of this Act; or
- (b) it is certified by a highway authority that the instrument is made in connection with the performance of their functions under the Highways Acts 1959 to 1971,

any person having an interest in the land grants or agrees to grant to a highway authority any right over the land, the grant

or agreement shall be binding upon his successors in title and persons deriving title under him or them (otherwise than by a disposition taking effect before the date of the grant) to the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon such persons apart from this subsection.

PART III

(2) Where by a deed poll under any provision of the Act of 1965 a highway authority vest in themselves any right over land as against some person having an interest in the land, that right shall be binding upon that person's successors in title and persons deriving title under him or them (otherwise than by a disposition taking effect before the date of the deed poll) to the same extent as it is, or would have been, binding upon the first-mentioned person.

(3) The foregoing provisions of this section shall apply whether or not (apart from this section) the right in question is capable in law of binding interests in the land other than the interest of the grantor or, as the case may be, the person first-mentioned in subsection (2) above.

(4) Where under any provisions of the principal Act or this Act any right conferred by a deed or other instrument to which subsection (1) or (2) above applies is transferred from one highway authority to another, this section shall after the transfer apply in relation to the other highway authority as it applied before the transfer to the first-mentioned authority.

(5) As respects registered land, nothing in this section prejudices the provisions of the Land Registration Acts 1925 to 1966.

49.—(1) The following provisions shall have effect where there has come into force a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers and providing for the acquisition of a right over land and notice to treat in respect of the right has been served on a person having an interest in the land.

Power of landowner affected by rights acquisition to compel acquisition of title.

(2) A person for the time being entitled to that interest ("the landowner") may, at any time within six weeks of service of the notice to treat, or such longer period as may be agreed in writing by the highway authority, but so long only as the notice has not been withdrawn, serve on the highway authority a counter-notice requiring them, instead of acquiring the right in question, to acquire instead his interest so far as it subsists in the land which is shown in the notice to treat as that over which the right is to be acquired.

PART III (3) As from the date of service of the landowner's counter-notice—

(a) the compulsory purchase order shall, as against the landowner, cease to have effect so far as it authorises the acquisition of the right in respect of which the counter-notice was served and shall have effect instead so as to authorise the authority to acquire compulsorily the landowner's interest in the land referred to in subsection (2) above ; and

(b) the notice to treat referred to in subsection (1) above shall be deemed to have been served (on the date on which it was in fact served) in respect of the said interest, instead of in respect of the right (without prejudice to the authority's power under section 31 of the Land Compensation Act 1961 to withdraw the notice at any time after this subsection has effect).

1961 c. 33.

(4) Nothing in this section prevents the highway authority from exercising any powers (and, in particular, any power of entry) which they have by virtue of having served notice to treat ; and the operation of subsection (3) above shall not prejudice any such power of the authority either as respects a previous exercise of it or as respects its continuance by virtue of subsection (3)(b).

(5) Without prejudice to section 222(6) of the principal Act (matters to be taken into account by Lands Tribunal in assessing compensation on exercise of highway land acquisition powers compulsorily), in assessing the compensation payable on a compulsory acquisition by virtue of subsection (3)(a) above the Tribunal shall take into account, and embody in its award, any undertaking given by the acquiring authority as to rights of user or occupation, or other rights, which they are willing to accord to the landowner (or to him and his successors) as respects the land referred to in subsection (2) above.

Effect of s. 47 on provisions of Planning Acts about planning blight.

1962 c. 38.
1968 c. 72.

50.—(1) The descriptions of land in relation to which sections 138 to 151 of the Town and Country Planning Act 1962 and sections 33 to 37 of the Town and Country Planning Act 1968 have effect (protection for interests in land affected by planning blight) shall include land in the case of which—

(a) there is in force a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers and providing, by virtue of section 47 of this Act, for the acquisition of a right or rights over that land ; and

(b) the highway authority have power to serve, but have not served, notice to treat in respect of the right or rights.

(2) In section 139 of the said Act of 1962 (matters to be stated by claimant in a blight notice) "the relevant date", in relation to land falling within the description specified in subsection (1) above, means the date when the compulsory purchase order was made or confirmed by the Secretary of State.

(3) Schedule 7 to this Act shall have effect for amending the said Acts of 1962 and 1968 (referred to in that Schedule as "the Act of 1962" and "the Act of 1968" respectively) and for adapting certain of their provisions for cases in which a blight notice within the meaning of those Acts is served in respect of land which is, or may become, subject to the exercise of highway land acquisition powers.

Miscellaneous provisions relating to exercise of highway land acquisition powers, and to land acquired thereunder

- 51.—(1) Except as provided by this section, a highway authority shall not—
- (a) in the exercise of the powers of section 44(1) of this Act in respect of works authorised by an order under section 1 thereof, acquire compulsorily land lying more than 220 yards from the middle of the classified road to which the order relates 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 ;
- (b) in the exercise of the powers of that subsection in respect of works authorised by section 7 of this Act, acquire compulsorily land lying more than 880 yards from the middle of the highway or proposed highway from which new means of access to premises are to be provided ;
- (c) in the exercise of the powers of section 44(3)(a) of this Act acquire compulsorily land lying more than 880 yards from the middle of the trunk road in connection with which a trunk road picnic area is to be provided ;
- (d) in the exercise of the powers of section 44(3)(b) or (4) of this Act acquire compulsorily land lying more than 220 yards from the middle of the highway or proposed highway on land adjoining, or in the vicinity of which, public sanitary conveniences are to be provided ;
- (e) in the exercise of the powers of section 44(5) of this Act acquire compulsorily land lying more than 880 yards from the middle of the highway or proposed highway on land adjoining, or in the vicinity of which, a lorry area is to be provided.

Distance limits from highway applicable to compulsory acquisition.

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(2) Section 214(3) and 215(3) of the principal Act (general limit of 220 yards from the middle of highway applicable to compulsory purchase of land for highway construction, improvement etc.) and paragraph (a) of the foregoing subsection shall, in relation to land required for the provision of new means of access to premises from a highway or proposed highway, have effect with the substitution for the distance there mentioned of a distance of 880 yards from the middle of that highway or proposed highway.

(3) Section 215(3) of the principal Act shall, in relation to land required for the purposes mentioned in section 215(1)(b) and (2)(c) (maintenance compounds, service areas, etc.), have effect with the substitution for the distance there mentioned of a distance of 880 yards from the middle of the trunk road or, as the case may be, the special road.

(4) Nothing in section 214(3) or 215(3) of the principal Act or subsection (1) above shall apply to land required for purposes connected with the drainage of a highway or proposed highway, or of a maintenance compound, service area, trunk road picnic area or lorry area, or required for the purpose—

- (a) of the diversion of a navigable watercourse ;
- (b) of the carrying out of works authorised by section 13 of this Act ; or
- (c) of providing protection for a highway or proposed highway against snow, flood, landslide or other hazards of nature.

(5) Section 216 of the principal Act (definition of middle of the highway in case of altered highway boundaries) shall apply for the purposes of subsection (1) above as it applies for the purposes of sections 214 and 215 of that Act.

Clearance
of title
to land
acquired for
statutory
purposes.

52.—(1) There may be included in a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers land in which the authority have already acquired interests by agreement in the exercise of such powers.

(2) Where land is included in a compulsory purchase order as mentioned above, it shall be treated as subject to compulsory purchase for the purposes of the Act of 1965, and that Act shall apply accordingly, except as respects—

- (a) the conveyance to the acquiring authority of any interest which they have acquired by agreement before the date of the coming into force of the compulsory purchase order ; and
- (b) compensation, so far as already paid or the subject of agreement.

(3) Where in the exercise of powers conferred by section 215(2)(c) of the principal Act (acquisition for service area) a special road authority have acquired land for the provision of a service area, any activities carried on on the land in the course of its use for the purposes of a service area shall, as against a person who apart from the acquisition would have had a right to restrain such activities, or a right the exercise of which would be calculated to interfere with them, be treated as activities of the special road authority carried on under statutory powers, notwithstanding that they are carried on by other persons under contract to the authority or otherwise.

(4) Subsection (3) above shall apply in relation to land acquired by the Secretary of State in exercise of the power conferred by section 44(3)(a) of this Act, and to land acquired by a highway authority in exercise of the power conferred by section 44(5) thereof, as it applies in relation to land acquired by a special road authority in the exercise of powers conferred by the said section 215(2)(c) as if the references to a special road authority and a service area were references to the Secretary of State and a trunk road picnic area or, as the case may be, to a highway authority and a lorry area respectively.

Provisions relating to acquisition procedure

53.—(1) Where a compulsory purchase order is made or proposed to be made in the exercise of highway land acquisition powers—

- (a) for the purpose of enabling one or more of the orders and schemes to which Schedule 1 to the principal Act applies (“the related instruments”) to be implemented when it or they become operative, or
- (b) for a purpose connected with a highway or proposed highway to which one or more of the related instruments relate,

Compulsory acquisition proceedings taken concurrently with other related proceedings, etc.

the proceedings required by Schedule 1 to the Act of 1946 to be taken for the purpose of confirming or making the compulsory purchase order may be taken concurrently (so far as practicable) with the proceedings required by Schedule 1 to the principal Act to be taken for the purpose of confirming or making the related instrument or, as the case may be, with two or more of the proceedings thereby required to be taken for the purpose of confirming or making the related instruments.

(2) Where a compulsory purchase order is made or proposed to be made in the exercise of highway land acquisition powers for the purpose of the provision of a new means of access to any premises, and an order under section 2 of this Act authorising the stopping up of a means of access to those premises is

PART III made or proposed to be made in connection with the provision of the new means of access, the proceedings required by Schedule 1 to the Act of 1946 to be taken for the purpose of confirming or making the compulsory purchase order may be taken concurrently (so far as practicable) with the proceedings required by the said section 2 to be taken for the purpose of confirming or making the order under that section.

(3) A compulsory purchase order made in the exercise of highway land acquisition powers for a purpose specified in column 1 of Schedule 8 to this Act may come into operation on the same day as any order or scheme specified in relation thereto in column 2 of that Schedule.

(4) Subsections (3)(a) and (b) and (4)(a) and (b) of section 284 of the principal Act (regulations for securing that proceedings required to be taken in respect of the compulsory acquisition of any land for certain purposes may be taken concurrently with certain other proceedings) shall cease to have effect.

Provisions relating to objections to compulsory purchase orders.

54.—(1) Where proceedings required by Schedule 1 to the Act of 1946 to be taken in respect of a compulsory purchase order made or proposed to be made in the exercise of highway land acquisition powers for a purpose specified in column 1 of Schedule 8 to this Act are taken after the confirmation or making by the Secretary of State of an order or scheme specified in relation thereto in column 2 of that Schedule, the Secretary of State may disregard for the purposes of the said Schedule 1 any objection to the compulsory purchase order or draft thereof, as the case may be, which in his opinion amounts in substance to an objection to that order or scheme.

(2) Where objections to a compulsory purchase order made or proposed to be made in the exercise of highway land acquisition powers for purposes connected with the construction, improvement, diversion or alteration of a highway are to be the subject of a local inquiry or considered by a person appointed by the Secretary of State, the Secretary of State may, by notice served on the persons making such objections or by the notice announcing the holding of the inquiry or hearing, direct that any person who intends at the inquiry to submit—

- (a) that any highway or proposed highway to which the order relates should follow an alternative route, or
- (b) that, instead of improving, diverting or altering a highway to which the order relates, a new highway should be constructed on a particular route,

shall send to the Secretary of State within such period as may be specified in the notice, being a period of not less than fourteen days and ending not less than fourteen days before the date

fixed for the holding of the inquiry or hearing, sufficient information about the alternative route or the route of the new highway, as the case may be, to enable it to be identified.

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(3) Where the Secretary of State has given a direction under subsection (2) above in relation to an inquiry or hearing, the person holding the inquiry or hearing and the Secretary of State may disregard so much of any objection as consists of a submission to which the direction applies unless the person making the objection has complied with the direction.

55.—(1) Where in the exercise of highway land acquisition powers a compulsory purchase order authorising the acquisition of any land is submitted to the Secretary of State in accordance with Part I of Schedule 1 to the Act of 1946 or is prepared in draft by him in accordance with Part II of that Schedule, then, if the Secretary of State—

Power to confirm, etc., compulsory purchase order in part and postpone consideration of remainder.

- (a) is satisfied that the order ought to be confirmed or made so far as it relates to a part of the land comprised therein, but
- (b) has not for the time being determined whether it ought to be confirmed or made so far as it relates to the remaining part,

he may confirm or, as the case may be, make the order so far as it relates to the part of the land mentioned in paragraph (a) above, and give directions postponing consideration of the order, so far as it relates to the remaining part, until such time as may be specified by or under the directions; and where the Secretary of State confirms or makes part of any such order, that part and the remaining part shall each be deemed for the purposes of this section and the said Schedule 1 to be a separate order.

(2) Where the Secretary of State gives directions under this section, the notices required by paragraph 6 of the said Schedule 1, or by that paragraph as applied by paragraph 7(4) of that Schedule, to be published and served shall include a statement of the effect of the directions.

56. In paragraph 11 of Schedule 1 to the Act of 1946 (which applies special parliamentary procedure in the case of compulsory purchase of land forming part of a common, open space, etc.), in sub-paragraph (1)(b) (exemption where land is not more than 250 square yards in extent or is required for the widening of an existing highway), after the word "widening" there shall be inserted "or drainage" and after the word "highway" there shall be inserted the words "or partly for the widening and partly for the drainage of such a highway".

Special parliamentary procedure in relation to compulsory purchase of open spaces.

PART IV

MISCELLANEOUS AND GENERAL PROVISIONS

Agreements between authorities and between highway authorities and other persons

Agreement for exercise by Secretary of State of certain functions of local highway authority as respects highway affected by construction, etc. of trunk road.

57.—(1) The Secretary of State and a local highway authority may enter into an agreement for providing, in relation to a highway specified in the agreement, being a highway that crosses or enters the route of a trunk road or is or will be otherwise affected by the construction or improvement of a trunk road, that any functions specified in the agreement, being functions of improvement exercisable as respects that highway by the local highway authority, shall be exercisable by the Secretary of State on such terms and subject to such conditions (if any) as may be so specified.

(2) Where under an agreement made under this section any function of a local highway authority is exercisable by the Secretary of State, then, for the purpose of exercising that function the Secretary of State shall have the same powers under the principal Act, the Act of 1961 and this Act (including highway land acquisition powers) as the local highway authority have for that purpose, and in exercising that function and those powers he shall have the like rights and be subject to the like liabilities as that authority.

(3) Where for purposes connected with any function exercisable by him under an agreement made under this section the Secretary of State proposes to construct a new highway—

- (a) every council (other than the council of a rural district) in whose area the proposed highway is situate shall be a party to the agreement;
- (b) the proviso to section 26(1) of the principal Act (notice of proposals for construction of certain new highways by the Secretary of State to be given to certain councils and representations made by them considered) shall not apply to that highway; and
- (c) the agreement shall provide for a local highway authority specified in the agreement to become the highway authority for the highway on its completion.

(4) Where a county council become the highway authority for a highway by virtue of this section that highway shall become a county road.

(5) An agreement under this section made between the Secretary of State and any other highway authority may provide for the payment of contributions—

- (a) by the Secretary of State to that other authority in respect of any additional liabilities imposed on that

other authority in consequence of the provisions of the agreement; PART IV

- (b) to the Secretary of State by that other authority in respect of liabilities so imposed on the Secretary of State, being liabilities which would otherwise have fallen to be discharged by that other authority;

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

(6) Any local highway authority who are a party to an agreement made under this section may contribute towards any expenses incurred by the Secretary of State in executing any works to which the agreement relates.

58. After subsection (1) of section 251 of the principal Act (which empowers local highway authorities to enter into agreements with each other for the doing of certain works) there shall be inserted the following subsections:—

“ (1A) An agreement under this section may provide, in relation to a highway specified in the agreement, being a highway for which one of the parties to the agreement are the highway authority, that any functions specified in the agreement, being functions exercisable as respects that highway by the highway authority therefor, shall be exercisable by some other party to the agreement on such terms and subject to such conditions (if any) as may be so specified.

(1B) Where under an agreement made under this section any function of the highway authority for a highway is exercisable by another highway authority, then, for the purpose of exercising that function that other highway authority shall have the same powers under this Act, the Highways (Miscellaneous Provisions) Act 1961 and the Highways Act 1971 (including highway land acquisition powers) as the highway authority for the highway have for that purpose, and in exercising that function and those powers they shall have the like rights and be subject to the like liabilities as that authority.”

59.—(1) Section 238(1) of the principal Act (which empowers councils to contribute towards the expenses of construction, improvement, etc. of trunk roads) shall be amended as follows:—

- (a) after the words “ trunk road ” there shall be inserted the words “ or other highway ”; and
- (b) for the words “ the road ”, in both places where they occur, there shall be substituted the words “ the highway ”.

(2) After section 238(2) of the principal Act (which empowers a county council to contribute towards expenses incurred by

PART IV another council in the improvement of certain highways) there shall be inserted the following subsection:—

“(2A) For the purposes of subsections (1) and (2) of this section expenses incurred in connection with the stopping up of a means of access to any premises from a highway (including expenses incurred in providing an alternative means of access to those premises from that or any other highway) shall be deemed to be expenses incurred in the improvement of that highway.”

Contributions towards expenses incurred by a highway authority in executing certain works by persons deriving special benefit therefrom.

60.—(1) Subject to subsection (4) below, a highway authority proposing to execute any works which they are authorised by or under any enactment to execute may enter into an agreement under this section with any other person who would derive a special benefit if those works incorporated particular modifications, additions or features or were executed at a particular time or in a particular manner.

(2) An agreement under this section is an agreement whereby the other party to the agreement agrees that if one or more (as the agreement may provide) of the following conditions, that is to say—

- (a) a condition that the works to be executed by the highway authority will incorporate such modifications, additions or features as may be specified in the agreement;
- (b) a condition that the execution of the said works will be begun, or (as the agreement may provide) completed, before such date as may be so specified;
- (c) a condition that the said works will be executed in such manner as may be so specified,

is or are fulfilled, he will make towards the expenses incurred by the authority in executing the said works a contribution (whether by a single payment or by periodical payments) of such amount as may be so specified.

(3) An agreement under this section may provide for the making to the highway authority by the other party to the agreement of payments in respect of the maintenance of the works to which the agreement relates and may contain such incidental and consequential provisions as appear to the highway authority to be necessary or expedient for the purposes of the agreement.

(4) A highway authority shall not enter into an agreement under this section unless they are satisfied that it will be of benefit to the public.

(5) Where for the purpose of executing any works to which an agreement under this section relates a highway authority have power to acquire land either by agreement or compulsorily

and they would not need to exercise that power for that purpose had they not entered into an agreement under this section they shall not exercise their power to acquire land compulsorily for that purpose.

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Provisions affecting the Post Office, statutory undertakers, etc.

61. Section 300 of the principal Act (provisions relating to the powers of the Post Office and to the alteration of telegraphic lines belonging to or used by the Post Office) shall have effect subject to the amendments set out in Schedule 9 to this Act.

Provisions affecting the Post Office.

62. It is hereby declared for the avoidance of doubt that the incidental provisions which may be included in an order under section 9 or section 13 of the principal Act or section 1 of this Act, being an order which provides for the stopping up or diversion of a highway, shall include provisions providing for the preservation of any rights—

Preservation of rights of statutory undertakers and sewerage authorities.

- (a) of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the highway to which the order relates ; or
- (b) of any sewerage authority in respect of any sewers or sewage disposal works of theirs which immediately before that date are situated in relation to that highway as mentioned in paragraph (a) above.

63.—(1) The following provisions, that is to say—

- (a) sections 164 and 165 of the Town and Country Planning Act 1962 (power to extinguish rights of statutory undertakers over land acquired under certain enactments or appropriated by a local authority for planning purposes) ;
- (b) sections 170(2), 171 and 173 thereof (compensation), so far as applicable for the purposes of the said sections 164 and 165 ;
- (c) section 72 of the Town and Country Planning Act 1968 (which modifies the said section 164) ; and
- (d) section 73 of the said Act of 1968 (power of statutory undertakers to remove or re-site apparatus affected by development) ;

Extinguishment of rights as to apparatus etc. of statutory undertakers and sewerage authorities.
1962 c. 38.

1968 c. 72.

shall apply in relation to any land over which a highway subsists or has subsisted, being a highway the stopping up or diversion of which is or was authorised by an order under section 9 or section 13 of the principal Act or section 1 of this Act, as they apply in relation to land acquired by a Minister, a local authority or statutory undertakers under Part V of the said Act of 1962, or under any other enactment, or appropriated by a local

PART IV authority for planning purposes, subject however to the modifications set out in Schedule 10 to this Act.

(2) Subsection (1) above and the provisions of the said Acts of 1962 and 1968 applied by that subsection 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.

(3) In the provisions of the said Acts of 1962 and 1968, as applied for the purposes of subsection (2) above, references to the appropriate Minister shall be construed—

- (a) in relation to a sewerage authority in England exclusive of Monmouthshire, as references to the Secretary of State for the Environment ; and
- (b) in relation to a sewerage authority in Wales or Monmouthshire, as references to the Secretary of State for Wales.

Powers of entry

Powers of entry for the purpose of survey.

64.—(1) A person duly authorised in writing by a highway authority may at any reasonable time enter on any land for the purpose of surveying that or any other land in connection with the exercise by that authority, in their capacity as a highway authority, of any of their functions.

(2) Any power conferred by this section to enter on land shall be construed as including power to place and leave on or in the land any apparatus for use in connection with any survey of that or any other land (whether from the air or on the ground) and to remove such apparatus.

(3) Any power conferred by this section to survey land shall be construed as including power to search and bore for the purpose of ascertaining—

- (a) the nature of the subsoil or the presence of minerals therein ;
- (b) whether any damage to a highway maintainable at the public expense for which the authority are the highway authority is being caused or is likely to be caused by mining operations or other activities taking place under the highway or in or under land adjoining, or in the vicinity of, the highway.

(4) Section 254 of the principal Act (powers of entry for certain purposes) shall cease to have effect.

Supplementary provisions as to powers of entry for the purpose of survey.

65.—(1) A person authorised under section 64 of this Act to enter on any land shall, if so required, produce evidence of his authority before or after entering on that land.

(2) A person so authorised may take with him on to the land in question such other persons, and such vehicles and equipment, as he may consider necessary.

(3) Subject to subsection (6) below, a person shall not under the said section 64 demand admission as a right to any land which is occupied unless at least seven days' notice of the intended entry has been given to the occupier.

(4) Subject to subsection (6) below, a person shall not, in the exercise of a power conferred by the said section 64, place or leave any apparatus on or in any land or remove any apparatus therefrom unless notice of his intention to do so has been included in the notice required by subsection (3) above and a like notice has been given to the owner of the land.

(5) A person shall not execute any works authorised by subsection (3) of the said section 64 unless notice of his intention to do so was included in the notices required by subsections (3) and (4) above and, where their interests are liable to be affected by the proposed works, a like notice has been given to the National Coal Board, any sewerage authority, any statutory undertakers and any river authority.

(6) Where a highway authority intend to place and leave apparatus on or in a highway or to remove apparatus therefrom, or to execute in relation thereto such works as are authorised by subsection (3) of the said section 64, no notice need be given to the occupier or owner of the land over which the highway subsists; but if the highway authority are not the highway authority for the highway, they shall give to that authority such notice as is required by subsections (4) and (5) above to be given to the owner.

(7) If the National Coal Board, any sewerage authority, any statutory undertakers or any river authority to whom notice has been given under subsection (5) above object to the proposed works on the ground that the execution thereof would be seriously detrimental to the carrying on of their undertaking or, in the case of a sewerage authority or a river authority, would obstruct or impede the performance of their functions under any enactment, the works shall not be executed except with the authority of the appropriate Minister.

(8) Where in the exercise of a power conferred by the said section 64 works authorised by subsection (3) of that section are to be executed in a street or controlled land within the meaning of the Public Utilities Street Works Act 1950, section 26 of that Act (which imposes obligations on undertakers executing works which are likely to affect other undertakers' apparatus) shall apply in relation to those works as if they were works to which that section applies and as if the highway authority by whom they are to be executed were operating undertakers within the meaning of that section. 1950 c. 39.

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(9) The Post Office shall be deemed to be statutory undertakers and its undertaking a statutory undertaking for the purposes of the foregoing provisions of this section.

(10) In this section "the appropriate Minister" means—

- (a) in relation to a river authority, the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly;
- (b) in relation to the Post Office, the Minister of Posts and Telecommunications; and
- (c) in any other case, the Secretary of State.

Powers of entry for purpose of maintaining, etc. certain structures and works.

66.—(1) Where a highway authority have power or a right to maintain, alter or remove any structure or work which is situated on, over or under any land, and that land neither belongs to the highway authority nor forms part of a highway for which they are the highway authority, then, if for the purpose of exercising that power or that right it is necessary for a person to enter on that land or any other land, a person duly authorised in writing by that authority may at any reasonable time enter on that land or any other land for that purpose.

(2) Section 65(1), (2) and (3) of this Act shall have effect in relation to a person authorised under this section to enter on any land as they have effect in relation to a person authorised under section 64 of this Act to enter on any land.

1968 c. 73.

(3) In relation to a bridge to which section 118 of the Transport Act 1968 (duty of highway authorities, etc. as respects bridges over railways or inland waterways) applies, being a bridge belonging to a highway authority, subsections (1) and (2) above shall have effect subject to the provisions of that section.

(4) In this section—

- "structure" includes a bridge, fence, barrier or post;
- "work" includes a tunnel, ditch, gutter, watercourse, culvert, drain, soak-away or pipe.

(5) Nothing in this section shall affect the powers of a highway authority under section 103 of the principal Act (drainage of highways).

(6) Nothing in this section shall affect any agreement for the time being in force between a highway authority having power or a right to maintain, alter or remove a structure or work and any person having an interest in the land on, over or under which it is situated, being an agreement relating to the maintenance of or other dealing with the structure or work.

67.—(1) Where, in the exercise of a power to enter, or to do any thing, on any land, being a power conferred by section 64 or 66 of this Act, any damage has been caused to that land or to any chattels thereon, any person interested in that land or those chattels may, subject to subsection (2) below, recover compensation in respect of that damage from the highway authority by whom or on whose behalf the power was exercised; and where in consequence of the exercise of such a power any person interested in the land in relation to which the power was exercised or in any chattels thereon is disturbed in his enjoyment thereof, he may recover from that authority compensation in respect of the disturbance.

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 Compensation for damage resulting from exercise of powers of entry, etc.; offences connected with exercise of such powers.

(2) Where any person is entitled under section 26 of the Public Utilities Street Works Act 1950, as applied by section 65(8) of this Act, to compensation in respect of any matter, he shall not be entitled to recover compensation under subsection (1) above in respect of the same matter.

1950 c. 39.

(3) A person who wilfully obstructs a person acting in the exercise of a power conferred by section 64 or 66 of this Act, or who removes or otherwise interferes with any apparatus placed or left on or in any land in exercise of a power conferred by the said section 64, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(4) If a person who, in compliance with the provisions of the said section 64 or 66, 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 liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

Other amendments of the principal Act

68.—(1) In subsection (1) of section 44 of the principal Act (which provides that the authority who are for the time being the highway authority for a highway maintainable at the public expense shall, subject to certain exceptions, be under a duty to maintain that highway) for the word “subsection” there shall be substituted the word “subsections”, and at the end of that section there shall be added the following subsection:—

Maintenance and lighting of part of trunk road.

“ (3) An order made by the Secretary of State under section 7 of this Act directing that a highway proposed to be constructed by him shall become a trunk road may direct that the Secretary of State shall, notwithstanding

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anything in the foregoing provisions of this section, be under no duty to maintain—

- (a) a part of a highway to which this subsection applies, being a part which crosses the route of the highway to be so constructed, or
- (b) a highway to which this subsection applies which becomes a trunk road by virtue of the order,

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 Secretary of State to the highway authority for that highway.

This subsection applies to any highway other than a highway maintainable at the public expense by a local highway authority or a highway maintainable under a special enactment or by reason of tenure, enclosure or prescription.”

(2) Where an order made by the Secretary of State under section 7 of the principal Act directing that a highway proposed to be constructed by him shall become a trunk road contains a direction made in pursuance of subsection (2) of section 44 of that Act (power to direct that part of a trunk road shall be maintained by another highway authority until the new route is opened for the purposes of through traffic) or subsection (3) thereof, then, until the date specified in a notice given by the Secretary of State under the said subsection (2) or (3), as the case may be, the powers of a highway authority under sections 28 to 32 of the Local Government Act 1966 (lighting of highways) as respects the highway to which the direction relates shall be exercisable by the local highway authority who immediately before the date on which the order came into force were the highway authority for that highway, as well as by the Secretary of State.

1966 c. 42.

Extension of liability of county council to contribute to cost of maintenance, etc. of claimed county road.

69. At the end of section 237 of the principal Act (which requires a county council to contribute to the cost of the maintenance, etc. of a county road which the council of a non-county borough or urban district in the county are entitled to maintain) there shall be added the following subsection:—

“(7) The foregoing provisions of this section and the provisions of section 28(6) of the Local Government Act 1966 (which relates to the cost of lighting, etc. a claimed county road) shall apply in relation to a trunk road, being a road which—

- (a) immediately before it became a trunk road was a county road for which the council of a non-county borough or urban district were the highway authority by virtue of section 4 of this Act; and

(b) is for the time being maintainable by the council of that borough or district by virtue of a direction made in pursuance of section 44(2) of this Act relating to that road, PART IV

as they apply in relation to a county road for which such a council are the highway authority by virtue of the said section 4.

In this subsection references to a road include references to part of a road."

70.—(1) Section 116 of the principal Act (which among other things imposes duties on councils to protect the rights of the public to the use and enjoyment of highways) shall be amended as follows:— Institution of certain proceedings by councils.

- (a) in subsection (5) (which empowers a council in the performance of their functions under the section to institute or defend any legal proceedings) for the words "institute or" there shall be substituted the words "institute legal proceedings in their own name"; and
- (b) at the end of subsection (6) (which requires the council of a county district to take proper proceedings in certain circumstances) there shall be inserted the words "and they may do so in their own name".

(2) In section 119(5) of the principal Act (enforcement of provisions relating to ploughing of footpaths and bridleways and restriction on right to bring proceedings in respect of an offence under those provisions) after the word "and" there shall be inserted the words "subject to subsection (5A) of this section", and after the said subsection (5) there shall be inserted the following subsection:—

"(5A) Proceedings in respect of an offence under subsection (3) of this section may be brought by the council of the parish in which the path or way in question is situated or, if the council of the county district within whose area that path or way is situated are not the highway authority for the path or way, by that council."

71.—(1) In section 141 of the principal Act (which penalises a person who places a rope, etc. across a highway and specifies £20 as the maximum fine in the case of a first offence and £50 or imprisonment for a term not exceeding three months in the case of a subsequent offence), for the words from "liable" to the end there shall be substituted the words "liable to a fine not exceeding £50". Amendment of penalties for certain offences.

(2) For subsection (4) of section 146 of the principal Act (which specifies £5 as the maximum fine for contravening certain

PART IV

requirements relating to the fencing, etc. of obstructions in streets and the filling in of excavations and £2 for each day on which the contravention is continued after conviction) there shall be substituted the following subsection:—

“(4) If any person fails to satisfy an obligation to which he is subject by virtue of subsection (3) above he shall be guilty of an offence and shall, without prejudice to any other liability to which he may be subject apart from this subsection, be liable in respect thereof to a fine not exceeding £10 in respect of each day of such failure.”

(3) In subsection (4) of section 255 of the principal Act (powers of entry for purposes connected with certain orders relating to footpaths and bridleways) for the words “twenty pounds” (the maximum fine which may be imposed on conviction of the offence of wilfully obstructing a person acting in the exercise of those powers) there shall be substituted “£50”.

(4) For subsection (2) of section 259 of the principal Act (which confers power on highway authorities and councils to require information as to the ownership of land) there shall be substituted the following subsections:—

“(2) Any person who, having been required in pursuance of this section to give any information, fails to give that information shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) Any person who, having been so required to give any information, knowingly makes any mis-statement in respect thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.”

Minor amendments of procedural and transitional provisions.

72.—(1) At the end of Part II of Schedule 1 to the principal Act (procedure for making or confirming certain schemes) there shall be added the following paragraph:—

“11. In this Part of this Schedule ‘proposed scheme’ includes a scheme made by a local highway authority and submitted to the Secretary of State.”

(2) In paragraph 3 of Schedule 12 to the principal Act (publication of notice of application for order of magistrates’ court authorising the stopping up or diversion of a highway) for the words “Once at least in each of two successive weeks” there shall be substituted the words “At least twenty-eight days before the day on which the application is made” and for the words “a local newspaper” there shall be substituted the words “at least one local newspaper.”

(3) The principal Act shall be deemed to have been enacted with the following paragraph in Schedule 24 (transitional provisions):—

PART IV

“31A. Without prejudice to paragraph 31 of this Schedule, any reference in this Act (express or implied) to a thing done or made or falling to be done or made, or to a thing suffered, or to an event which has occurred, under or for the purposes of or by reference to a provision of this Act shall, in so far as the context permits, be construed as including a reference to the corresponding thing done or made or falling to be done or made, to the corresponding thing suffered or, as the case may be, to the corresponding event which occurred under, or for the purposes of, or by reference to, the corresponding provision of the enactments repealed by this Act.”

73.—(1) So much of section 214(3) of the principal Act as prohibits the compulsory acquisition of land required for the construction of a highway unless the highway is to be constructed in pursuance of a scheme under section 11 of that Act or plans for its construction have been made or approved by the Secretary of State shall cease to have effect. Removal of requirement for approval of plans for constructing highway.

(2) So much of section 295(1) of the principal Act as defines the expression “proposed highway” as meaning land on which in accordance with plans approved by the Secretary of State a local highway authority are constructing or intending to construct a highway shown in the plans shall cease to have effect, and accordingly in the definition of that expression for the words from “or approved” to “highway authority” there shall be substituted the words “by a highway authority, that authority.”

74. Section 76(2) of the principal Act (which requires a council who propose to execute works which will materially reduce the width of the carriageway or footway of a classified road to give notice of the proposed works to the Secretary of State before commencing them) and section 104 of that Act (which empowers a magistrates’ court, if it appears to it to be desirable that a traffic sign be erected on or near a highway giving directions to places served by the highway, to order the highway authority for the highway so to erect such a sign) shall cease to have effect. Repeal of obsolete provisions.

PART IV *Minor amendments of law relating to recording of public paths, etc.*

Amendment of law regulating certain reviews of public paths, etc.
1968 c. 41.
1949 c. 97.

75. The Countryside Act 1968 shall be deemed to have been enacted with the following provision in place of paragraph 8(2)(b) in Part III of Schedule 3 (which Part relates to the first review begun under section 33 of the National Parks and Access to the Countryside Act 1949 after the coming into force of the said Act of 1968 and to the reclassification in the course of that review of roads used as public paths):—

“(b) the special review may, if the authority consider it unnecessary to do more than review the roads used as public paths, be confined to a review of such roads in accordance with this Part of this Schedule, and a review which is so confined is hereafter in this Schedule called ‘a limited special review’”.

Private street works code to apply to certain highways maintainable at public expense.

76.—(1) Subject to subsection (2) below, where a highway in existence at the coming into force of the Countryside Act 1968 would, if paragraph 9(2)(a) of Schedule 3 to that Act (which provides that as from the date of publication of the definitive map and statement in a review carried out by an authority under Part III of that Schedule certain ways shown on the map shall be highways maintainable at the public expense) 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 highway is a highway so maintainable by virtue of the said paragraph 9(2) shall not prevent its being treated for those purposes as a private street.

(2) Where the street works authority have exercised the powers exercisable by them by virtue of subsection (1) above in relation to a highway or to a part thereof, that subsection shall not thereafter apply to that highway 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.

Minor amendments of the Town and Country Planning Acts, etc.

Minor amendments of the Town and Country Planning Acts.
1962 c. 38.

77.—(1) Section 138(1)(e) of the Town and Country Planning Act 1962 (and to be treated as blighted if on or adjacent to line of highway proposed to be constructed, etc. as indicated in certain orders or schemes and if subject to compulsory purchase under Part X of the principal Act) shall be amended as follows:—

(a) after the words “special roads” there shall be inserted the words “or as indicated in an order which has come into operation under section 1 of the Highways Act 1971”; and

(b) for the words "Part X of that Act" there shall be substituted the words "Part X of the said Act of 1959 or Part III of the said Act of 1971". PART IV

(2) In section 148 of the said Act of 1962 (definition of "appropriate enactment" for purposes of the blight provisions) in subsection (4) there shall be inserted after paragraph (b) the following paragraphs:—

"(bb) the coming into operation of the requisite scheme under section 3 of the Highways (Miscellaneous Provisions) Act 1961;

(bc) the coming into operation of the requisite order under section 1 of the Highways Act 1971".

(3) In paragraph (a) of section 11 of the Town and Country Planning Act 1968 (representations with respect to certain plans may be disregarded if they amount to representations with respect to things done, etc. in pursuance of certain orders or schemes) for the words "or 13" there shall be substituted the words "13 or 20", and at the end of that section there shall be inserted the following paragraphs:—

"(c) a scheme under section 3 of the Highways (Miscellaneous Provisions) Act 1961 (scheme for construction of bridge or tunnel as part of maintainable highway);

(d) an order under section 1 of the Highways Act 1971 (classified road order) or section 10 thereof (order authorising diversion of navigable watercourse)".

(4) In paragraph 1 of Schedule 9, and in paragraph 2 of Schedule 10, to the said Act of 1968 (meaning of development plan for purpose of certain enactments) after the words "town and country planning", in each place where they occur, there shall be inserted the words "the Highways Act 1959." 1959 c. 25.

(5) In paragraph 6 of the said Schedule 9 (construction of certain statutory references to the acquisition of land and to land acquired) any reference to an enactment other than the said Acts of 1962 and 1968 shall include a reference to sections 44 and 47(3) of this Act.

78.—(1) In the definition of "road purposes" in section 39 of the Public Utilities Street Works Act 1950 after the words "1959" there shall be inserted the words "as amended by the Highways Act 1971". Amendment of definitions which refer to improvement of a highway.

(2) At the end of the definition of "improvement" in section 221 of the Town and Country Planning Act 1962 there shall be inserted the words "as amended by the Highways Act 1971". 1950 c. 39.
1962 c. 38.

PART IV

Provisions as to the Crown

Application
of Highways
Acts to Crown
land.

79. For section 287 of the principal Act (which provides that certain provisions of that Act shall bind the Crown), there shall be substituted the following section:—

“Applica-
tion of the
Act and
other Acts
to Crown
Land.

287.—(1) The provisions of this section shall apply in relation to any land belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

(2) The appropriate authority in relation to any land and a highway authority may agree that any provisions of this Act, the Highways (Miscellaneous Provisions) Act 1961 or the Highways Act 1971 specified in the agreement shall apply to that land and, while the agreement is in force, those provisions shall apply to that land accordingly, subject however to the terms of the agreement.

(3) Any such agreement as is mentioned in subsection (2) above may contain such consequential and incidental provisions, including provisions of a financial character, as appear to the appropriate authority to be necessary or equitable, but provisions of a financial character shall not be included in an agreement made by a government department without the approval of the Treasury.

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

- (a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question ;
- (b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of that 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 ; PART IV

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.”

Supplementary

80.—(1) Where an offence under any of the following provisions of this Act, that is to say, sections 31, 32, 35, 36, 38 and 41, which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Provisions relating to offences.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Section 271 of the principal Act (restriction on institution of proceedings) shall apply in relation to proceedings for an offence under section 35 or 38 of this Act as it applies in relation to proceedings for an offence under any provision of that Act to which the said section 271 applies.

81.—(1) Section 264 of the principal Act (recovery of certain expenses incurred by councils) shall apply in relation to any expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable— Recovery of certain expenses; determination of disputes as to compensation.

(a) under section 144 of that Act, as amended by section 34 of this Act, or

(b) under or by virtue of section 35, 38 or 40 of this Act, as it applies in relation to expenses for the repayment of which the owner of premises is liable under any of the provisions of that Act which are specified in Schedule 18 thereto and as if references to a council included references to a highway authority.

(2) The provisions of the Land Charges Act 1925 with respect to local land charges shall apply to any charge acquired by the Secretary of State by virtue of subsection (1) of the said section 264 as if the charge had been acquired by a council, and any such charge shall be registered accordingly by the appropriate officer of the local authority in whose area the premises subject to that charge are situated. 1925 c. 22.

PART IV

(3) Subsections (1), (2) and (3) of section 266 of the principal Act (disputes as to compensation to be determined by the Lands Tribunal) shall apply in relation to any dispute arising on a claim for compensation under any of the following provisions of this Act, that is to say, sections 4(2), 12(4), 13(5) and 67(1), as they apply in relation to a dispute arising on a claim for compensation under a provision of that Act to which the said section 266 applies.

(4) In determining the amount of compensation payable under the said section 4(2), the said section 12(4) or the said section 13(5) the Lands Tribunal shall have regard to any new means of access to the premises of the claimant, or, as the case may be, any new right of access to a watercourse from the premises of the claimant, provided by the highway authority from whom the compensation is claimed.

Revocation,
variation, etc.
of certain
orders.

82.—(1) An order confirmed by the Secretary of State, or as an unopposed order by a local highway authority, under section 2 of this Act may be revoked or varied by a subsequent order made and confirmed in the like manner and subject to the like provisions, except that an order confirmed in either way may be revoked or varied by an order confirmed in the other way.

(2) An order revoking or varying an order made or confirmed under section 1, 2 or 10 of this Act may contain such consequential provisions as appear to the Secretary of State or, in the case of an order under the said section 2 confirmed as an unopposed order by a local highway authority, to that authority to be expedient.

(3) Paragraph (d) of section 285(1) of the principal Act (power to make certain regulations, schemes and orders to be exercisable by statutory instrument) shall not have effect in relation to orders which the Secretary of State has power to make or confirm under section 1, 2 or 10 of this Act.

Financial
provisions.

83.—(1) There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses of a Minister of the Crown under this Act; and
- (b) any increase attributable to the provisions of this Act in the sums payable under any other enactment out of moneys so provided.

(2) Any sums received by the Secretary of State under or by virtue of this Act shall be paid into the Consolidated Fund.

84.—(1) This Act shall be construed as one with the principal Act; and without prejudice to the generality of this provision, but subject to section 82(3) of this Act, any reference in the principal Act to that Act includes (except in so far as the context otherwise requires) a reference to this Act. PART IV
Interpretation.

(2) In this Act—

“the Act of 1946” means the Acquisition of Land (Authorisation Procedure) Act 1946; 1946 c. 49.

“the Act of 1961” means the Highways (Miscellaneous Provisions) Act 1961; 1961 c. 63.

“the Act of 1965” means the Compulsory Purchase Act 1965; 1965 c. 56.

“highway land acquisition powers” has the meaning given by section 47 of this Act, that is to say it means powers in respect of acquisition of land which are exercisable by a highway authority under any of the enactments specified in Schedule 5 to this Act;

“lorry area” means an area provided under section 30 of this Act;

“maintenance compound” means an area of land (with or without buildings) used or to be used in connection with the maintenance of highways, or a particular highway;

“the principal Act” means the Highways Act 1959; 1959 c. 25.

“service area” means an area of land adjoining, or in the vicinity of, a special road, being an area in which there are, or are to be, provided service stations or other buildings or facilities to be used in connection with the use of the special road; and

“trunk road picnic area” means an area of land adjoining, or in the vicinity of, a trunk road, not being a special road, being an area in which there are, or are to be, provided a picnic site for persons likely to use the road, space for parking vehicles and a means of access to and from a highway.

(3) References in this Act to rights over land are to be construed as including references to the right to do, or to place and maintain, any thing in, on or under the land, or in the air-space above its surface.

(4) Any reference in this Act to a thing done by the Secretary of State shall be construed as including a reference to the corresponding thing done by any predecessor of his before the coming into operation of the Secretary of State for the Environment Order 1970. S.I. 1970/1681.

(5) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as

PART IV extended or applied, by or under any other enactment, including this Act.

Power to amend local Acts.

85.—(1) The Secretary of State may, subject to the provisions of this section, by an order made by statutory instrument repeal or amend any provision in any local Act passed before this Act, or in any Act passed before this Act and confirming a provisional order, where it appears to him that that provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.

(2) The Secretary of State shall not make an order under this section repealing or amending any provision in any local Act the Bill for which was promoted—

(a) by a council, or

(b) by any local or other authority, board, commissioners, trustees or other body whose functions under the local Act have become exercisable by a council,

except on the application of that council.

(3) Before making an order under this section the Secretary of State shall consult with any council who appear to him to be concerned, not being a council on whose application the order is made.

(4) An order made under this section may contain such transitional, supplemental or incidental provisions as appear to the Secretary of State to be expedient.

(5) A statutory instrument containing an order made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Section 286(2) of the principal Act (power to revoke or vary orders) shall not apply to an order made under this section.

Transitional provisions, repeals, etc.

86.—(1) The transitional provisions and saving set out in Schedule 11 to this Act shall have effect.

(2) Subject to subsection (1) above, the enactments specified in Schedule 12 to this Act are hereby repealed to the extent specified in column 3 of that Schedule.

1963 c. 33.
S.I. 1965/319.
S.I. 1970/1681.

(3) In accordance with sections 1, 3, 12 and 14 of this Act and the said Schedule 12, paragraph 72 of Schedule 6 to the London Government Act 1963 (which amends Part I of Schedule 1 to the principal Act), the Secretary of State for Wales and Minister of Land and Natural Resources Order 1965 and the Secretary of State for the Environment Order 1970 (each of which Orders transferred certain functions of the Minister of Transport to the Secretary of State), Part I of Schedule 1 to the principal Act shall have effect as it is set out in Schedule 13 to this Act.

87.—(1) This Act may be cited as the Highways Act 1971. PART IV

(2) The Highways Acts 1959 to 1965, Part III of the Local Government Act 1966 and this Act may be cited together as the Highways Acts 1959 to 1971. Short title,
citation,
commence-
ment and
extent.
1966 c. 42.

(3) This Act shall come into operation on a day appointed by an order made by statutory instrument by the Secretary of State, and different days may be appointed under this section for different purposes and, in particular, different days may be so appointed for the coming into operation of the same provision in different areas.

(4) Any reference in this Act to the commencement of any provision thereof shall be construed as a reference to the day appointed for the coming into operation of that provision or, in the case of a provision which comes into operation at different days in different areas, shall, in relation to any area, be construed as a reference to the day appointed for the coming into operation of that provision in that area.

(5) An order under this section may make such transitional provision as appears to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptation of those provisions or any provision of this Act then in force as appear to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

(6) This Act does not extend to Scotland or Northern Ireland.

SCHEDULES**Section 1.****SCHEDULE 1****AMENDMENTS OF PRINCIPAL ACT FOR WHICH SECTIONS 1, 3, 12 AND 14 OF THIS ACT PROVIDE****PART I****AMENDMENTS FOR WHICH SECTION 1 PROVIDES**

1. At the end of paragraph (e) of section 21(2) (which specifies the highways which are to become county roads) insert "or is transferred to a county council by means of an order under section 1 of the Highways Act 1971".

2. After paragraph (b) of section 22(5) (which specifies the circumstances in which a county road is to cease to be a county road) insert the following paragraph:—

"(bb) it is transferred from a county council to some other highway authority, not being a county council, by means of an order under section 1 of the Highways Act 1971, or".

3. In section 85(1)(c) (which empowers a highway authority to fence land on which in pursuance of certain schemes and orders they are constructing or intend to construct a highway) after "thereof" insert "or of an order under section 1 of the Highways Act 1971".

4.—(1) In section 231(1) (which provides for the transfer of property and liabilities where provision is made by certain orders for the transfer or alteration of a highway) after "thereof" insert "or by an order under section 1 of the Highways Act 1971".

(2) In section 231(3) (which excludes from transfer certain bridges and tunnels) after "Act" insert "or to an order under section 1 of the Highways Act 1971" and at the end thereof insert "or to a classified road, as the case may be".

5. In paragraph 2 of Schedule 1 (which provides for the publication by a local highway authority by whom an order is submitted to the Secretary of State of a notice relating to the proposed order) for the words from "is submitted" to "thirteen" substitute "under the said section 13 or section 1 of the Highways Act 1971 is submitted to the Secretary of State".

6. In heads (iii), (iv) and (vii) of the Table set out at the end of paragraph 3 of Schedule 1 (which specify the persons on whom certain documents relating to proposed orders are to be served) after "Act", in each place where it occurs, insert "or section 1 of the Highways Act 1971".

7. At the end of Part I of Schedule 1 insert the following paragraph:—

"6A. In this Part of this Schedule references to a proposed order or an order proposed to be made shall be construed as including references to an order made by a local highway authority and submitted to the Secretary of State."

PART II

SCH. 1

AMENDMENT FOR WHICH SECTION 3 PROVIDES

8. In head (v) of the Table set out at the end of paragraph 3 of Schedule 1 for "section thirteen of this Act" substitute "section 9 or section 13 of this Act or section 1 of the Highways Act 1971".

PART III

AMENDMENTS FOR WHICH SECTION 12 PROVIDES

9. In paragraph 1 of Schedule 1 (which provides for the publication by the Secretary of State of a notice relating to certain orders proposed to be made by him) after "twenty" insert "or an order under section 10 of the Highways Act 1971".

10. In paragraph 2 of Schedule 1, as amended by paragraph 5 above, after "1971" insert "or section 10 of that Act".

11. For head (ii) of the Table set out at the end of paragraph 3 of Schedule 1 substitute the following head:—

"(ii) In the case of an order proposed to be made under section 7, section 9 or section 13 of this Act or under section 1 or section 10 of the Highways Act 1971 which provides for the construction of a bridge over or tunnel under navigable waters or for the diversion of a navigable watercourse, and in the case of every order proposed to be made under section 20 of this Act—

Every navigation authority and river authority concerned with or having jurisdiction over the waters affected or the area comprising those waters or that watercourse and, if the waters or watercourse affected are or is within the London excluded area as defined in paragraph 15(3) of Schedule 14 to the London Government Act 1963, the Greater London Council." 1963 c. 33.

PART IV

AMENDMENTS FOR WHICH SECTION 14 PROVIDES

12. In paragraph 1(b) of Schedule 1 (which specifies the time within which certain documents relating to a proposed order may be inspected) for "of three months" substitute "specified in the notice, being a period of not less than six weeks".

13. After paragraph 4 of Schedule 1 insert the following paragraphs:—

"4A. At any time, whether before or after the expiration of the period specified in the notice in pursuance of paragraph 1(b) of this Schedule, the Secretary of State or the local highway authority, as the case may be, by whom the notice was published may, by a subsequent notice published in at least one local newspaper circulating in the area in which any highway, or any proposed highway, to which the proposed order relates is situated, and in the London Gazette, substitute for the period specified in the first notice such longer period as may be specified in the subsequent notice.

4B. Where the period specified in a notice published by the Secretary of State or a local highway authority under paragraph 1 of this Schedule is extended by a notice published under

SCH. 1 paragraph 4A thereof, paragraph 3 of this Schedule shall apply as if the notice under the said paragraph 4A were a notice under the said paragraph 1, but the foregoing provision shall not be taken as requiring a copy of the proposed order or of any map or plan referred to in that order to be served on a person on whom it was previously served”.

14. In paragraph 5 of Schedule 1 (which specifies the circumstances in which a local inquiry is to be held if an objection to the proposed order is received within a specified period) for “three months from the date of his being served therewith” substitute “the period specified in the notice in pursuance of paragraph 1(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 4A of this Schedule, within the period specified in the subsequent notice” and for the words from “three months” to “latest of them” substitute “the period specified in the notice or the subsequent notice, as the case may be”.

15. In paragraph 7(b) of Schedule 1 (which specifies the time within which certain documents relating to a proposed scheme may be inspected) for “of three months” substitute “specified in the notice, being a period of not less than six weeks”.

16. After paragraph 8 of Schedule 1 insert the following paragraphs:—

“8A. At any time, whether before or after the expiration of the period specified in the notice in pursuance of paragraph 7(b) of this Schedule, the Secretary of State or the local highway authority, as the case may be, by whom the notice was published may, by a subsequent notice published in at least one local newspaper circulating in the area in which the special road to which the proposed scheme relates is situated, and in the London Gazette, substitute for the period specified in the first notice such longer period as may be specified in the subsequent notice.

8B. Where the period specified in a notice published by the Secretary of State or a local highway authority under paragraph 7 of this Schedule is extended by a notice published under paragraph 8A thereof, paragraph 8 of this Schedule, with the omission of the reference to a copy of the draft scheme or of the scheme and of any map or plan referred to therein, shall apply as if the notice under the said paragraph 8A were a notice under the said paragraph 7.”

17. In paragraph 9 of Schedule 1 (which specifies the circumstances in which a local inquiry is to be held if an objection to the proposed scheme is received within a specified period) for “the last foregoing paragraph” substitute “paragraph 8 of this Schedule”, for “three months from the date of their being served therewith” substitute “the period specified in the notice in pursuance of paragraph 7(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 8A of this Schedule, within the period specified in the subsequent notice” and for the words from “three months” to “latest of them” substitute “the period specified in the notice or the subsequent notice, as the case may be”.

SCHEDULE 2

Section 22.

SECTION 103 OF THE PRINCIPAL ACT AS AMENDED

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 drains 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 drain ;
- (c) scour, cleanse and keep open all drains situated in the highway or in such land as aforesaid.

(1A) Where under subsection (1) of this section a drain has been constructed or laid, or barriers have been erected, for the purpose of draining surface water from a highway or, as the case may be, diverting it into an existing drain, the water may be discharged into or through that drain and into any inland waters, whether natural or artificial, or any tidal waters.

(2) If the owner or occupier of any land suffers damage by reason of the exercise by a highway authority of any power under subsection (1) or (1A) of this section, the authority shall pay him compensation therefor.

(3) If a person, without the consent of the highway authority, alters, obstructs or interferes with a drain 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 their powers under the foregoing provisions of this section, a highway authority may, for the purpose of the drainage of a highway or proposed highway for which they are, or, as the case may be, will be, the highway authority exercise any powers exercisable by a local authority under the Public Health Act 1936 c. 49. for the purposes of the drainage of highways within the area of that authority.

(4A) Before a local highway authority, being a county council, exercise any powers under the Public Health Act 1936 by virtue of subsection (4) of this section, they shall give notice of their intention to do so to the council of the county district within whose area the powers are proposed to be exercised.

(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 subsections (1) and (1A) 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

SCH. 2 authority and to subsection (1) or (1A) of this section included references to the person liable to maintain that highway and to this subsection respectively.

(6) In this section—

“drain” includes a ditch, gutter, watercourse, soak-away, bridge, culvert, tunnel and pipe; and

“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.

Section 40.

SCHEDULE 3

PROVISIONS WITH RESPECT TO NOTICES UNDER SECTION 40

1. A person on whom a notice under section 40(1) or (3) of this Act is served may within 28 days from the date of his being served therewith object to the notice on any of the following grounds which are appropriate in the circumstances of the particular case:—

- (a) that the notice is not justified by the terms of section 40(1) or (3);
- (b) that there has been some defect or error in, or in connection with, the notice;
- (c) that the proposed works are unreasonable in character or extent, or are unnecessary;
- (d) that the conditions imposed by the notice are unreasonable;
- (e) that some other person having an interest in the premises also habitually takes or permits to be taken a mechanically propelled vehicle across the footway or verge and should be required to defray part of the expenses of executing the proposed works;
- (f) that the authority are not entitled to serve the notice by reason of section 40(2);
- (g) that a person carrying out or proposing to carry out such a development as is referred to in section 40(3) offers to execute the works himself.

2. An objection under paragraph 1 above shall be made by notice to the highway authority, and the notice shall state the grounds of objection.

3. Where objection is made to a notice given by a local highway authority under the said section 40(1) or (3), that authority shall send a copy of the notice and of the notice of objection to the Secretary of State.

4. If objection is made to such a notice and the objection is not withdrawn the notice shall not become effective until it has been confirmed by the Secretary of State, and the Secretary of State after considering the objection may confirm the notice without modification or subject to such modifications as he thinks fit.

5. Subject to paragraph 4 above, such a notice shall become effective at the expiration of the period during which the person served therewith may object to it.

SCHEDULE 4

Section 46.

PURPOSES FOR WHICH ADDITIONAL LAND MAY BE TAKEN
IN ADVANCE OF REQUIREMENTS

<i>Enactment authorising acquisition</i>	<i>Initial stage</i>	<i>Subsequent stage</i>
In the principal Act—		
Section 214(1) ...	The construction of a highway.	The improvement of that highway.
Section 214(2) ...	The improvement of a highway.	The further improvement of that highway.
Section 215(1)(a)	The carrying out of works authorised by an order under section 9 of the principal Act (side-roads crossing or joining trunk roads).	The improvement or alteration of a highway or proposed highway to which the order relates.
Section 215(1)(b)	The provision of a maintenance compound for a trunk road.	The extension of the maintenance compound.
Section 215(2)(a)	The improvement of a highway included in the route of a special road.	The further improvement of the highway.
Section 215(2)(b)	The purposes of an order made in relation to a special road under section 13 of the principal Act.	The improvement or alteration of a highway or proposed highway to which the order relates.
Section 215(2)(c)	The provision of a service area or maintenance compound for a special road.	The extension of the service area or maintenance compound.
In this Act—		
Section 44(1) ...	The carrying out of works authorised by an order under section 1 of this Act.	The improvement or alteration of a highway or proposed highway to which the order relates.
Section 44(3) ...	The provision of a trunk road picnic area.	The extension of the trunk road picnic area.
Section 44(5) ...	The provision of a lorry area.	The extension of the lorry area.

SCHEDULE 5

Section 47.

HIGHWAY LAND ACQUISITION POWERS

- In the principal Act—
- section 214 (for construction, etc. of highway) ;
 - section 215 (for works in connection with trunk road or special road) ;
 - section 218 (for works in connection with bridges, viaducts, etc.) ;
 - section 219 (for cattle-grids, etc.) ;
 - section 220 (for road-ferries) ;
 - section 221 (for general purposes of highway authority's functions as such).
- In this Act—
- section 44 ;
 - section 47(3).

Section 47.

SCHEDULE 6

COMPULSORY ACQUISITION OF RIGHTS: MODIFICATION OF 1946 AND 1965 ACTS

PART I

ADAPTATION OF 1946 ACT, SCHEDULE 1, PART III

1. In paragraphs 2 to 5 below, "the Schedule" means Schedule 1 to the Act of 1946; and in relation to compulsory acquisition of rights by virtue of section 47 of this Act that Schedule shall apply with the modifications made by those paragraphs.

2. In paragraph 9 of the Schedule (compulsory purchase affecting land of local authorities, statutory undertakers or National Trust) for references to compulsory purchase of land substitute references to compulsory acquisition of rights over land.

3. In paragraph 10 of the Schedule (land of statutory undertakers)—

(a) for "land comprised in the order" substitute "land over which a right is to be acquired by virtue of the order";

(b) for "purchase of" substitute "acquisition of a right over";

(c) for "it can be purchased and not replaced" substitute "the right can be acquired"; and

(d) for sub-paragraph (ii) substitute the following—

"(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them".

4.—(1) In paragraph 11 of the Schedule (common land, open spaces, etc.) substitute the following for sub-paragraph (1)—

"(1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common, open space or fuel or field garden allotment, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

(a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and to the persons, if any, entitled to rights of common or other rights, and to the public, than it was before; or

(b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or

(c) that the land affected by the right to be acquired does not exceed 250 square yards in extent or the right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public, and certifies accordingly.”

(2) In the said paragraph 11, in sub-paragraph (3), substitute the following for the words from “and for discharging” to the end—

“and for discharging the land over which any right is to be acquired from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of that right”.

5. In paragraph 12 of the Schedule for “the purchase of” substitute “the acquisition of a right over”.

PART II

ADAPTATION OF 1965 ACT, PART I

6. In relation to a compulsory acquisition of a right by virtue of section 47 of this Act, the Act of 1965 shall apply with the modifications made by paragraphs 7 to 12 below.

7. For section 7 of the Act (measure of compensation) substitute the following—

“7. In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

8. For section 8(1) of the Act (protection for vendor against severance of house, garden etc.) substitute the following—

“(1) No person shall be required to grant any right over part only—

(a) of any house, building or manufactory ; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determines that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory ; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject

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to that right without seriously affecting the amenity or convenience of the house ;

and if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value ; and thereupon the party interested shall be required to grant to the acquiring authority that right over that part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase."

9. The following provisions of the Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

section 9(4) (refusal by owners to convey) ;

Schedule 1, paragraph 10(3) (owners under incapacity) ;

Schedule 2, paragraph 2(3) (absent and untraced owners) ; and

Schedule 4, paragraphs 2(3) and 7(2) (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

10. Section 11 of the Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice) ; and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly.

11. Section 20 of the Act (protection for interests of tenants at will, etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

12. Section 22 of the Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 7

Section 50.

AMENDMENT OF PLANNING BLIGHT PROVISIONS AND ADAPTATION OF CERTAIN OF THEM TO CASES OF RIGHTS ACQUISITION

PART I

AMENDMENTS OF ACTS OF 1962 AND 1968

1. References—

- (a) in the Act of 1962 to “these provisions” (defined in section 138(5) as meaning sections 138 to 151 of that Act and sections 33 to 37 of the Act of 1968); and
- (b) in the Act of 1968 to sections 138 to 151 of the Act of 1962, shall include references to section 50 of this Act and this Schedule; and references in those Acts to “the specified descriptions” (defined in section 138(5) of the Act of 1962 as amended) shall include references to the description specified in section 50(1).

2. In section 138(1)(e) of the Act of 1962 (land to be treated as blighted if on or adjacent to line of proposed highway and subject to compulsory purchase) the reference to a power of compulsory acquisition shall include a reference to a power compulsorily to acquire any right by virtue of section 47 of this Act.

3. In section 147 of the Act of 1962 (definition of “appropriate authority”), at the end of subsection (1), add “or, as the case may be, any right over the land is proposed to be acquired”.

4. In section 148 of the Act of 1962 (definition of “appropriate enactment”), at the end of subsection (1) add “or, as respects the description specified in section 50(1) of the Highways Act 1971, the enactment under which was made the compulsory purchase order referred to in that subsection.”

PART II

ADAPTATION OF 1962 AND 1968 PROVISIONS TO CASES OF RIGHTS ACQUISITION

Introductory

5.—(1) The following two paragraphs have effect where land falls within one or more of the specified descriptions and—

- (a) a blight notice is served on the appropriate authority under section 139 of the Act of 1962 in respect of a hereditament or agricultural unit wholly or partly comprised in that land; and
- (b) the appropriate enactment is one of the enactments conferring highway land acquisition powers.

(2) Expressions used in this paragraph and also in sections 138 to 151 of the Act of 1962 have the same meaning as in those sections.

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Grounds of objection to blight notice

6. Section 140 of the Act of 1962 (grounds of objection in counter-notice) shall be adapted as follows—

- (a) in subsection (2)(b), after “acquire” insert “or to acquire any rights over”;
- (b) in subsection (2)(c), for “do not propose to acquire” substitute “propose neither to acquire, nor to acquire any right over”;
- (c) construe “relevant powers” as including highway land acquisition powers as extending to the acquisition of rights over land.

7. Section 35(1) to (5) of the Act of 1968 (grounds of objection open to appropriate authority, that they have in mind no compulsory acquisition for at least fifteen years) shall apply as if in subsection (1) after “affected area” there were inserted “or to acquire any right over any part thereof”.

Sections 53
and 54.

SCHEDULE 8

ACQUISITION OF LAND OR RIGHTS:
RELATED SCHEMES AND ORDERS

<i>Purposes for which acquisition of land or rights is required</i>	<i>Related schemes and orders</i>
Purposes connected with a trunk road, not being a special road.	An order under section 7 of the principal Act relating to the trunk road. An order under section 9 of that Act relating to the trunk road.
Purposes connected with a special road.	A scheme under section 11 of the principal Act relating to the special road. An order under section 13 of that Act relating to the special road.
The construction, in pursuance of an order under section 20 of the principal Act, as part of a trunk road of a bridge over or a tunnel under navigable waters.	The order under the said section 20.
The construction, in pursuance of a scheme under section 3 of the Act of 1961, as part of a highway or proposed highway of a bridge over or a tunnel under navigable waters.	The scheme under the said section 3.
Purposes connected with a classified road, not being a special road.	An order under section 1 of this Act relating to the classified road.
The provision of a new means of access to any premises from a highway or proposed highway.	An order under section 2 of this Act stopping up a means of access to those premises from that or any other highway.
The diversion, in pursuance of an order under section 10 of this Act, of a navigable watercourse.	The order under the said section 10.

SCHEDULE 9

Section 61.

AMENDMENTS OF SECTION 300 OF THE PRINCIPAL ACT

1. In subsection (1) (which among other things provides that nothing in the Act shall affect any powers or duties of the Post Office under the Telegraph Acts 1863 to 1954 but that the subsection shall not affect the operation of certain sections of the Act)—

(a) omit “1863 to 1954”; and

(b) after “operation of” insert “section 15 of this Act as it has effect in relation to the powers of the Post Office by virtue of subsection (1A) below or the operation of”.

2. After subsection (1) insert the following—

“(1A) The Post Office shall be deemed to be statutory undertakers for the purposes of section 15 of this Act”.

3. After paragraph (b) of subsection (2) (which preserves the rights of the Post Office in relation to any telegraphic line under, etc. a highway which is stopped up or diverted in pursuance of certain orders) insert the following—

“(bb) an order confirmed by the Secretary of State under section 1 of the Highways Act 1971”.

4. In subsection (5) (which provides for the alteration of a telegraphic line which is under, etc. a highway, not being a highway for which the Secretary of State is the highway authority, for the alteration of which provision is made by certain orders)—

(a) after “this Act” insert “or an order under section 1 of the Highways Act 1971”; and

(b) omit “not being a highway for which the Minister is the highway authority”.

5. After subsection (5) insert the following—

“(5A) Where—

(a) in pursuance of an order under section 9 of this Act, section 13 thereof or section 1 of the Highways Act 1971 a highway is stopped up or diverted, or

(b) an order under any of those sections provides for the alteration of a highway,

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 Post Office, then, without prejudice to subsections (2) and (5) above, if for purposes connected with the construction or improvement of the trunk road, special road or classified road, as the case may be, to which the order relates or with the execution of any works authorised by the order the Secretary of State or other highway authority by whom the order in question was made requires that that line shall be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply in 1878 c. 76.

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relation to the alteration, and accordingly shall have effect, subject to any necessary modifications, as if references therein to undertakers included references to the Secretary of State or that other authority."

6. In subsection (6) (which relates to work proposed to be done by a local highway authority under various enactments) for the words "local highway authority" in each place where they occur substitute "highway authority".

7. After subsection (6) insert the following—

1961 c. 63.

"(6A) Where in pursuance of any order or scheme made or confirmed under this Act, the Highways (Miscellaneous Provisions) Act 1961 or the Highways Act 1971 a navigable watercourse is diverted and, immediately before the date on which the order or scheme comes into force, there is under, in, upon, over, along or across the watercourse, or any towing path or other way adjacent to it, any telegraphic line belonging to or used by the Post Office, the Post Office shall have the same powers in respect of that line as if the order or scheme had not come into force, but if—

(a) the highway authority by whom the order or scheme was made, or

(b) any person entitled to land on which so much of the watercourse, towing path or way as is diverted in pursuance of the order or scheme was previously situated,

requires that the line shall be altered, paragraphs (1) to (8) of the said section 7 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 or to the person so requiring the line to be altered, as the case may be."

8. In subsection (7) (which relates to the placing etc. of telegraphic lines under powers conferred by the Telegraph Acts 1863 to 1954) omit "1863 to 1954".

9. After subsection (7) insert the following—

"(7A) It is hereby declared for the removal of doubt that the fact that the Telegraph Acts are not expressed to be binding on the Crown does not prevent those Acts having effect in relation to a street or public road as defined for the purposes of those Acts, being a trunk road or other highway for which the Secretary of State is the highway authority, as they have effect in relation to any other street or public road as so defined, but this provision is without prejudice to subsection (1A) above.

1878 c. 76.

(7B) No provision of section 7 of the Telegraph Act 1878 creating a liability to a fine for breach of any obligation shall apply to an obligation in so far as, by virtue of a provision of this section, it falls to be performed by the Secretary of State."

10. At the end of subsection (8) insert “ and ‘ the Telegraph Acts ’ mean the Telegraph Act 1863, the Telegraph Act 1878, the Telegraph Act 1892, the Telegraph (Construction) Act 1908, the Telegraph (Arbitration) Act 1909, the Telegraph (Construction) Act 1911 and the Telegraph (Construction) Act 1916 ”.

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1863 c. 112.
1878 c. 76.
1892 c. 59.
1908 c. 33.
1909 c. 20.
1911 c. 39.
1916 c. 40.
Section 63.

SCHEDULE 10

MODIFICATIONS OF CERTAIN PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACTS AS APPLIED BY SECTION 63

1. For references in sections 164, 165, 170(2), 171 and 173 of the Town and Country Planning Act 1962 to the acquiring or appropriating authority substitute references to the Secretary of State, the special road authority or the local highway authority, as the case may be, by whom the order in question was made. 1962 c. 38.

2. The references in subsection (4) of the said section 164 and in subsection (2) of the said section 165 to a local authority or statutory undertakers shall include references to a local highway authority.

3. For subsection (2) of section 72 of the Town and Country Planning Act 1968 substitute the following:— 1968 c. 72.

“(2) A notice under that section shall not be served by the Secretary of State, the special road authority or the local highway authority, as the case may be, unless he or they is or are satisfied that the extinguishment of the statutory undertakers’ right or, as the case may be, the removal of their apparatus, is made necessary by the works in connection with which the stopping up or diversion of the highway is or was authorised.”

4. For subsections (1) and (2) of section 73 of the said Act of 1968 substitute the following:—

“(1) Subject to the provisions of this section, where the stopping up or diversion of a highway is or was authorised by an order under section 9 or section 13 of the Highways Act 1959 or section 1 of the Highways Act 1971, and — 1959 c 25.

(a) there is on, under or over the land over which that highway subsists or subsisted any apparatus vested in or belonging to statutory undertakers ; and

(b) the undertakers claim that the works in connection with which the stopping up or diversion of the highway is or was authorised are such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of their apparatus,

the undertakers may serve on the Secretary of State, the special road authority or the local highway authority, as the case may be, by whom the order was made a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

(2) No notice under this section shall be served later than twenty-one days after the later of the following dates, that is to

SCH. 10 say, the date of the coming into operation of the order in question and the date of the commencement of the works in connection with which the stopping up or diversion of the highway is or was authorised."

5. For references in subsections (3), (6) and (7) of the said section 73 to the authority or to the acquiring or appropriating authority substitute references to the Secretary of State, the special road authority or the local highway authority, as the case may be, by whom the order in question was made.

Section 86.

SCHEDULE 11

TRANSITIONAL PROVISIONS AND SAVINGS

Proceedings which may be taken concurrently

1.—(1) Section 14(7) of this Act shall not have effect so as to enable the proceedings required by Schedule 1 to the principal Act to be taken for the purposes of an order under section 9 or 13 of that Act to be taken concurrently with the other proceedings mentioned in that subsection if the notice required by paragraph 1 of that Schedule to be published in relation to the order under the said section 9 or 13 was published before the commencement of the said section 14(7).

(2) On the commencement of the said section 14(7) regulations made by virtue of section 284(2) of the principal Act (regulations for securing that proceedings for the purposes of certain orders or schemes may be taken concurrently) shall cease to have effect in relation to proceedings in relation to which section 14(7) applies.

2.—(1) Section 53(1) of this Act shall not have effect so as to enable the proceedings required by Schedule 1 to the Act of 1946 to be taken for the purpose of confirming or making a compulsory purchase order to be taken concurrently with any other proceedings mentioned in that subsection if the notice required by that Schedule to be published in relation to the order or to the order as prepared in draft, as the case may be, was published before the commencement of the said section 53(1).

(2) On the commencement of the said section 53(1) regulations made by virtue of section 284(3) of the principal Act (regulations for securing that proceedings required to be taken in respect of the compulsory acquisition of any land may be taken concurrently with certain other proceedings) shall cease to have effect in relation to proceedings in relation to which section 53(1) applies.

Construction of buildings, etc. over highways

3. Section 38 of this Act shall not have effect in relation to a building the construction or alteration of which was begun before the commencement of that section.

4. The amendment of section 151 of the principal Act made by section 39 of this Act shall not affect the validity of any licence granted under the said section 151 before the commencement of the said section 39.

Vehicle crossings

SCH. 11

5.—(1) Subject to sub-paragraph (3) below, section 155 of the principal Act shall continue to have effect—

- (a) in relation to any notice, request or condition given, made or imposed under that section and in force immediately before the commencement of section 40 of this Act; and
- (b) in relation to any works which in pursuance of such a notice or in consequence of the making of such a request a council would, but for the repeal of that section, be empowered by that section, and, if the council are that of a rural district, by section 25(2)(a) of the principal Act, to execute or which at the commencement of the said section 40 a council are executing by virtue of the said section 155 or by virtue of that section and the said section 25(2)(a), as the case may be.

(2) Section 264 of the principal Act (recovery of expenses) shall continue to have effect in relation to expenses incurred by a council, being expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable under subsection (3) of the said section 155.

(3) The maximum fine which may be imposed on conviction of an offence under subsection (4) of the said section 155 (use of footway or verge in contravention of conditions imposed under subsection (1)(c) of that section) committed on or after the commencement of section 40 of this Act shall be £20 instead of £10.

Compulsory purchase orders

6. The repeal by this Act of section 13 of the Act of 1961 shall not affect the operation of that section as respects a compulsory purchase order made or confirmed before the repeal takes effect.

Powers of entry

7.—(1) In so far as any authorisation or notice given, objection made, or other thing whatsoever done, under section 254 of the principal Act could have been given, made or done under section 64 or 65 of this Act, it shall not be invalidated by the repeal of the said section 254 but shall have effect as if given, made or done under the corresponding provision of the said section 64 or 65.

(2) Nothing in this paragraph shall affect the operation of section 254 in relation to an offence under subsection (3) or (4) thereof committed before the date on which the repeal of that section takes effect.

(3) This paragraph is without prejudice to section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).

Offences

8. Nothing in any provision of section 71 of this Act shall affect the amount of the fine which may be imposed on conviction of an offence committed before the commencement of that provision.

Section 86.

SCHEDULE 12

REPEALS

Chapter	Short Title	Extent of Repeal
1959 c. 25.	The Highways Act 1959.	<p>In section 13(1), the words from the beginning to "operation".</p> <p>Section 76(2).</p> <p>In section 100(2), the words "consisting of or comprising a carriageway".</p> <p>In section 103(2), the words "not being waste or common land".</p> <p>Section 104.</p> <p>In section 137(6) the words "(including persons acting on behalf of the Crown)".</p> <p>In section 139(3) the words from "does" to "aforesaid".</p> <p>Section 155.</p> <p>In section 214, in subsection (3) the words from "and a highway authority" to the end of paragraph (b), in subsection (5) the words "subject to subsection (9) of this section", in subsection (8) the words "subject to the next following subsection" and subsection (9).</p> <p>Section 215(4).</p> <p>Section 235(3).</p> <p>Section 254.</p> <p>In section 266(1), the words "and section two hundred and fifty-four".</p> <p>In section 284, subsection (2), subsection (3)(a) and (b), subsection (4)(a) and (b) and subsection (5).</p> <p>In section 292(3), paragraph (b) and the word "and" immediately preceding it.</p> <p>In section 300(5), the words "not being a highway for which the Minister is the highway authority".</p> <p>In section 308(3), the words "one hundred and three".</p> <p>In Schedule 1, head (vi) of the Table set out at the end of paragraph 3.</p> <p>In Schedule 6, the words "and 155".</p> <p>In Schedule 18, the words "and subsection (3) of section 155".</p> <p>Section 13.</p>
1961 c. 63.	The Highways (Miscellaneous Provisions) Act 1961.	

Chapter	Short Title	Extent of Repeal
1963 c. 33.	The London Government Act 1963.	In Schedule 6, paragraphs 42 and 44.
1967 c. 80.	The Criminal Justice Act 1967.	In Part I of Schedule 3, the entry relating to section 149 of the Highways Act 1959.
1968 c. 41.	The Countryside Act 1968.	Section 29(8).
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, in paragraph 93(1)(xv) the words "and 254(6)" and paragraph 93(2)(g).

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SCHEDULE 13

Section 86.

PART I OF SCHEDULE 1 TO PRINCIPAL ACT AS AMENDED

PART I

ORDERS

1. Where the Secretary of State proposes to make an order under any of the following provisions of this Act, that is to say, section 7, section 9, section 13 or section 20, or an order under section 10 of the Highways Act 1971, 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 specified in the notice, being a period of not less than six weeks from the date of the publication of the notice ; and
- (c) stating that, within the said period, any person may by notice to the Secretary of State object to the making of the order.

2. Where an order under the said section 13 or section 1 of the Highways Act 1971 or section 10 of that Act is submitted to the Secretary of State 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 Secretary of State and the confirmation of the order respectively.

SCH. 13

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 Secretary of State 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 Secretary of State 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 7, section 9 or section 20 of this Act—

Every council (other than the council of a county district) in whose area 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.

(ii) In the case of an order proposed to be made under section 7, section 9 or section 13 of this Act or under section 1 or section 10 of the Highways Act 1971 which provides for the construction of a bridge over or tunnel under navigable waters or for the diversion of a navigable watercourse, and in the case of every order proposed to be made under section 20 of this Act—

1963 c. 33.

Every navigation authority and river authority concerned with or having jurisdiction over the waters affected or the area comprising those waters or that watercourse and, if the waters or watercourse affected are or is within the London excluded area as defined in paragraph 15(3) of Schedule 14 to the London Government Act 1963, the Greater London Council.

(iii) In the case of an order proposed to be made under section 13 of this Act or section 1 of the Highways Act 1971 which authorises the carrying out of any works—

Every council in whose area 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 13 of this Act or section 1 of the Highways Act 1971 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 9 or section 13 of this Act or section 1 of the Highways Act 1971

which authorises the stopping up of any private means of access to any premises— SCH. 13

The owner (within the meaning of section 16 of this Act) and the occupier of those premises.

(vii) In the case of an order proposed to be made under section 9 or section 13 of this Act or section 1 of the Highways Act 1971 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 Secretary of State 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.

4A. At any time, whether before or after the expiration of the period specified in the notice in pursuance of paragraph 1(b) of this Schedule, the Secretary of State or the local highway authority, as the case may be, by whom the notice was published may, by a subsequent notice published in at least one local newspaper circulating in the area in which any highway, or any proposed highway, to which the proposed order relates is situated, and in the London Gazette, substitute for the period specified in the first notice such longer period as may be specified in the subsequent notice.

4B. Where the period specified in a notice published by the Secretary of State or a local highway authority under paragraph 1 of this Schedule is extended by a notice published under paragraph 4A thereof, paragraph 3 of this Schedule shall apply as if the notice under the said paragraph 4A were a notice under the said paragraph 1, but the foregoing provision shall not be taken as requiring a copy of the proposed order or of any map or plan referred to in that order to be served on a person on whom it was previously served.

5. If any objection to the proposed order is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 3 of this Schedule within the period specified in the notice in pursuance of paragraph 1(b) of this Schedule or, if that period has been extended by a subsequent notice under paragraph 4A of this Schedule, within the period specified in the subsequent notice, or is received by the Secretary of State from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be, and the objection is not withdrawn, the Secretary of State 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

SCH. 13 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 Secretary of State 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 Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.

6A. In this Part of this Schedule references to a proposed order or an order proposed to be made shall be construed as including references to an order made by a local highway authority and submitted to the Secretary of State.

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