



Highways Act 1980

1980 CHAPTER 66

PART IV

MAINTENANCE OF HIGHWAYS

Maintenance of privately maintainable highways

49 Maintenance of approaches to certain privately maintainable bridges

Where a person is liable to maintain the approaches to a bridge by reason of the fact that he is liable to maintain the bridge by reason of tenure or prescription, his liability to maintain the approaches extends to 100 yards from each end of the bridge.

50 Maintenance of privately maintainable footpaths and bridleways

- (1) Where apart from section 41 above a person would under a special enactment or by reason of tenure, enclosure or prescription be under an obligation to maintain a footpath or bridleway, the operation of section 41(1) does not release him from the obligation.
- (2) The council of a district, parish or community may undertake by virtue of this subsection the maintenance of any footpath or bridleway within the district, parish or community (other than a footpath or bridleway the maintenance of which they have power to undertake under section 42 or, as the case may be, section 43 above) whether or not any other person is under a duty to maintain the footpath or bridleway ; but nothing in this subsection affects the duty of any other person to maintain any such footpath or bridleway.
- (3) The power of a district council under subsection (2) above is subject to Part I of Schedule 7 to this Act; and the power of a parish or community council under that subsection is subject to the restrictions for the time being imposed by any enactment on their expenditure.

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

- (1) If a person across whose land there is a highway maintainable at the public expense erects a fence between the highway and the adjoining land, and the fence is erected with the consent of the highway authority for the highway, he does not thereby become liable to maintain the highway by reason of enclosure.
- (2) Nothing in subsection (1) above is to be construed as imposing on any person a liability to maintain a highway by reason of enclosure.

52 Power to get materials for repair of privately maintainable highways

- (1) A person liable to maintain a highway by reason of tenure, enclosure or prescription has, for the purpose of repairing it, the like powers with respect to the getting of materials as are conferred on a highway authority by section 45(2) to (6) above for the purpose of repairing highways maintainable at the public expense by them.
- (2) A person on whom powers are conferred by this section is, with respect to the exercise of those powers, subject to the like duties and liabilities under section 45(10) and (11) above and under section 46(1) to (3) above as are a highway authority with respect to the exercise of the powers conferred on them by section 45.

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

- (1) Where a person is liable by reason of tenure, enclosure or prescription to maintain a highway, a magistrates' court may, on a complaint made either by that person or by the highway authority for the highway, make an order that the liability of that person to maintain the highway shall be extinguished, and on the extinguishment of that liability the highway, & it is not then a highway maintainable at the public expense, shall become for the purposes of this Act a highway maintainable at the public expense.
- (2) Where a complaint is made to a magistrates' court under this section by a person liable as aforesaid to maintain a highway—
 - (a) the highway authority for the highway have a right to be heard by the court at the hearing of the complaint, and
 - (b) the court shall not make an order on the complaint unless it is satisfied that not less than 21 days before the date on which the complaint is heard by the court the complainant gave notice to the highway authority for the highway of the making of the complaint and of the time and place at which it was to be heard by the court.
- (3) Where by virtue of an order under this section the liability of a person to maintain a highway is extinguished, that person is liable to pay to the highway authority for the highway such sum as may be agreed between him and that authority or, in default of agreement, as may be determined by arbitration to represent the value to him of the extinguishment of his liability.
- (4) A sum payable by any person under subsection (3) above shall, at his option, be paid—
 - (a) as a lump sum, or
 - (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between him and the highway authority or, in default of agreement, as may be determined by arbitration.

- (5) Any matter which by virtue of subsection (3) or (4) above is to be determined by arbitration shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the Minister.
- (6) Nothing in this section affects any exemption from rating under any enactment as continued by section 117 of the General Rate Act 1967.

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

- (1) Where a highway which a person is liable to maintain under a special enactment or by reason of tenure, enclosure or prescription is diverted in accordance with an order made under section 116 below, then—
 - (a) the substituted highway becomes for the purposes of this Act a highway maintainable at the public expense, and
 - (b) the person liable as aforesaid to maintain the high way so diverted is liable to pay to the highway authority for the substituted highway such sum as may be agreed between him and that authority or, in default of agreement, as may be determined by arbitration to represent the value to him of the extinguishment of his liability.
- (2) A sum payable by any person under subsection (1) above shall, at his option, be paid—
 - (a) as a lump sum, or
 - (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between him and the highway authority or, in default of agreement, as may be determined by arbitration.
- (3) Any matter which by virtue of subsection (1) or (2) above is to be determined by arbitration shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the Minister.

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

- (1) Where a highway comprising a bridge becomes a trunk road, and the bridge is transferred to the Minister under this Act, then, if immediately before the transfer the bridge was not a highway maintainable at the public expense, any liability of the owners of the bridge for the maintenance or improvement of it or of the highway carried by it is thereupon extinguished.
- (2) Where the liability of the owners of a bridge is extinguished under subsection (1) above, the owners shall pay to the Minister such sum as may be agreed between them and the Minister or, in default of agreement, as may be determined by arbitration to represent the value to the owners of the extinguishment of their liability.
- (3) Any sum payable by the owners of a bridge under subsection (2) above shall, in so far as it exceeds any sum payable by the Minister to the owners under this Act, be paid, at the option of the owners—
 - (a) as a lump sum, or
 - (b) by annual instalments of such amount, and continuing for such number of years, as may be agreed between the owners and the Minister or, in default of agreement, as may be determined by arbitration, or

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- (c) by perpetual annual payments of such amount as may be so agreed or determined.
- (4) The foregoing provisions of this section apply where a highway comprising a bridge is included in the route prescribed by a scheme under section 16 above authorising the provision of a special road by a local highway authority and the bridge is transferred to the special road authority, as they apply where such a highway becomes a trunk road and the bridge is transferred to the Minister; and accordingly those provisions have effect as if the references therein to a trunk road and to the Minister included references to a special road and to the special road authority.
- (5) In this section—
- "bridge " includes so much of the approaches thereto as supports or protects the surface of the trunk road or special road;
 - "owners ", in relation to a bridge, means the persons who, immediately before the transfer of the bridge to the Minister or the special road authority, were responsible for the maintenance of it, and includes any persons who, in pursuance of any agreement with the persons so responsible, were then discharging that responsibility on their behalf.