



Highways Act 1980

1980 CHAPTER 66

PART V

IMPROVEMENT OF HIGHWAYS

Modifications etc. (not altering text)

C1 Pt. V (ss. 62-105) extended (13.2.1992) by [Severn Bridges Act 1992 \(c. 3\), s. 32\(2\)\(a\)](#)

General power of improvement

62 General power of improvement.

- (1) The provisions of this Part of this Act have effect for the purpose of empowering or requiring highway authorities and other persons to improve highways.
- (2) Without prejudice to the powers of improvement specifically conferred on highway authorities by the following provisions of this Part of this Act, any such authority may, subject to subsection (3) below, carry out, in relation to a highway maintainable at the public expense by them, any work (including the provision of equipment) for the improvement of the highway.
- (3) Notwithstanding subsection (2) above, but without prejudice to any enactment not contained in this Part of this Act, work of any of the following descriptions shall be carried out only under the powers specifically conferred by the following provisions of this Part of this Act, and not under this section—
 - (a) the division of carriageways, provision of roundabouts and variation of the relative widths of carriageways and footways;
 - (b) the construction of cycle tracks;
 - (c) the provision of subways, refuges, pillars, walls, barriers, rails, fences or posts for the use or protection of persons using a highway;
 - (d) the construction and reconstruction of bridges and alteration of level of highways;

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- (e) the planting of trees, shrubs and other vegetation and laying out of grass verges;
 - (f) the provision, maintenance, alteration, improvement or other dealing with cattle-grids, by-passes, gates and other works for use in connection with cattle-grids;
 - [^{F1}(ff) the construction, maintenance and removal of road humps;]
 - [^{F2}(fg) the construction and removal of such traffic calming works as may be specially authorised by the Secretary of State under section 90G below or prescribed by regulations made by him under section 90H below;]
 - (g) the execution of works for the purpose of draining a highway or of otherwise preventing surface water from flowing on to it;
 - (h) the provision of barriers or other works for the purpose of affording to a highway protection against hazards of nature.
- (4) A highway authority may alter or remove any works executed by them under this section.
- (5)

F3

Textual Amendments

- F1 S. 62(3)(ff) inserted by [Transport Act 1981 \(c. 56, SIF 126\)](#), s. 32, **Sch. 10 para. 1**
- F2 S. 62(3)(fg) inserted (16.5.1992) by [Traffic Calming Act 1992 \(c. 30\)](#), **ss. 1(1), 3**
- F3 S. 62(5) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**

Modifications etc. (not altering text)

- C2 S. 62 modified (1.4.2011) by [The Greater Manchester Combined Authority Order 2011 \(S.I. 2011/908\)](#), arts. 1, **8(2)**

Relief of main carriageway of trunk road from local traffic

63 Relief of main carriageway of trunk road from local traffic.

Without prejudice to section 10(3) above, the Minister may construct as part of a trunk road a highway for the purpose of relieving a main carriageway of the trunk road from local traffic; but this section does not authorise the construction of a highway which is separated from the remainder of the trunk road by intervening land.

Dual carriageways, roundabouts and cycle tracks

64 Dual carriageways and roundabouts.

- (1) Where a highway maintainable at the public expense consists of or comprises a made-up carriageway, the highway authority liable to maintain it may construct and maintain works in that carriageway—
- (a) along any length of the highway, for separating a part of the carriageway which is to be used by traffic moving in one direction from a part of the carriageway which is to be used (whether at all times or at particular times only) by traffic moving in the other direction;
 - (b) at crossroads or other junctions, for regulating the movement of traffic.

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- (2) The powers conferred by subsection (1) above include power, in relation to any such works as are referred to in that subsection—
 - (a) to light them,
 - (b) to pave, grass or otherwise cover them or any part of them,
 - (c) to erect pillars, walls, rails or fences on, around or across them or any part of them, and
 - (d) to plant on them trees, shrubs and other vegetation either for ornament or in the interests of safety.
- (3) A highway authority may alter or remove any works constructed by them under this section.
- (4) F4
- ^{F5}(5)

Textual Amendments

- F4** S. 64(4) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F5** S. 64(5) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(2), [Sch. 9](#); [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#).

Modifications etc. (not altering text)

- C3** S. 64 applied (14.3.2002) by [The Chester Guided Busway Order 2002 \(S.I. 2002/412\)](#), [art. 3\(1\)\(b\)](#) (with [art. 38](#))

65 Cycle tracks.

- (1) Without prejudice to section 24 above, a highway authority may, in or by the side of a highway maintainable at the public expense by them which consists of or comprises a made-up carriageway, construct a cycle track as part of the highway; and they may light any cycle track constructed by them under this section.
- (2) A highway authority may alter or remove a cycle track constructed by them under this section.

Safety provisions

66 Footways and guard-rails etc. for publicly maintainable highways.

- (1) It is the duty of a highway authority to provide in or by the side of a highway maintainable at the public expense by them which consists of or comprises a made-up carriageway, a proper and sufficient footway as part of the highway in any case where they consider the provision of a footway as necessary or desirable for the safety or accommodation of pedestrians; and they may light any footway provided by them under this subsection.
- (2) A highway authority may provide and maintain in a highway maintainable at the public expense by them which consists of or comprises a carriageway, such raised paving, pillars, walls, rails or fences as they think necessary for the purpose of safeguarding persons using the highway.

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- (3) A highway authority may provide and maintain in a highway maintainable at the public expense by them which consists of a footpath, such barriers, rails or fences as they think necessary for the purpose of safeguarding persons using the highway.
- (4) The powers conferred by the foregoing provisions of this section to provide any works include power to alter or remove them.
- (5) The power conferred by subsection (3) above, and the power to alter or remove any works provided under that subsection, shall not be exercised so as to obstruct any private access to any premises or interfere with the carrying out of agricultural operations.
- (6) The powers of a highway authority under subsections (2) and (3) above may, with the consent of the Minister, be exercised by the council of a county [^{F6}or metropolitan district] in relation to any part within the county [^{F6}or metropolitan district] but outside Greater London of a highway for which the Minister is the highway authority.
- (7) The powers of a highway authority under subsections (2) and (3) above may, with the consent of the highway authority, be exercised by the council of a London borough or, as the case may require, by the Common Council in relation to any part within the borough, or the City, of a highway for which the council, or the Common Council, are not the highway authority.
- (8) A highway authority or council shall pay compensation to any person who sustains damage by reason of the execution by them of works under subsection (2) or (3) above.

Textual Amendments

F6 Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 17](#)

67 Guard-rails etc. in private streets.

- (1) Subject to the provisions of this section, in any street which is not a highway maintainable at the public expense and which consists of or comprises a carriageway a local authority may provide and maintain such pillars, rails or fences as they think necessary for the purpose of safeguarding persons using the street.
- (2) The power under subsection (1) above to provide any works includes power to alter or remove them.
- (3) Schedule 8 to this Act (consents before carrying out work in streets) applies to the powers conferred on local authorities by this section.
- (4) A local authority shall pay compensation to any person who sustains damage by reason of the execution by them of works under this section.
- (5) In this section “local authority” means any of the following, namely, the council of a district or London borough, . . . ^{F7} the Common Council and the Council of the Isles of Scilly [^{F8}but in relation to a street in Wales, means a Welsh council].

Textual Amendments

F7 Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

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F8 Words in s. 67(5) added (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para.6** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.1**.

68 Refuges.

- (1) A highway authority may, in relation to a highway maintainable at the public expense by them which consists of or comprises a made-up carriageway, construct and maintain works in that carriageway for providing places of refuge for the protection of pedestrians crossing the carriageway.
- (2) Subsections (2) to (5) of section 64 above apply in relation to works mentioned in subsection (1) above as they apply in relation to works mentioned in subsection (1) of that section.

69 Subways.

- (1) For the purpose of protecting from danger traffic along a highway which consists of or comprises a made-up carriageway, or of making the crossing of it less dangerous to pedestrians, the highway authority for the highway may construct, light and maintain subways under the highway for the use of pedestrians, and may alter, remove or close temporarily any such subway.
- (2) With respect to highways in Greater London, the powers of a highway authority under subsection (1) above may be exercised with that authority's consent—
 - (a) in the case of a highway for which the Minister is the highway authority, by the council of a London borough or the Common Council, as respects any parts of the highway in that council's area; and
 - (b)^{F9}
- (3) Subsection (1) above has effect in relation to a road which consists of or comprises a made-up carriageway and to which the public have access, but which is not a highway, as if it were a highway and as if the council of the district or London borough in which the road is situated were the highway authority for it or, in the case of a road situated in the City, as if the Common Council were the highway authority for it [^{F10}or, in the case of a road in Wales, as if the Welsh council in whose area it is situated were the highway authority for it].

Textual Amendments

F9 S. 69(2)(b) repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

F10 Words in s. 69(3) added (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 7** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.1**.

70 Footbridges over highways.

- (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, remove or close temporarily any such bridge.

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- (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 for it 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 sustains damage by reason of the execution by them under this section of works in or over a highway.

71 Margins for horses and livestock.

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

Widths

72 Widening of highways.

- (1) A highway authority may widen any highway for which they are the highway authority and may for that purpose agree with a person having power in that behalf for the dedication of adjoining land as part of a highway.
- (2) A council or joint planning board have the like power to enter into a public path creation agreement under section 25 above, or to make a public path creation order under section 26 above, for the purpose of securing the widening of an existing footpath or bridleway as they have for the purpose of securing the creation of a footpath

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or bridleway, and references in those sections to the dedication or creation of a footpath or bridleway are to be construed accordingly.

- (3) The council of a parish or community have the like power to enter into an agreement under section 30 above for the purpose of securing the widening of an existing highway in the parish or community or an adjoining parish or community as they have for the purpose of securing the dedication of a highway, and references in that section to the dedication of a highway are to be construed accordingly.

Modifications etc. (not altering text)

- C4** S. 72(2) extended by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 2(5)(6), 23(2), 27(2), Sch. 3 para. 47(1)
S. 72(2) extended (with modifications) (19.9.1995) by 1995 c. 25, ss. 70, 125(2), Sch. 9 para. 11(a) (with ss. 7(6), 115, 117, Sch. 8 para. 7).

73 Power to prescribe improvement line for widening street.

- (1) Where in the opinion of a highway authority—
- (a) a street which is a highway maintainable at the public expense by them is narrow or inconvenient, or without any sufficiently regular boundary line, or
 - (b) it is necessary or desirable that such a street should be widened,
- the authority may prescribe in relation to either one side or both sides of the street, or at or within a distance of 15 yards from any corner of the street, a line to which the street is to be widened (in this section referred to as an “improvement line”).
- (2) Where an improvement line prescribed under this section in relation to any street is in force, then, subject to subsections (3) and (4) below, no new building shall be erected, and no permanent excavation below the level of the street shall be made, nearer to the centre line of the street than the improvement line, except with the consent of the authority who prescribed the line, and the authority may give a consent for such period and subject to such conditions as they may deem expedient.
- (3) The prohibition imposed by subsection (2) above does not affect any right of statutory undertakers to make an excavation for the purpose of laying, altering, maintaining or renewing any main, [F11sewer,] pipe, electric line, cable, duct or other work or apparatus.
- (4) Where an authority prescribe an improvement line under this section, a person aggrieved by the decision to prescribe the line or by the refusal of consent under subsection (2) above or by the period for which the consent is given or any conditions attached to it may appeal to the Crown Court.
- (5) A condition imposed in connection with the giving of a consent under subsection (2) above is binding on the successor in title to every owner, and on every lessee and every occupier, of any land to which it relates.
- (6) If a person contravenes the provisions of this section, or any condition imposed in connection with the giving of a consent under it, he is, without prejudice to any other proceedings which may be available against him, guilty of an offence and liable to a fine not exceeding [F12level 1 on the standard scale]; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding £2 for each day on which the offence is so continued.

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- (7) Where in the opinion of a highway authority an improvement line prescribed by them under this section, or any part of such a line, is no longer necessary or desirable and should be revoked, they may revoke the line or that part of it.
- (8) Schedule 9 to this Act has effect in relation to the prescription of an improvement line under this section and to the revocation of such a line or any part of it.
- (9) Any person whose property is injuriously affected by the prescribing of an improvement line under this section is, subject to the following provisions thereof, entitled to recover from the authority who prescribed the line compensation for the injury sustained.
- (10) A person is not entitled to compensation on account of any building erected, contract made, or other thing done, after the date on which a plan showing the improvement line was deposited in accordance with the provisions of paragraph 5 of Schedule 9 to this Act, except as regards work done for the purpose of finishing a building the erection of which had begun before that date, or of carrying out a contract made before that date.
- (11) Nothing in this section applies to or affects, without the consent of the undertakers concerned—
- (a) any property occupied or used by railway undertakers for the purposes of a railway comprised in the railway undertaking; or
 - (b) any property belonging to any of the following undertakers and used by them for the following purposes respectively, that is to say, by canal undertakers for those of a canal comprised in the canal undertaking, by inland navigation undertakers for those of a navigation comprised in the inland navigation undertaking, by dock undertakers for those of a dock comprised in the dock undertaking, or by harbour undertakers for those of a harbour comprised in the harbour undertaking; or
 - (c) any land used by gas undertakers for the manufacture or storage of gas, by electricity undertakers for the generation of electricity, . . . ^{F13} by water undertakers as a pumping station or reservoir for water [^{F14} or by sewerage undertakers as a pumping station or sewage disposal works].

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

- (12) In relation to any prohibition or restriction on the use of land or buildings imposed by the Minister by the prescription of an improvement line under this section or by virtue of any condition imposed by him in connection with the giving of a consent under subsection (2) above, section 1(1)(c) of the ^{M1}Local Land Charges Act 1975 shall have effect as if the references to the date of the commencement of that Act were omitted.
- (13) In this section “building” includes any erection however, and with whatever material, it is constructed and any part of a building, and “new building” includes any addition to an existing building.

Textual Amendments

F11 Word inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(2)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

F12 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

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F13 Word repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58** Sch. 27 Pt. I

F14 Words inserted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(2)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Modifications etc. (not altering text)

C5 S. 73(11)(c) amended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(2)(e)**, Sch. 8 para. 33

C6 S. 73(11)(c) extended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(4), Sch. 17 paras. 33, **35(1)**

S. 73(11)(c) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(f)**; S.I. 1996/218, **art.2**.

Marginal Citations

M1 1975 c. 76.

74 Power to prescribe a building line.

- (1) Subject to the provisions of this section, a highway authority may prescribe, in relation to either one side or both sides of a highway maintainable at the public expense for which they are the highway authority, a frontage line for building (in this section referred to as a “building line”).
- (2) Where a building line prescribed under this section in relation to any highway is in force, no new building, other than a boundary wall or fence, shall be erected, and no permanent excavation below the level of the highway shall be made, nearer to the centre line of the highway than the building line, except with the consent of the authority who prescribed the line; and the authority may give a consent for such period and subject to such conditions as they deem expedient.
- (3) The prohibition imposed by subsection (2) above does not affect any right of light railway, tramway, electricity, gas [^{F15}water undertakers or sewerage undertakers] to make an excavation for the purpose of laying, altering, maintaining or renewing any main, [^{F16}sewer,] pipe, electric line, duct or other apparatus.
- (4) A condition imposed in connection with the giving of a consent under subsection (2) above is binding on the successor in title to every owner, and on every lessee and every occupier, of any land to which it relates.
- (5) If a person contravenes the provisions of this section, or any condition imposed in connection with the giving of a consent under it, he is, without prejudice to any other proceedings which may be available against him, guilty of an offence and liable to a fine not exceeding [^{F17}level 1 on the standard scale]; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £2 for each day on which the offence is so continued.
- (6) Where in the opinion of a highway authority a building line prescribed by them under this section, or any part of such a line, is no longer necessary or desirable and should be revoked, they may revoke the line or that part of it.
- (7) Schedule 9 to this Act has effect in relation to the prescription of a building line under this section and to the revocation of such line or any part of it.

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- (8) Any person whose property is injuriously affected by the prescribing of a building line under this section is entitled, subject to subsection (9) below, to recover from the authority who prescribed the line compensation for the injury sustained.
- (9) A person is not entitled to compensation under subsection (8) above—
- (a) unless he made a claim within 6 months from the date on which the building line was prescribed or, if the claimant is a person to whom a notice of the prescribing of the line was required to be given by paragraph 8 of Schedule 9 to this Act, within 6 months from the date on which such a notice was given to him; or
 - (b) on account of anything done by him after the date on which a notice of the proposal to prescribe the line was served on him, except so far as it was done for the purpose of finishing a building the erection of which had begun before that date, or of carrying out a contract made before that date.
- (10) Any two or more authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred under it.
- (11) Nothing in this section applies to or affects, without the consent of the undertakers concerned—
- (a) any land belonging to any of the following undertakers, and held by them for the following purposes respectively, that is to say, by railway undertakers for those of a railway comprised in the railway undertaking, by canal undertakers for those of a canal comprised in the canal undertaking, by inland navigation undertakers for those of a navigation comprised in the inland navigation undertaking, by dock undertakers for those of a dock comprised in the dock undertaking, or by harbour undertakers for those of a harbour comprised in the harbour undertaking; or
 - (b) any land used by gas undertakers for the manufacture or storage of gas, by electricity undertakers for the generation of electricity, . . . ^{F18} by water undertakers as a pumping station or reservoir for water [^{F19} or by sewerage undertakers as a pumping station or sewage disposal works].

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

- (12) In relation to any prohibition or restriction on the use of land or buildings imposed by the Minister by the prescription of a building line under this section or by virtue of any condition imposed by him in connection with the giving of a consent under subsection (2) above, section 1(1)(c) of the ^{M2}Local Land Charges Act 1975 has effect as if the reference to the date of the commencement of that Act were omitted.
- (13) In this section—
- “building” and “new building” have the same meaning respectively as in section 73 above; and
- “light railway undertakers” means persons authorised by any enactment to carry on a light railway undertaking.

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Textual Amendments

- F15** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(3)(a)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F16** Word inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(3)(a)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F17** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. **46**
- F18** Word repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch 27 Pt. I**
- F19** Words inserted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(3)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Modifications etc. (not altering text)

- C7** S. 74(11)(b) amended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), **Sch. 7 para. 2(2)(e)**, Sch. 8 para. 33
S. 74(11)(b) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(f)**; S.I. 1996/218, **art.2.**
- C8** S. 74(11)(b) extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(1), Sch. 16 para. 1(4), Sch. 17 paras. 33, **35(1)**

Marginal Citations

- M2** 1975 c. 76.

75 Variation of widths of carriageways and footways.

- (1) Where a highway maintainable at the public expense comprises both a footway or footways and a carriageway, the highway authority may vary the relative widths of the carriageway and of any footway.
- (2) Where any part of a highway is carried by a bridge over a railway, canal, inland navigation, dock or harbour or forms the approaches to such a bridge, the powers conferred by this section shall not be exercised in relation to that part without the consent of the railway, canal, inland navigation, dock or harbour undertakers concerned.
- (3) A consent required by subsection (2) above shall not be unreasonably withheld, and any question whether the withholding of such consent is unreasonable shall be determined by the Minister.

Levels

76 Levelling of highways.

A highway authority may execute works for levelling a highway maintainable at the public expense by them.

77 Alteration of levels.

- (1) Without prejudice to section 76 above, a highway authority may raise or lower or otherwise alter, as they think fit, the level of a highway maintainable at the public expense by them.

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

Corners

78 Cutting off of corners.

A highway authority may execute works for cutting off the corners of a highway maintainable at the public expense by them.

79 Prevention of obstruction to view at corners.

- (1) Where, in the case of a highway maintainable at the public expense, the highway authority for the highway deem it necessary for the prevention of danger arising from obstruction to the view of persons using the highway to impose restrictions with respect to any land at or near any corner or bend in the highway or any junction of the highway with a road to which the public has access, the authority may, subject to the provisions of this section, serve a notice, together with a plan showing the land to which the notice relates,—
- (a) on the owner or occupier of the land, directing him to alter any wall (other than a wall forming part of the structure of a permanent edifice), fence, hoarding, paling, tree, shrub or other vegetation on the land so as to cause it to conform with any requirements specified in the notice; or
 - (b) on every owner, lessee and occupier of the land, restraining them either absolutely or subject to such conditions as may be specified in the notice from causing or permitting any building, wall, fence, hoarding, paling, tree, shrub or other vegetation to be erected or planted on the land.
- (2) A notice under subsection (1) above may at any time be withdrawn by the authority by whom it was given.
- (3) A notice restraining the erection of any building on land shall not be served by a highway authority except with the consent of the council of the [^{F20}non-metropolitan] district in which the land is situated or if the land is situated in a London borough or the City and the highway authority concerned is . . . ^{F21} the Minister, with the consent of the council of that London borough or the Common Council, as the case may require.

[^{F22}(3A) In relation to any land in Wales—

- (a) subsection (3) above does not apply; but
 - (b) if the Minister is the highway authority, he shall not serve a notice restraining the erection of any building on the land except with the consent of the Welsh council in whose area the land is situated.]
- (4) A copy of a notice under subsection (1)(a) above shall be served on the owner or on the occupier of any land according as the notice was served on the occupier or on the owner of it.
- (5) A notice under subsection (1)(b) above does not prevent any owner, lessee or occupier of any land from executing or permitting the reconstruction or repair, in such manner as not to create any new obstruction to the view of persons using the adjacent highways, of any building which was on the land before the service of the notice.

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- (6) A restriction imposed by a notice under subsection (1) above comes into force on the service of the notice and, while in force, is binding on the successor in title to every owner, and on every lessee and every occupier, of the land to which it relates.
- (7) A person on whom a notice has been served under subsection (1) above may, within 14 days from the date of the receipt of the notice by him, give notice to the authority by whom the notice was given objecting to any requirement specified in it, or to any restriction imposed by it, and stating reasons for his objections.
- (8) Where notice is given under subsection (7) above the question whether the notice under subsection (1) above is to be withdrawn as respects any requirement or restriction objected to shall be determined, if the parties so agree, by a single arbitrator appointed by them and, in default of agreement, shall be determined by a county court, and in determining a question under this subsection the arbitrator or court shall have power to order that the requirement or restriction objected to shall have effect subject to such modifications, if any, as the arbitrator or court may direct.
- (9) A person on whom a notice is served under subsection (1) above may, notwithstanding anything in any conveyance, or in any lease or other agreement, do all such things as may be necessary for complying with the requirements of the notice.
- (10) Subject to the provisions of this section, if a person on whom a notice is served under subsection (1) above contravenes the provisions of the notice, he is, without prejudice to any other proceedings which may be available against him, guilty of an offence and liable to a fine not exceeding [^{F23}level 1 on the standard scale]; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £2 for each day on which the offence is so continued.
- (11) Any person sustaining loss in direct consequence of any requirement of a notice served under subsection (1) above, and any person who proves that his property is injuriously affected by restrictions imposed by a notice served under that subsection, is entitled, if he makes a claim within 6 months from the date of service of the notice, to recover from the authority by whom the notice was served compensation for the injury sustained.
- (12) A person on whom a notice is served under subsection (1) above is entitled to recover from the authority by whom the notice was served any expenses reasonably incurred by him in carrying out any directions contained in the notice.
- (13) If any question arises under subsection (12) above whether any expenses were reasonably incurred by any person as there provided, it shall be determined, if the parties so agree, by a single arbitrator appointed by them and, in default of agreement, shall be determined by a county court.
- (14) Any two or more authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred under it.
- (15) Nothing in this section—
 - (a) authorises the service by a local highway authority of a notice under this section with respect to any wall forming part of an ancient monument or other object of archaeological interest, except with the consent of the Secretary of State; or
 - (b) applies with respect to a wall belonging to any of the following undertakers, that is to say, railway undertakers, canal undertakers, inland navigation undertakers, dock undertakers, or harbour undertakers, where the wall forms

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part of or is necessary for the maintenance of a railway comprised in the railway undertaking, a canal comprised in the canal undertaking, a navigation comprised in the inland navigation undertaking, a dock comprised in the dock undertaking, or a harbour comprised in the harbour undertaking.

(16) In relation to any prohibition or restriction on the use of land or buildings imposed by the Minister by a notice served by him under this section, section 1(1)(c) of the ^{M3}Local Land Charges Act 1975 has effect as if the references to the date of the commencement of that Act were omitted.

(17) In this section—

“building” includes any erection however, and with whatever material, it is constructed, and any part of a building;

“wall” includes any partition with whatever material it is constructed, and any bank.

Textual Amendments

F20 Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 18**

F21 Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**

F22 S. 79(3A) inserted (1.4.1996) by [1994 c. 19, s. 22\(1\)](#), **Sch. 7 Pt. I para.8** (with s. 54(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396](#), art. 3, **Sch.1**.

F23 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

Marginal Citations

M3 [1975 c. 76](#).

Fences and boundaries

80 Power to fence highways.

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

- (a) a highway maintainable at the public expense by them,
- (b) land on which in accordance with plans made or approved by the Minister they are for the time being constructing or intending to construct a highway shown in the plans which is to be a highway so maintainable, or
- (c) land on which in pursuance of a scheme under section 16 above, or of an order under section 14 or 18 above, they are for the time being constructing or intending to construct a highway.

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

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

- (a) interfere with a fence or gate required for the purpose of agriculture; or
- (b) obstruct a public right of way; or
- (c) obstruct any means of access for the construction, formation or laying out of which planning permission has been granted under Part III of [^{F24}the Town and Country Planning 1990] (or under any enactment replaced by the said Part III); or

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- (d) obstruct any means of access which was constructed, formed or laid out before 1st July 1948, unless it was constructed, formed or laid out in contravention of restrictions in force under section 1 or 2 of the ^{M4}Restriction of Ribbon Development Act 1935.
- (4) As respects—
- (a) a highway that is a trunk road, and
- (b) land on which the Minister is for the time being constructing or intending to construct a highway that is, or is to be, a trunk road, either in accordance with plans made by him in which the road is shown or in pursuance of a scheme under section 16 above,

the powers under this section may be exercised not only by the Minister but also, where the road or land is outside Greater London, by the council of the county [^{F25}or metropolitan district] in which it is situated, or where the road or land is in Greater London, by . . . ^{F26} the council of the London borough in which it is situated.

Textual Amendments

F24 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 45\(4\)](#)

F25 Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 8, Sch. 4 para. 19](#)

F26 Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 102, Sch. 17](#)

Modifications etc. (not altering text)

C9 S. 80 modified by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\), s. 72\(12\)](#)

Marginal Citations

M4 1935 c. 47.

81 Provision of highway boundary posts.

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

Cattle-grids

82 Provision of cattle-grids and by-passes.

- (1) Where, whether on the representations of owners or occupiers of agricultural land or otherwise, and after such consultation with any such owners and occupiers as the highway authority consider requisite, it appears to the highway authority for a highway which consists of or comprises a carriageway expedient so to do for controlling the passage of animals along the highway, the authority may, subject to the provisions of this section and sections 83 to 90 below, provide for the highway, and maintain, a cattle-grid in the highway or partly in the highway and partly in adjoining land.
- (2) Where a highway authority provide a cattle-grid under this Act they shall also provide, either by means of a gate or other works on the highway or by means of a by-pass, or partly by one of those means and partly by the other, and maintain, facilities for the

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passage under proper control of animals and all other traffic that is unable to pass over the cattle-grid and is entitled by law to go along the highway.

- (3) Save as provided by subsection (4) below, the powers conferred by the foregoing provisions of this section do not include power to place any part of a cattle-grid in land not forming part of the highway and not belonging to the highway authority, or to provide a by-pass on land not belonging to the highway authority, except in so far as is authorised by any such agreement as is provided for by section 87 below.
- (4) Where after complying with the provisions of Schedule 10 to this Act the highway authority determine, as respects any common or waste land not forming part of the highway but adjoining the highway or adjacent thereto, that it is expedient so to do, the authority may place any part of a cattle-grid in, or provide a by-pass on, any of that land notwithstanding that it does not form part of the highway and does not belong to the authority.
- (5) Without prejudice to subsection (3) above, a highway authority shall not provide a by-pass along any part of a highway unless, after complying with the provisions of Schedule 10 to this Act, the authority determine that it is expedient so to do.
- (6) In this Act—

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

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

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

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

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

- (7) Subject to subsection (8) below, a highway authority may alter or improve—
 - (a) a cattle-grid or by-pass provided under this Act for a highway for which they are the highway authority;
 - (b) any works provided for use in connection with such a cattle-grid or provided for the purposes of such a by-pass.
- (8) A highway authority shall not carry out any alteration or improvement under subsection (7) above whereby traffic of a description which before the alteration or improvement could lawfully have gone along the highway (either by passing over the cattle-grid or by going through a gate or along a by-pass provided under subsection (2) above) will be prevented from so going along the highway.

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

- (1) Where it appears to a highway authority, after such consultation with such owners and such occupiers of agricultural land as the highway authority consider requisite, that a cattle-grid provided under this Act for a highway for which they are the highway authority is no longer required, the authority may remove the cattle-grid and any gate or other works on the highway which have been provided for use in connection with it, making good the site thereof.
- (2) Where a by-pass has been provided for use in connection with a cattle-grid and the highway authority remove the cattle-grid they may direct that the by-pass is to be discontinued, and where they give such a direction they may remove all or any of the works provided for the purposes of the by-pass.
- (3) If a direction under subsection (2) above so provides, then as from such date as may be specified in the direction the public right of way over the by-pass shall be extinguished.
- (4) Where a by-pass or any part of one has been provided along an existing highway, then—
 - (a) notwithstanding subsection (3) above, a direction under subsection (2) above shall not extinguish any right of way which existed before the by-pass was provided;
 - (b) if the cattle-grid for use in connection with which the by-pass was provided is removed, as soon as may be thereafter the highway authority shall (whether or not they direct that the by-pass is to be discontinued, but without prejudice to their power to remove works under subsection (2) above if they do so direct) remove so much of the works provided for the purpose of the by-pass as obstructs the exercise of any right of way existing before the by-pass was provided.

84 Maintenance of cattle-grids and by-passes.

- (1) A cattle-grid provided under this Act for a highway, a gate or other works on a highway provided for use in connection with such a cattle-grid, and any works provided for the purposes of a by-pass provided under this Act, are maintainable by the highway authority for the highway.
- (2) A by-pass provided under this Act shall, unless and until the highway authority give a direction discontinuing the by-pass, in all cases be a highway which for the purposes of this Act is a highway maintainable at the public expense for which that authority are the highway authority.

85 Exercise of powers by agreement between neighbouring authorities.

- (1) Where a highway maintainable at the public expense is intersected, joined or continued by a highway for which the highway authority are an authority other than the highway authority for the first-mentioned highway, the following provisions have effect.
- (2) The highway authority for the first mentioned highway (“the first authority”) and the other authority (“the second authority”) may enter into an agreement as to the exercise by the second authority of that authority’s powers under sections 82 and 83 above in relation to the highway for which they are the highway authority; and any such agreement may provide for the first authority to defray the whole or any part of the expenses incurred by the second authority in consequence of the agreement.

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

86 Supersession of gates by cattle-grids.

- (1) Where—

- (a) any person has the right to install a gate or gates in a highway, and
- (b) a highway authority providing or proposing to provide a cattle-grid in the highway under section 82 above determine, after complying with the provisions of Schedule 10 to this Act, that the purpose for which the above-mentioned right is exercisable will be adequately achieved by the provision of the cattle-grid,

the right is not exercisable, so long as the cattle-grid is provided, except with the approval of the highway authority, and the highway authority may require that a gate or gates installed in the exercise of the right before the provision of the cattle-grid shall be removed or may themselves remove any such gate or gates.

- (2) The highway authority shall on demand repay any expenses reasonably incurred in removing a gate in compliance with a requirement under this section.
- (3) Where in pursuance of subsection (1) above a gate has been removed (whether by, or in compliance with a requirement of, the highway authority) and the highway authority subsequently remove the cattle-grid, then, if within 12 months from the date of the removal of the cattle-grid a person reinstalls a gate in the exercise of a right the exercise of which was suspended while the cattle-grid was provided, the highway authority shall on demand repay the expenses reasonably incurred in reinstalling the gate.
- (4) No objection shall be made or proceedings brought in respect of the purported exercise by a highway authority of their powers under subsection (1) above as respects a gate or gates on the ground that no right to install the gate or gates existed; but the purported exercise by the authority of their powers under that subsection shall not affect the question whether any such right existed, or prejudice the powers of the highway authority or any other person under any enactment (including an enactment in this Act) or rule of law to protect public rights of way or to prevent or remove obstructions.

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

- (1) A highway authority may, for the purpose of providing, altering or improving a cattle-grid or by-pass under the powers conferred by this Part of this Act, enter into an agreement under this section with persons interested in any land for the use of the land for that purpose; and (without prejudice to the provision of other matters in the agreement) there shall be exercisable by the highway authority and the public such rights over the land as may be specified in the agreement.
- (2) An agreement under this section may contain provisions for payment to persons who are parties to it in consideration of the use of the land or otherwise in respect of their entering into the agreement.
- (3) The provisions of an agreement under this section bind the interest of any person who is a party to the agreement notwithstanding any devolution of that interest, and also

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bind any interest of any person which is thereafter created (whether immediately or not) out of that interest; but save as aforesaid an agreement under this section shall not operate so as to prejudice the rights of a person not a party to it or confer upon any other person any right against him.

- (4) A tenant for life may enter into an agreement under this section relating to the settled land or any part of it either for consideration or gratuitously, and—
 - (a) this subsection is to be construed as one with the ^{M5}Settled Land Act 1925;
 - (b) that Act and section 28 of the ^{M6}Law of Property Act 1925 (which confers the powers of a tenant for life on trustees for sale), apply as if the power conferred by this subsection had been conferred by that Act; and
 - (c) for the purposes of section 72 of the ^{M7}Settled Land Act 1925 (disposition by a tenant for life) and of any other relevant statutory provision, entering into an agreement under this section is to be treated as a disposition.
- (5) A university or college to which the ^{M8}Universities and College Estates Act 1925 applies may enter into an agreement under this section relating to any land belonging to it either for consideration or gratuitously, and that Act applies as if the power conferred by this subsection had been conferred by that Act.
- (6) Where land is glebe land or other land belonging to an ecclesiastical benefice, the incumbent of the benefice and, where land is part of the endowment of any other ecclesiastical corporation, the ecclesiastical corporation, may with the consent of the Church Commissioners enter into an agreement under this section relating to the land either for consideration or gratuitously, and the Ecclesiastical Leasing Acts apply as if the power conferred by this subsection had been conferred by those Acts, except that the consent of the patron of an ecclesiastical benefice is not requisite.
- (7) An agreement under this section is a local land charge.

Marginal Citations

- M5** 1925 c. 18.
M6 1925 c. 20.
M7 1925 c. 18.
M8 1925 c. 24.

88 Contributions towards expenditure of highway authorities.

- (1) A highway authority may enter into an agreement with a person at whose instance a cattle-grid has been or is to be provided by them under this Act, or any other person willing to make a contribution towards expenses of the authority under this Act in connection with a cattle-grid, for the making by that person of such a contribution (whether by a single payment or by periodical payments) of such amount as may be specified in the agreement and either towards all such expenditure of the authority or towards such description of such expenditure as may be so specified.
- (2) An agreement under this section may contain such incidental and consequential provisions as appear to the parties to it expedient for the purposes of the agreement, and in particular such an agreement providing for a contribution towards the cost of installing a cattle-grid may provide for repayment of the contribution, to such extent as may be specified in the agreement, in the event of the cattle-grid being removed.

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

89 Delegation to certain authorities of functions of Minister.

- (1) Subsections (1) to (4) of section 6 above apply, as respects trunk roads, to the functions of the Minister under the foregoing provisions of this Part of this Act relating to cattle-grids, and to his functions under Schedule 10 to this Act in so far as they are conferred on him as highway authority.
- (2) Plant or materials belonging to a council to whom functions are delegated under this section may be used by them for the purposes of those functions, subject to the terms of the delegation.

90 Protection of bridges and railways.

- (1) A highway authority shall not, in the exercise of functions relating to cattle-grids conferred by this Part of this Act, carry out any work in—
- (a) so much of a highway as is carried by a bridge maintainable by a person other than the highway authority or so much of a highway as is comprised within the immediate approaches to such a bridge,
 - (b) so much of a highway passing under such a bridge as is within 10 feet of any part of the bridge or of the foundations of the bridge, or
 - (c) so much (if any) of a highway passing above a tunnel provided for the purpose of a railway undertaking of railway undertakers as is within 10 feet of any part of the tunnel,
- except with the consent of the person liable to maintain the bridge or of the railway undertakers, as the case may be.
- (2) Where consent under this section is withheld the highway authority may refer the matter to the Minister and if, after affording to the highway authority and to the said person, or to the railway undertakers, as the case may be, an opportunity of being heard by a person appointed by the Minister for the purpose, and considering his report, the Minister so directs, the work may be carried out notwithstanding that the consent has been withheld but subject to compliance with any conditions which the Minister may impose.

[^{F27} Road humps]

Textual Amendments

F27 Ss. 90A–90F inserted by [Transport Act 1981 \(c. 56, SIF 126\)](#), s. 32, [Sch. 10 para. 2](#)

90A Construction of road humps by highway authority.

- (1) A highway authority may construct road humps in a highway maintainable at the public expense for which they are the highway authority if—

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- (a) the highway is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or
 - (b) [^{F28}(whether or not the highway is subject to such a limit)]the road humps are specially authorised by the Secretary of State,
and may remove any road humps so constructed by them.
- (2) ^{F29}

Textual Amendments

- F28** Words in s. 90A(1)(b) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para.12**; S.I. 1992/1286, art. 2, **Sch.**
- F29** S. 90A(2) repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

[^{F30}90B Additional powers of the Secretary of State.

- (1) The Secretary of State may construct road humps in a highway maintainable at the public expense for which he is not the highway authority if—
 - (a) the highway is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or
 - (b) [^{F31}(whether or not the highway is subject to such a limit)]the road humps are specially authorised by him,
and may maintain and remove any road humps so constructed by him.
- (2) The consent of the local highway authority for the highway concerned is required for the construction of road humps under this section. . . ^{F32}
- (3) The Secretary of State and the local highway authority may enter into an agreement for the carrying out by the local highway authority of any works which the Secretary of State has power to carry out under this section.
- (4) Subject to subsection (5) below, the consent of the Secretary of State is required before the local highway authority or any other person having power to maintain the highway may remove or otherwise interfere with a road hump constructed under this section.
- (5) If the Secretary of State so directs with the consent of the local highway authority the local highway authority shall have the same powers in relation to a road hump constructed under this section as they have in relation to a road hump constructed by them under section 90A above.
- (6) Where a road hump has been constructed under this section, the local highway authority and any other person having power to maintain the highway may reimburse the Secretary of State the whole or part of his expenses in relation to the road hump.

Textual Amendments

- F30** Ss. 90A–90F inserted by Transport Act 1981 (c. 56, SIF 126), s. 32, **Sch. 10 para. 2**
- F31** Words in s. 90B(1)(b) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para.12**; S.I. 1992/1286, art. 2, **Sch.**
- F32** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

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90C Consultation and local inquiries.

- (1) Where the Secretary of State or a local highway authority propose to construct a road hump under section 90A or 90B above, he or they shall consult with—
 - (a) the chief officer of police for the area in which the highway concerned is situated; and
 - (b) such other persons or bodies as may be prescribed by regulations made by the Secretary of State.
- (2) The Secretary of State or local highway authority shall also—
 - (a) publish in one or more newspapers circulating in the area in which the highway concerned is situated; and
 - (b) place at appropriate points on that highway, a notice of the proposal stating the nature, dimensions and location of the proposed road hump and the address to which and the period within which any objections to the proposal may be sent.
- (3) The period stated in a notice under subsection (2) above shall be not less than 21 days beginning with the date on which the notice is first published in accordance with paragraph (a) of that subsection.
- (4) The Secretary of State or local highway authority shall consider any objections sent to him or them in accordance with a notice under subsection (2) above and may, if he or they think fit, cause a local inquiry to be held.
- (5) Subsections (2) to (5) of section 250 of the Local Government Act 1972 (provisions as to inquiries) have effect in relation to an inquiry held under subsection (4) above as they have effect in relation to an inquiry held under that section, but with such modifications as may be prescribed by regulations made by the Secretary of State.
- (6) Before making regulations under this section the Secretary of State shall consult such representative organisations as he thinks fit.

Textual Amendments

F30 Ss. 90A–90F inserted by [Transport Act 1981 \(c. 56, SIF 126\)](#), s. 32, [Sch. 10 para. 2](#)

VALID FROM 03/07/2000

Special procedure for certain road humps in London.

F33 **90CA**

- (1) A road hump falls within this section if—
 - (a) it is constructed by a local highway authority in Greater London, and
 - (b) the requirements of subsections (2) and (3) below have been complied with.
- (2) The requirement of this subsection is that before starting to construct the road hump the authority concerned gives the Secretary of State notice stating—
 - (a) the nature, dimensions and location of the proposed road hump,
 - (b) the spacing between the proposed road hump and any other humps constructed, or proposed to be constructed, in the vicinity,

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- (c) the type and description of signs which are proposed to be located in the highway in connection with the proposed hump,
 - (d) the statutory speed limit for motor vehicles to which the highway where it is proposed to construct the hump is subject, and
 - (e) the period (of not less than one month) within which, and the address to which, the Secretary of State may send any comments on the proposal to the authority.
- (3) The requirement of this subsection is that in deciding—
- (a) whether to proceed with the construction of the road hump, and
 - (b) what the nature, dimensions and location of the road hump as constructed are to be,
- the authority concerned has regard to any comments made by the Secretary of State within the period stated in the notice.]

Textual Amendments

F30 Ss. 90A–90F inserted by [Transport Act 1981 \(c. 56, SIF 126\)](#), s. 32, [Sch. 10 para. 2](#)

F33 S. 90CA inserted (3.7.2000) by [1999 c. 29, s. 268\(3\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801](#), art. 2(2)(c), [Sch. Pt. 3](#)

90D Regulations concerning construction and maintenance of road humps.

- (1) The Secretary of State may by regulations make such provision in relation to the construction and maintenance of road humps as appears to him to be necessary or expedient in the interests of safety and the free movement of traffic, and may in particular—
- (a) provide that road humps shall be constructed only in highways of such descriptions and in such circumstances as may be prescribed by the regulations;
 - (b) impose requirements as to—
 - (i) the nature, dimensions, location and spacing of road humps;
 - (ii) the placing of signs of such type or character as may be so prescribed;
 - (iii) the carrying out and maintenance of other ancillary or consequential works.
- (2) Regulations under this section may make different provision for different cases, as for example for road humps and highways of different descriptions.
- (3) Before making any regulations under this section the Secretary of State shall consult with such representative organisations as he thinks fit.
- (4) Regulations under this section do not apply where a road hump is specially authorised by the Secretary of State, but conditions attached by him to the authorisation may, in particular, relate to any of the matters with respect to which regulations may be made under this section.

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90E Status of road humps.

- (1) Where a road hump conforms to regulations under section 90D above and, in the case of a road hump in a highway maintainable at the public expense, the conditions mentioned in subsection (2) below are satisfied, the road hump shall not be treated as constituting an obstruction to the highway but as part of the highway, so that in particular—
- (a) the obligation of any person to maintain the highway; and
 - (b) the obligation of any person having power to break open the highway to make good any damage or otherwise reinstate the highway,
- extend to maintaining or, as the case may be, making good any damage to or otherwise reinstating the road hump.
- (2) The further conditions applicable in the case of a road hump in a highway maintainable at the public expense are—
- (a) that the highway is for the time being subject to a statutory speed limit for motor vehicles of 30 miles per hour or less or the road hump is specially authorised by the Secretary of State; and
 - (b) that the road hump was constructed under section 90A or 90B above or was constructed at a time when the highway was not maintainable at the public expense.
- (3) In relation to a road hump specially authorised by the Secretary of State the reference in subsection (1) above to conformity with regulations shall be construed as a reference to conformity with the conditions attached to the authorisation.

^{F34}(4)

Textual Amendments

F34 S. 90E(4) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(2), [Sch.](#); [S.I. 1992/2984](#), art. 2(2), [Sch.2](#)

90F Meaning of “road hump” and interpretation of sections 90A to 90E.

- (1) In this Act “road hump” means an artificial hump in or on the surface of the highway which is designed to control the speed of vehicles, and references to a road hump include references to any other works (including signs for lighting) required in connection with such a hump.
- (2) In sections 90A to 90E above—
- “motor vehicle” has the same meaning as in the Road Traffic Regulation Act [^{F35}1984]; and
- [^{F36}“statutory speed limit” means a speed limit having effect by virtue of an enactment other than section 84(1)(b) or (c) of the Road Traffic Regulation Act 1984 (temporary and variable speed limits).]]

Textual Amendments

F30 Ss. 90A–90F inserted by [Transport Act 1981 \(c. 56, SIF 126\)](#), s. 32, [Sch. 10 para. 2](#)

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- F35** Words substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\)](#), s. 146, **Sch. 13 para. 42**
- F36** S. 90F(2): definition 'statutory speed limit' substituted (1.7.1992) for definition of 'statutory' by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, **Sch. 4 para.13**; S.I. 1992/1286, **art. 2**,Sch.

[^{F37}Other traffic calming works]

Textual Amendments

- F37** [Ss. 90G-90I](#) and cross-heading inserted (16.5.1992) by [Traffic Calming Act 1992 \(c. 30\)](#), ss. 1(2), 3, **Sch. 1**

^{F38}90G Powers to carry out traffic calming works.

- (1) A highway authority may, in a highway maintainable at the public expense for which they are the highway authority, construct traffic calming works which—
 - (a) are of a description prescribed by regulations under section 90H below, or
 - (b) are specially authorised by the Secretary of State,and may remove such works (whenever constructed).
- (2) A highway authority shall not exercise the powers conferred by subsection (1) above except in accordance with any requirements imposed by the regulations or authorisation concerned.
- (3) Requirements imposed by a special authorisation given by the Secretary of State under this section may relate to any matter with respect to which regulations may be made under section 90H below.
- (4) Nothing in this section shall prejudice any power of a highway authority to construct or remove traffic calming works which are neither of a description prescribed by regulations under section 90H below nor specially authorised by the Secretary of State.

Textual Amendments

- F38** Cross heading and ss. 90G-90I inserted (16.5.1992) by [Traffic Calming Act 1992 \(c. 30\)](#), ss. 1(1), 3, **Sch.1**

[^{F39}90GASpecial procedure for certain traffic calming works in London.

- (1) Traffic calming works fall within this section if—
 - (a) the works are constructed by a local highway authority in Greater London, and
 - (b) the requirements of subsection (2) and (3) below have been complied with.
- (2) The requirement of this subsection is that before starting to construct the works the authority concerned gives the Secretary of State notice stating—
 - (a) the nature, dimensions and location of the proposed works,
 - (b) the type and description of signs which are proposed to be located in the highway in connection with the proposed hump, and
 - (c) the period (of not less than one month) within which, and the address to which, the Secretary of State may send any comments on the proposal to the authority.

Status: Point in time view as at 01/04/1996. This version of this part contains provisions that are not valid for this point in time.

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- (3) The requirement of this subsection is that in deciding—
- (a) whether to proceed with the construction of the works, and
 - (b) what the nature, dimensions and location of the works as constructed are to be,
- the authority concerned has regard to any comments made by the Secretary of State within the period stated in the notice.]

Textual Amendments

F39 S. 90GA inserted (*prosp.*) by 1999 c. 29, ss. 269(4), 425 (with **Sch. 12 para. 9(1)**)

^{F40}**90H Prescribing of works.**

- (1) The Secretary of State may make regulations—
- (a) prescribing any description of traffic calming works for the purposes of section 90G above, and
 - (b) making such provision (if any) as appears to him necessary or expedient in relation to the construction, maintenance and removal of works of a prescribed description.
- (2) Regulations under this section may in particular—
- (a) provide that works of a prescribed description shall be constructed only in highways of such descriptions and in such circumstances as may be prescribed by the regulations;
 - (b) impose requirements as to—
 - (i) the dimensions and location of works;
 - (ii) the placing of signs;
 - (iii) the carrying out and maintenance of ancillary or consequential works;
 - (c) impose requirements as to consultation and publicity in respect of proposed works.
- (3) Regulations under this section may make different provision for different cases.

Textual Amendments

F40 Ss. 90G-90I and cross-heading inserted (16.5.1992) by **Traffic Calming Act 1992 (c. 30)**, ss. 1(1), 3, **Sch. 1**

^{F41}**90I Status of works authorised by section 90G.**

Works (whenever constructed) of a description prescribed by regulations under section 90H above or specially authorised under section 90G above which conform to any requirements imposed by the regulations or authorisation shall not be treated as constituting an obstruction to the highway but as part of the highway, so that in particular—

- (a) the obligation of any person to maintain the highway, and
- (b) the obligation of any person having power to break open the highway to make good any damage or otherwise reinstate the highway,

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extend to maintaining or, as the case may be, making good any damage to or otherwise reinstating the works.

Textual Amendments

F41 Cross heading and ss. 90G-90I inserted (16.5.1992) by [Traffic Calming Act 1992 \(c. 30\)](#), ss. 1(2), 3, [Sch.1](#)

Construction, reconstruction, improvement etc. of bridges

91 Construction of bridge to carry existing highway maintainable at public expense.

A highway authority may construct a bridge to carry a highway maintainable at the public expense but the Minister shall not construct such a bridge without the approval of the Treasury.

92 Reconstruction of bridge maintainable at public expense.

Without prejudice to any other powers they have under this Part of this Act, a highway authority may reconstruct a bridge which is a highway maintainable at the public expense by them, either on the same site or on a new site within 200 yards of the old one.

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

(1) If the owners of a bridge to which this section applies or a local highway authority entitled by virtue of section 95 below to exercise with respect to such a bridge the powers conferred by this section consider—

- (a) that the bridge is or may be, by reason of its construction, position, or state of repair, dangerous or unsuitable for the requirements of road traffic as then existing or the expected development thereof, or
- (b) that the responsibility for the maintenance and improvement of the highway carried by the bridge or of the approaches to it should for any reason be transferred from the owners to a highway authority,

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

(2) Where an application is made to the Minister under subsection (1) above, he may, subject to the provisions of this section, make an order under this section, but before making such an order he shall consult the owners of the bridge and every local highway authority entitled to exercise with respect to it the powers conferred by this section, and if either the owners or any such local highway authority request him so to do shall hold an inquiry.

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

- (a) require the execution, either by the owners or by a highway authority, of such works of reconstruction or improvement as may be specified in the order;

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- (b) determine and direct by whom the bridge, the highway carried by the bridge and the approaches to the bridge are to be maintained;
 - (c) provide for the transfer to and vesting in a highway authority of the property in the bridge, or the highway carried by the bridge, or the approaches to the bridge, and of all or any rights and obligations attaching to the bridge, or to such highway or approaches;
 - (d) in the case of a swing bridge, determine and direct by whom and in what manner it is to be operated;
 - (e) modify, so far as he considers necessary for giving effect to the order, any statutory provisions applicable to the bridge other than the provisions of a public general Act;
 - (f) make such incidental, consequential and supplementary provisions, including provisions authorising the owners of the bridge or a highway authority to construct works which are necessary to enable them to comply with a requirement or direction contained in the order, as may appear to him to be necessary or proper for the purposes of the order.
- (4) Subject to the provisions of this section, the Minister may, on his own initiative and without any application under subsection (1) above, make an order under this section with respect to a trunk road bridge if, on such grounds as are referred to in subsection (1) above, it seems to him fit and proper so to do; but, before making such an order, he shall consult the owners of the bridge (unless after diligent inquiry their names and addresses cannot be ascertained), and, if the owners request him so to do, shall hold an inquiry.
- (5) In relation to an order made under this section with respect to a trunk road bridge, subsection (3)(c) above has effect with the substitution, for the reference to a highway authority, of a reference to the Minister.
- (6) Subject to section 95(9) below, this section applies to any bridge (other than a highway maintainable at the public expense) which carries a highway consisting of or comprising a carriageway over a railway, over a canal, river, creek, watercourse, marsh or other place where water flows or is collected or over a ravine or other depression, other than a bridge to which a right to levy tolls is attached.
- (7) Schedule 11 to this Act has effect in relation to the making and carrying out of orders under this section.

Modifications etc. (not altering text)

C10 Ss. 93-95 modified (22.7.2008) by [Transport for London Act 2008 \(c. i\)](#), ss. 1, 33 (with s. 48)

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

- (1) A highway authority may agree with the owners of a bridge to which this section applies and with respect to which the highway authority are entitled by virtue of section 95 below to exercise the powers conferred by this section—
- (a) for the payment by the highway authority of contributions towards the cost of the reconstruction, improvement or maintenance of the bridge, or of the highway carried by the bridge, or of the approaches to the bridge;

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

and the owners of the bridge may enter into and carry into effect any such agreement, notwithstanding that the bridge was constructed under statutory powers.

- (2) Subject to section 95(9) below, this section applies to any bridge (other than a highway maintainable at the public expense) which carries a highway over a railway or highway, over a canal, river, creek, watercourse, marsh or other place where water flows or is collected or over a ravine or other depression.
- (3) Where an agreement made under this section provides for the transfer to the highway authority of rights or obligations attaching to a bridge, then as from the date of the transfer the highway authority may exercise the rights transferred and shall, to the exclusion of the owners, be subject to the obligations transferred.

Modifications etc. (not altering text)

C11 Ss. 93-95 modified (22.7.2008) by [Transport for London Act 2008 \(c. i\)](#), ss. 1, **33** (with s. 48)

95 Supplemental provisions as to orders and agreements under sections 93 and 94.

- (1) Subject to subsection (2) below, the powers conferred by sections 93 and 94 above on a highway authority or a local highway authority are exercisable—
 - (a) in the case of a bridge outside Greater London, by the council of the county ^[^{F42}or metropolitan district] in which the bridge is situated;
 - (b) ^{F43}
 - (c) in the case of [^{F44}a] bridge in Greater London, by the council of the borough in which it is situated, or, if it is in the City, by the Common Council.
- (2) In the case of a trunk road bridge, the powers conferred on a highway authority by section 94 above are exercisable by the Minister; and neither those powers nor the powers conferred on a local highway authority by section 93 above are exercisable with respect to such a bridge by a local highway authority.
- (3) Where a bridge other than a trunk road bridge is situated partly in one area and partly in another, the powers conferred by sections 93 and 94 above on a highway authority or a local highway authority are exercisable by the council who, by virtue of section 3 above, are the highway authority for the whole of the bridge or, if there is no such highway authority, by any council who could have exercised those powers if their area had included the whole of the bridge.
- (4) For the purposes of the foregoing provisions of this section, the highway carried by a bridge, and the approaches to the bridge, are to be deemed to be part of the bridge.
- (5) Where—
 - (a) a bridge crossing a railway is owned by railway undertakers and the railway is leased to other such undertakers, or

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- (b) a bridge crossing a canal is owned by canal undertakers and the canal is leased to other such undertakers,
- references in sections 93 and 94 above and in this section to the owners of the bridge, railway or canal include references to those other undertakers.
- (6) Nothing in sections 93 and 94 above or in this section or in any order made under section 93 above, authorises the stoppage of traffic on a canal without the consent of the canal owners, and a highway authority carrying out works authorised by any of the said sections, or by any such order, with respect to a bridge crossing a canal shall take such steps as may be necessary to prevent, so far as practicable, interference with traffic on the canal.
- (7) The consent of the owners of a canal to the temporary stoppage of traffic on it pursuant to subsection (6) above shall not be unreasonably withheld, and any question whether the withholding of such a consent is unreasonable shall be determined by the Minister.
- (8) In sections 93 and 94 above and in this section—
- “approaches” in relation to a bridge, means approaches for the maintenance of which the owners of the bridge are responsible and which connect the bridge to the highway maintainable at the public expense;
- “trunk road bridge” means a bridge the highway over which is a trunk road or partly a trunk road;
- “canal” includes inland navigation;
- and for the purposes of the said sections the towing path of a canal is to be deemed to form part of the canal.
- (9) Sections 93 and 94 above and this section do not apply to any bridge which crosses the Manchester Ship Canal and is owned by the Manchester Ship Canal Company.

Textual Amendments

- F42** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 20**
- F43** S. 95(1)(b) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F44** Word substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 20**

Modifications etc. (not altering text)

- C12** Ss. 93-95 modified (22.7.2008) by [Transport for London Act 2008 \(c. i\)](#), ss. 1, **33** (with s. 48)

Miscellaneous improvements

[^{F45}95A Power to install equipment for detection of traffic offences.

A highway authority may install and maintain on or near a highway structures and equipment for the detection of traffic offences.]

Textual Amendments

- F45** S. 95A inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. **40(1)**; S.I. 1992/1286, **art. 2**, Sch.

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

- (1) Subject to the provisions of this section, a highway authority may, in a highway maintainable at the public expense by them, plant trees and shrubs and lay out grass verges, and may erect and maintain guards or fences and otherwise do anything expedient for the maintenance or protection of trees, shrubs and grass verges planted or laid out, whether or not by them, in such a highway.
- (2) A highway authority may alter or remove any grass verge laid out, whether or not by them, in a highway maintainable at the public expense by them and any guard, fence or other thing provided, whether or not by them, for the maintenance or protection of any tree, shrub or verge in such a highway.
- (3) Subject to the following provisions of this section, a highway authority may exercise the like powers as are conferred by subsections (1) and (2) above on any land acquired in exercise of powers conferred on them by section 239(2) to (4) below, notwithstanding that the land does not form part of a highway.
- (4) A local authority, if they are not the highway authority for a highway maintainable at the public expense in their area, may, with the consent of the highway authority, exercise with respect to that highway any of the powers conferred by subsections (1) and (2) above on the highway authority.
- (5) Subject to the restrictions for the time being imposed by any enactment on their expenditure, the council of a parish or community may, with the consent of the highway authority for a highway maintainable at the public expense in the parish or community, exercise with respect to that highway any of the powers conferred by subsections (1) and (2) above on the highway authority.
- (6) No tree, shrub, grass verge, guard or fence shall be planted, laid out or erected under this section, or, if planted, laid out or erected under this section, allowed to remain, in such a situation as to hinder the reasonable use of the highway by any person entitled to use it, or so as to be a nuisance or injurious to the owner or occupier of premises adjacent to the highway.
- (7) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person is entitled, subject to subsection (8) below, to recover compensation for it from the authority or parish or community council by whom the powers were exercised.
- (8) A person is not entitled to compensation under subsection (7) above if his negligence caused the damage; and if his negligence contributed to the damage the compensation under that subsection shall be reduced accordingly.
- (9) Any two or more highway authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred under it.
- (10) References in this section to trees or shrubs are to be construed as including references to plants of any description.

97 Lighting of highways.

- (1) The Minister and every local highway authority may provide lighting for the purposes of any highway or proposed highway for which they are or will be the highway authority, and may for that purpose—

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- (a) contract with any persons for the supply of gas, electricity or other means of lighting; and
 - (b) construct and maintain such lamps, posts and other works as they consider necessary.
- (2) A highway authority may alter or remove any works constructed by them under this section or vested in them under Part III of the ^{M9}Local Government Act 1966 or section 270 below.
- (3) A highway authority shall pay compensation to any person who sustains damage by reason of the execution of works under this section.
- (4) Section 45 of the ^{M10}Public Health Act 1961 (attachment of street lamps to buildings) and section 81 of that Act (summary recovery of damages for negligence) apply to a highway authority who are not a council of a kind therein mentioned as they apply to such a council.

Marginal Citations

- M9** 1966 c. 42.
M10 1961 c. 64.

98 Delegation of lighting functions of highway authority.

- (1) A highway authority may agree with a lighting authority for the delegation to the lighting authority of any of the functions of the highway authority with respect to the lighting of any highway or part of a highway within the area of the lighting authority.
- (2) A lighting authority shall, in the discharge of any functions delegated to them under subsection (1) above, act as agents for the highway authority; and it shall be a condition of the delegation—
- (a) that the works to be executed or expenditure to be incurred by the lighting authority in the discharge of the delegated functions are to be subject to the approval of the highway authority;
 - (b) that the lighting authority are to comply with any requirement of the highway authority as to the manner in which any such works are to be carried out, and with any directions of the highway authority as to the terms of contracts to be entered into for the purposes of the discharge of the delegated functions; and
 - (c) that any such works are to be completed to the satisfaction of the highway authority.
- (3) If at any time the highway authority are satisfied that a lighting system in respect of which the functions of that authority are delegated under this section is not in proper repair or condition, they may give notice to the lighting authority requiring them to place it in proper repair or condition, and if the notice is not complied with within a reasonable time may themselves do anything which seems to them necessary to place the system in proper repair or condition.
- (4) A highway authority may agree with a lighting authority for the carrying out by the lighting authority of any works in connection with a lighting system provided or to be provided by the highway authority within the area of the lighting authority; and subsections (2) and (3) above apply to the conditions to be included in and to the discharge of functions pursuant to any such agreement, as they apply to the conditions

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to be attached to a delegation of functions under subsection (1) above and the discharge of functions so delegated.

- (5) A delegation to a lighting authority under this section may be determined by notice given to that authority by the highway authority during the first 9 months of any calendar year, and functions delegated to a lighting authority under this section may be relinquished by notice given by that authority to the highway authority during any such period; and any such notice shall take effect as from 1st April in the calendar year following that in which it is given.

99 Metalling of highways.

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

100 Drainage of highways.

- (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:—
- (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.
- (2) Where under subsection (1) above a drain is constructed or laid, or barriers are 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.
- (3) A highway authority shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any power under subsection (1) or (2) above.
- (4) 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) above, or which is under their control, then—
- (a) the authority may carry out any work of repair or reinstatement necessitated by his action and may recover from him the expenses reasonably incurred by them in so doing, and
 - (b) without prejudice to their right to exercise that power, he is guilty of an offence and liable to a fine not exceeding three times the amount of those expenses.
- (5) 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 [^{F46}sewerage undertaker under^{F47} sections 158, 159, 163, 165 and 168 of the Water Industry Act 1991] for the purposes of the drainage of highways within the area of that undertaker].
- (6) Where the highway authority are a county council they shall, before exercising any powers [^{F48}under^{F47} sections 158, 159, 163, 165 and 168 of the Water Industry Act

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1991]] by virtue of subsection (5) above, give notice of their intention to do so to the district council, and the ^{F48}sewerage undertaker] within whose area the powers are proposed to be exercised ^{F49}; and where the highway authority are a metropolitan district council they shall, before so exercising any powers under that Act, give such notice to the ^{F48}sewerage undertaker] within whose area the powers are proposed to be exercised.]

^{F50}(6A) In subsection (6) above, “the district council” shall be read, in relation to Wales, as “the Welsh council”.

(6B) Where the highway authority are a Welsh council—

- (a) subsection (6) above does not apply; but
- (b) before exercising any powers under sections 158, 159, 163, 165 and 168 of the ^{M11}Water Industry Act 1991 by virtue of subsection (5) above, they shall give notice of their intention to do so—
 - (i) to the sewerage undertaker; and
 - (ii) where they propose to exercise those powers outside their county or county borough, to the Welsh council or, as the case may be, the district council

within whose area the powers are proposed to be exercised.]

(7) 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 (2) above for that purpose, and subsections (3) and (4) above shall have effect in relation to a highway so maintainable as if references therein to a highway authority and to subsection (1) or (2) above included references to the person liable to maintain that highway and to this subsection respectively.

(8) This section is without prejudice to any enactment the purpose of which is to protect water against pollution.

(9) 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 of which exceeds 3 years.

Textual Amendments

- F46** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 62\(4\)\(a\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), [58](#)
- F47** Words in s. 100(5)(6) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2, 4(2), [Sch. 1 para. 36\(1\)](#)
- F48** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 25 para. 62\(4\)\(b\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), [58](#)
- F49** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 21](#)
- F50** S. 100(6A)(6B) inserted (1.4.1996) by 1994 c. 19, s. 22(1), [Sch. 7 Pt. 1 para. 9](#) (with s. 54(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 3, [Sch. 1](#).

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Marginal Citations

M11 1991 c. 56.

101 Power to fill in roadside ditches etc.

- (1) If it appears to the highway authority for any highway that a ditch on land adjoining or lying near to the highway constitutes a danger to users of the highway, the authority may—
 - (a) if they consider the ditch unnecessary for drainage purposes and any occupier of the land known to the authority agrees in writing that it is unnecessary for those purposes, fill it in; or
 - (b) place in the ditch, or in land adjoining or lying near to it, such pipes as they consider necessary in substitution for the ditch, and thereafter fill it in.
- (2) A highway authority shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any power under subsection (1) above.
- (3) If a person, without the consent of the highway authority, opens up or keeps open any ditch which has been filled in under subsection (1) above (except as may be reasonably necessary for the purpose of doing work on any pipes placed in the ditch), then—
 - (a) the authority may carry out any work of repair or reinstatement necessitated by his action and may recover from him the expenses reasonably incurred by them in so doing; and
 - (b) without prejudice to their right to exercise that power, he is guilty of an offence and liable to a fine not exceeding three times the amount of those expenses.
- (4) Nothing in section 263 of the ^{M12}Public Health Act 1936 (which prohibits the culverting of watercourses in certain districts without the approval of the local authority) applies to anything done under subsection (1) above.
- (5) A highway authority shall not exercise their powers under subsection (1) above in such a manner as to be likely to cause damage to or affect the drainage of any land or works used for the purposes of a railway or canal undertaking, except—
 - (a) after giving not less than 14 days' notice to the undertakers of the manner in which it is proposed to exercise those powers; and
 - (b) in accordance with any reasonable requirements of the undertakers of which notice is given to the authority within 14 days from the date of service of the authority's notice;and any question whether any such requirement is reasonable shall, in default of agreement, be determined by the Minister.
- (6) In this section, “ditch” includes a watercourse and any part of a ditch or watercourse, and “pipes” including culverts, tunnels and other works.

Marginal Citations

M12 1936 c. 49.

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102 Provision of works for protecting highways against hazards of nature.

- (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 subsection (1) above to provide any works shall include power to alter or remove them.
- (3) A highway authority shall pay compensation to any person who suffers damage by reason of the execution by them under this section of any works on a highway.

103 Provision of posts to indicate depth of flood water.

- (1) It shall be the duty of a highway authority to provide, in connection with any highway for which they are the highway authority and which is subject to flooding to any considerable depth, graduated posts or stones in any case where they consider the provision thereof necessary or desirable for the purpose of indicating the depth of water covering the highway.
- (2) A highway authority may alter or remove any post or stone provided by them under this section.

104 Mitigating nuisance of dust.

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

105 Power to improve road-ferries.

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

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