



Highways Act 1980

1980 CHAPTER 66

PART IV

MAINTENANCE OF HIGHWAYS

Methods whereby highways may become maintainable at public expense

38 Power of highway authorities to adopt by agreement

- (1) Subject to subsection (2) below, where any person is liable under a special enactment or by reason of tenure, enclosure or prescription to maintain a highway, the Minister, in the case of a trunk road, or a local highway authority, in any other case, may agree with that person to undertake the maintenance of that highway ; and where an agreement is made under this subsection the highway to which the agreement relates shall, on such date as may be specified in the agreement, become for the purposes of this Act a highway maintainable at the public expense and the liability of that person to maintain the highway shall be extinguished.
- (2) A local highway authority shall not have power to make an agreement under subsection (1) above with respect to a highway with respect to which they or any other highway authority have power to make an agreement under Part V or Part XII of this Act.
- (3) Subject to the following provisions of this section, a local highway authority may agree with any person to undertake the maintenance of—
 - (a) a private carriage or occupation road which that person is willing, and has the necessary power, to dedicate as a highway; or
 - (b) a way which is to be constructed by that person, or by a highway authority on his behalf, and which he proposes to dedicate as a highway;

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

Status: This is the original version (as it was originally enacted).

- (4) Without prejudice to the provisions of subsection (3) above and subject to the following provisions of this section, a local highway authority may, by agreement with railway, canal or tramway undertakers, undertake to maintain as part of a highway maintainable at the public expense a bridge or viaduct which carries the railway, canal or tramway of the undertakers over such a highway or which is intended to carry such a railway, canal or tramway over such a highway and is to be constructed by those undertakers or by the highway authority on their behalf.
- (5) Where—
- (a) any such highway as is referred to in paragraph (b) of subsection (3) above is intended to become a metropolitan road, or
 - (b) any such bridge or viaduct as is referred to in subsection (4) above crosses or will cross a metropolitan road,
- the powers conferred by subsections (3) and (4) above shall, as respects that highway, bridge or viaduct, be exercisable by the Greater London Council and not by any other local highway authority.
- (6) An agreement under this section may contain such provisions as to the dedication as a highway of any road or way to which the agreement relates, the bearing of the expenses of the construction, maintenance or improvement of any highway, road, bridge or viaduct to which the agreement relates and other relevant matters as the authority making the agreement think fit.