



# Highways Act 1980

## 1980 CHAPTER 66

### PART IV

#### MAINTENANCE OF HIGHWAYS

##### *Enforcement of liability for maintenance*

#### **58 Special defence in action against a highway authority for damages for non-repair of highway.**

- (1) In an action against a highway authority in respect of damage resulting from their failure to maintain a highway maintainable at the public expense it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the authority had taken such care as in all the circumstances was reasonably required to secure that the part of the highway to which the action relates was not dangerous for traffic.
- (2) For the purposes of a defence under subsection (1) above, the court shall in particular have regard to the following matters:—
  - (a) the character of the highway, and the traffic which was reasonably to be expected to use it;
  - (b) the standard of maintenance appropriate for a highway of that character and used by such traffic;
  - (c) the state of repair in which a reasonable person would have expected to find the highway;
  - (d) whether the highway authority knew, or could reasonably have been expected to know, that the condition of the part of the highway to which the action relates was likely to cause danger to users of the highway;
  - (e) where the highway authority could not reasonably have been expected to repair that part of the highway before the cause of action arose, what warning notices of its condition had been displayed;

but for the purposes of such a defence it is not relevant to prove that the highway authority had arranged for a competent person to carry out or supervise the

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*Changes to legislation: Highways Act 1980, Section 58 is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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maintenance of the part of the highway to which the action relates unless it is also proved that the authority had given him proper instructions with regard to the maintenance of the highway and that he had carried out the instructions.

(3) This section binds the Crown.

<sup>F1</sup>(4) . . . . .

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**Textual Amendments**

**F1** S. 58(4) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22\)](#), s. 168(2), [Sch.9](#); [S.I. 1992/2984](#), art. 2(2), [Sch.2](#)

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**Modifications etc. (not altering text)**

- C1** S. 58 applied (1.2.2011) by [The River Mersey \(Mersey Gateway Bridge\) Order 2011 \(S.I. 2011/41\)](#), arts. 1, [11\(3\)](#) (with arts. 3(5), 51, [Sch. 10](#) paras. 68, 85)
- C2** S. 58 applied (with modifications) (20.11.2013) by [The M1 Junction 10a \(Grade Separation\) Order 2013 \(S.I. 2013/2808\)](#), arts. 1, [9\(3\)](#) (with art. 8(7))
- C3** S. 58 applied (with modifications) (21.10.2014) by [The Central Bedfordshire Council \(Woodside Link Houghton Regis\) Development Consent Order 2014 \(S.I. 2014/2637\)](#), arts. 1, [9\(3\)](#)
- C4** S. 58 applied (with modifications) (26.2.2015) by [The Cornwall Council \(A30 Temple to Higher Carblake Improvement\) Order 2015 \(S.I. 2015/147\)](#), arts. 1, [10\(3\)](#)
- C5** S. 58(1)(2) applied (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), [Sch. 4 para. 16](#)
- C6** S. 58(1)(2) applied (with modifications) (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), [Sch. 4 para. 19](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)