



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART I

#### NEW ROADS IN ENGLAND AND WALES

##### *Miscellaneous*

#### **19 Environmental assessment of projects involving special roads**

In section 105A of the Highways Act 1980 (environmental assessment of certain highway projects), after subsection (2) (cases in which environmental statement must be published) insert—

“(2A) Any project for the construction or improvement of a special road which falls within Annex II to the Directive shall be treated as having such characteristics that it should be made subject to an environmental assessment in accordance with the Directive.”.

#### **20 Classification of traffic for purposes of special roads**

(1) In section 17 of the Highways Act 1980 (classification of traffic for purposes of special roads), in subsection (3) omit the words from “and references” to the end (which relate to the effect of an amending order on existing schemes) and after that subsection insert—

“(4) An amending order may contain provision applying the amendments made by the order to existing schemes (whether made by the Minister or a local highway authority); and in the absence of such provision an amending order does not affect the classes of traffic prescribed in an existing scheme.

In this subsection an “existing scheme” means a scheme under section 16 made before the order comes into operation.”.

(2) In section 325 of the Highways Act 1980 (provisions as to orders, &c.)—

- (a) omit subsection (3) (which requires affirmative resolution for an order under section 17 varying the classes of traffic for the purposes of special roads); and
- (b) in subsection (2)(b) (orders subject to negative resolution), after “section” insert “17 above or”.

## **21 Certain special roads not necessarily trunk roads**

- (1) In section 19 of the Highways Act 1980 (under which a special road provided by the Secretary of State becomes a trunk road), after subsection (2) add—

“(3) Subsections (1) and (2) above have effect subject to any provision of the scheme under section 16 directing that the special road in question or any part of it shall not be a trunk road.

Any such provision does not affect the power of the Minister to make an order under section 10(2)(a) with respect to the special road or part.”.

- (2) In section 1(1) of the Highways Act 1980 (highways for which the Minister is the highway authority), after paragraph (a) (trunk roads) insert—

“(aa) any special road provided by him;”.

- (3) In section 2 of the Highways Act 1980 (responsibility of local highway authority for roads ceasing to be trunk roads), make the present provision subsection (1) and after it insert—

“(2) In the case of a special road provided by the Minister, subsection (1) above has effect subject to any provision of the order directing that the Minister shall continue to be the highway authority for the road.”.

## **22 Adoption of privately constructed roads**

- (1) In section 38 of the Highways Act 1980 (power of highway authorities to adopt by agreement), for subsection (3) (adoption by local highway authority of private road or way) substitute—

“(3) A local highway authority may agree with any person to undertake the maintenance of a way—

- (a) which that person is willing and has the necessary power to dedicate as a highway, or
- (b) 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 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.

- (3A) The Minister may agree with any person to undertake the maintenance of a road—

- (a) which that person is willing and has the necessary power to dedicate as a highway, or
- (b) 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,

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

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and which the Minister proposes should become a trunk road; and where an agreement is made under this subsection the road shall become for the purposes of this Act a highway maintainable at the public expense on the date on which an order comes into force under section 10 directing that the road become a trunk road or, if later, the date on which the road is opened for the purposes of through traffic.”

- (2) In section 10 of the Highways Act 1980 (general provisions as to trunk roads)—
- (a) in subsection (2)(a) (highways which may be made trunk roads) for “, or any highway proposed to be constructed by the Minister,” substitute—
    - “or any proposed highway—
    - (i) to be constructed by the Minister, or
    - (ii) in relation to which the Minister has entered or proposes to enter into an agreement under section 38(3A),”;
  - (b) in subsection (4) omit the words from “Without prejudice” to the end of paragraph (b), for “highway proposed to be constructed by the Minister” substitute “proposed highway” and omit “by the Minister” in the second place where it occurs; and
  - (c) in subsection (7) for “highway proposed to be constructed by the Minister” substitute “proposed highway”.

## **23 Execution of works by highway authority at expense of another**

In Part XIII of the Highways Act 1980 (financial provisions), for section 278 (contributions by persons deriving special benefit from works) substitute—

### **“278 Agreements as to execution of works**

- (1) A highway authority may, if they are satisfied it will be of benefit to the public, enter into an agreement with any person—
- (a) for the execution by the authority of any works which the authority are or may be authorised to execute, or
  - (b) for the execution by the authority of such works incorporating particular modifications, additions or features, or at a particular time or in a particular manner,
- on terms that that person pays the whole or such part of the cost of the works as may be specified in or determined in accordance with the agreement.
- (2) Without prejudice to the generality of the reference in subsection (1) to the cost of the works, that reference shall be taken to include—
- (a) the whole of the costs incurred by the highway authority in or in connection with—
    - (i) the making of the agreement,
    - (ii) the making or confirmation of any scheme or order required for the purposes of the works,
    - (iii) the granting of any authorisation, permission or consent required for the purposes of the works, and
    - (iv) the acquisition by the authority of any land required for the purposes of the works; and

- (b) all relevant administrative expenses of the highway authority, including an appropriate sum in respect of general staff costs and overheads.
- (3) The agreement may also provide for the making to the highway authority of payments in respect of the maintenance of the works to which the agreement relates and may contain such incidental and consequential provisions as appear to the highway authority to be necessary or expedient for the purposes of the agreement.
- (4) The fact that works are to be executed in pursuance of an agreement under this section does not affect the power of the authority to acquire land, by agreement or compulsorily, for the purposes of the works.
- (5) If any amount due to a highway authority in pursuance of an agreement under this section is not paid in accordance with the agreement, the authority may—
  - (a) direct that any means of access or other facility afforded by the works to which the agreement relates shall not be used until that amount has been paid,
  - (b) recover that amount from any person having an estate or interest in any land for the benefit of which any such means of access or other facility is afforded, and
  - (c) declare that amount to be a charge on any such land (identifying it) and on all estates and interests therein.
- (6) If it appears to the highway authority that a direction under subsection (5)(a) is not being complied with, the authority may execute such works as are necessary to stop up the means of access or deny the facility, as the case may be, and may for that purpose enter any land.
- (7) Where a highway authority recovers an amount from a person by virtue of subsection (5)(b), he may in turn recover from any other person having an estate or interest in land for the benefit of which the means of access or other facility was afforded such contribution as may be found by the court to be just and equitable.
 

This does not affect the right of any of those persons to recover from the person liable under the agreement the amount which they are made to pay.
- (8) The Local Land Charges Act 1975 applies in relation to a charge under subsection (5)(c) in favour of the Secretary of State as in relation to a charge in favour of a local authority.”

## 24 Exercise of road traffic regulation powers

In Part X of the Road Traffic Regulation Act 1984 (general and supplementary provisions), after section 122 insert—

### “122A Prospective exercise of powers

- (1) Any power under this Act to make an order or give a direction may be exercised before the road to which it relates is open for public use, so as to take effect immediately on the road’s becoming open for public use.

- (2) The procedure for making an order or giving a direction applies in such a case with such modifications as may be prescribed.”.