



Highways and Locomotives (Amendment) Act 1878

1878 CHAPTER 77

PART I

AMENDMENT OF HIGHWAY LAW

Highway Districts

3 Highway districts to be made so far as possible coincident with rural sanitary districts

In forming any highway districts, or in altering the boundaries of any highway districts, the county authority shall have regard to the boundaries of the rural sanitary districts in their county, and shall, so far as may be found practicable, form highway districts so as to be coincident in area with rural sanitary districts, or wholly contained within rural sanitary districts.

4 Power for rural sanitary authority of district coincident with highway district to become highway board

Where a highway district, whether formed before or after the passing of this Act, is or becomes coincident in area with a rural sanitary district, the rural sanitary authority of such district may apply to the county authority, stating that they are desirous to exercise the powers of a highway board under the Highway Acts within their district.

On such application the county authority may, if they see fit, by order declare that from and after a day to be named in the order (in this Act called the commencement of the order) such rural sanitary authority shall exercise all the powers of a highway board under the Highway Acts; and as from the commencement of the order the existing highway board (if any) for the district shall be dissolved, and waywardens or surveyors shall not hold office or be elected for any parish in the district.

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An order made under this section may be amended, altered, or rescinded by a subsequent order of the county authority.

Where a highway district, being coincident in area with a rural sanitary district, is situate in more than one county, an order under this section may be made by the county authority of any county in which any part of such district is situate, but such order, and any order amending, altering, or rescinding the same, shall not be of any force or effect until it has been approved by the county authority or authorities of the other county or counties in which any part of such district is situate.

5 Consequences of rural sanitary authority becoming highway board

- (1) From and after the commencement of the order declaring a rural sanitary authority entitled to exercise the powers of a highway board within their district, the following consequences shall ensue :

All such property, real or personal, including all interests easements and rights in to and out of property real and personal and including things in action, as belongs to or is vested in or would but for such order have belonged to or been vested in the highway board, or any surveyor or surveyors of any parish forming part of the district, shall pass to and vest in the rural sanitary authority for all the estate and interest of the highway board, or of such surveyor or surveyors, but subject to all debts and liabilities affecting the same :

All debts and liabilities incurred in respect of any property transferred to the rural sanitary authority may be enforced against that authority to the extent of the property transferred:

All such powers rights duties liabilities capacities and incapacities (except the power of obtaining payment of their expenses by the issue of precepts in manner provided by the Highway Acts, or the power of making, assessing, and levying highway rates) as are vested in or attached to or would .but for such order have become vested in or attached to the highway board, or any surveyor or surveyors of any parish forming part of the district, shall vest in and attach to the rural sanitary authority:

All property by this Act transferred to the rural sanitary authority shall be held by them on trust for the several parishes for the benefit of which it was held previously to such transfer.

- (2) If at any time after a rural sanitary authority has become invested with the powers of a highway board in pursuance of this Act, the boundaries of the district of such authority are altered, the powers and jurisdiction of such authority in their capacity of highway board shall be exercised within such altered district; and on the application of any authority or person interested the Local Government Board may by order provide for the adjustment of any accounts, or the settlement of any doubt or difference so far as relates to highways consequent on the alteration of the boundaries of such rural sanitary district.
- (3) All expenses incurred by a rural sanitary authority in the performance of their duties as a highway board shall be deemed to be general expenses of such authority within the meaning of the Public Health Act, 1875.

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6 Highway boards may combine to appoint a district surveyor

Any two or more highway boards may unite in appointing and paying the salary of a district surveyor, who shall in relation to the district of each of the boards by whom he is appointed have all the powers and duties of a district surveyor under the Highway Acts.

7 Expenses of highway boards to be paid out of district fund

All expenses incurred by any highway board in maintaining and keeping in repair the highways of each parish within their district, and all other expenses legally incurred by such board, shall, notwithstanding anything contained in the Highway Acts, on and after the twenty-fifth day of March one thousand eight hundred and seventy-nine be deemed to have been incurred for the common use or benefit of the several parishes within their district, and shall be charged on the district fund: Provided, that if a highway board think it just, by reason of natural differences of soil or locality, or other exceptional circumstances, that any parish or parishes within their district should bear the expenses of maintaining its or their own highways, they may (with the approval of the county authority or authorities of the county or counties within which their district, or any part thereof, is situate) divide their district into two or more parts, and charge exclusively on each of such parts the expenses payable by such highway board in respect of maintaining and keeping in repair the highways situate in each such part;

so, nevertheless, that each such part shall consist of one or more highway parish or highway parishes.

8 Charge of moneys to be hereafter borrowed

All moneys borrowed by a highway board after the twenty-fifth day of March one thousand eight hundred and seventy-nine, under the Highway Acts, shall be charged on the district fund, but nothing in this Act shall affect the security, chargeability, or repayment of any moneys borrowed before the twenty-fifth day of March one thousand eight hundred and seventy-nine.

9 Audit of accounts of highway districts and parishes

The accounts of the highway authority of every highway district and highway parish shall be made up in such form as the Local Government Board shall from time to time prescribe, and shall be balanced to the twenty-fifth day of March in each year, and as soon as conveniently may be after such day the said accounts shall be audited and examined by the auditor of accounts relating to the relief of the poor for the audit district in which the highway district or highway parish, or the greater part thereof in rateable value, is situate.

Every such auditor shall (as nearly as may be) have, in relation to the accounts of the highway authority of a highway district or highway parish, and of their officers, the same powers and duties as he has in the case of accounts relating to the relief of the poor; and any person aggrieved by the decision of the auditor shall have the same rights and remedies as in the case of such last-mentioned audit.

The auditor shall receive such remuneration as the Local Government Board direct; and such remuneration, together with the expenses incident to the audit, shall be paid by the highway authority of the highway district or highway parish out of the fund

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or rate applicable to the repair of highways within such district or parish; and such remuneration and expenses may, in default of payment, be recovered in a summary manner.

Section forty-four of the Highway Act, 1835, is hereby repealed, and section thirty-six of the Highway Act, 1864, is hereby repealed down to the words " to be paid out of the district fund," and the statement of receipt and expenditure by the said section directed to be furnished by every highway board within thirty days after the signature of the accounts by the chairman shall be furnished within thirty days after the completion of the audit under this section.

Nothing in this section shall affect any proceeding commenced before the passing of this Act.

10 Power of county authority to enforce performance of duty by defaulting highway authority

Where complaint is made to the county authority that the highway authority of any highway area within their jurisdiction has made default in maintaining or repairing all or any of the highways within their jurisdiction, the county authority, if satisfied after due inquiry and report by their surveyor that the authority has been guilty of the alleged default, shall make an order limiting a time for the performance of the duty of the highway authority in the matter of such

If such duty is not performed by the time limited in the order, and the highway authority fail to show to the county authority sufficient cause why the order has not been complied with, the county authority may appoint some person to perform such duty, and shall by order direct that the expenses of performing the same, together with the reasonable remuneration of the person appointed for superintending such performance, shall be paid by the authority in default, and any order made for payment of such expenses and costs may be removed into the High Court of Justice, and be enforced in the same manner as if the same were an order of such court.

Any person appointed under this section to perform the duty of a defaulting highway authority shall, in the performance and for the purpose of such duty, be invested with all the powers of such authority other than the powers of making rates or levying contributions by precept, and the county authority may from time to time, by order, change any person so appointed.

Where an order has been made by a county authority for the repair of a highway on a highway authority alleged to be in default, if such authority, within ten days after service on them of the order of the county authority, give notice to the clerk of the peace that they decline to comply with the requisitions of such order-until their liability to repair the highway in respect to which they are alleged to have made default has been determined by a jury, it shall be the duty of the county authority either to satisfy the defaulting authority by cancelling or modifying in such manner as the authority may desire the order of the county authority, or else to submit to a jury the question of the liability of the defaulting authority to repair the highway.

If the county authority decide to submit the question to a jury they shall direct a bill of indictment to be preferred to the next practicable assizes to be holden in and for their county, with a view to try the liability of the defaulting authority to repair the highway. Until the trial of the indictment is concluded the order of the county authority shall be suspended. On the conclusion of the trial, if the jury find the defendants guilty, the

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order of the county authority shall forthwith be deemed to come into force; but if the jury acquit the defendants the order of the county authority shall forthwith become

The costs of the indictment, and of the proceedings consequent thereon, shall be paid by such parties to the proceedings as the court before whom the case is tried may direct. Any costs directed to be paid by the county authority shall be deemed to be expenses properly incurred by such authority, and shall be paid accordingly out of the county rate; and any costs directed to be paid by the highway authority shall be deemed to be expenses properly incurred by such authority in maintenance of the roads within their jurisdiction, and shall be paid out of the funds applicable to the maintenance of such roads.

11 Duration of office of waywarden

Notwithstanding anything in the Highway Acts, waywardens; shall continue in office till the thirtieth day of April in the year following the year in which they were elected, and on that day their successors shall come into office.

12 Repeal of part of section 7 of Highway Act, 1862

So much of section seven of the Highway Act, 1862, as prohibits the inclusion in a highway district of any parish or place the highways of which were, at the time of the passing of that Act, or within six months afterwards, under the superintendence of a board established in pursuance of section eighteen of the principal Act, unless with the consent of such board, is hereby repealed.