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STATUTORY INSTRUMENTS

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**2014 No. 2269**

**The A556 (Knutsford to Bowdon Improvement)  
Development Consent Order 2014**

**PART 3**

**STREETS**

**Construction and maintenance of new, altered or diverted streets**

9.—(1) Subject to paragraphs (4) and (5), any street (other than a trunk road or special road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed with the local highway authority, must be maintained by and at the expense of the local highway authority from its completion.

(2) Subject to paragraphs (4) and (5), where a street (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the street authority from its completion.

(3) Subject to paragraphs (4) and (5), where a highway is de-trunked under this Order—

- (a) section 265 of the 1980 Act (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(4) In the case of a bridge constructed under this Order to carry a public right of way, the highway surface must be maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the Secretary of State.

(5) In the case of a bridge constructed under this Order to carry a private right of way, the surface and the structure of the bridge must be maintained by and at the expense of the Secretary of State.

(6) In any action against the Secretary of State in respect of loss or damage resulting from any failure by the Secretary of State to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the Secretary of State had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(7) For the purposes of a defence under paragraph (6), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;

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- (d) whether the Secretary of State knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the Secretary of State could not reasonably have been expected to repair that part of the street 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 Secretary of State had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Secretary of State had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.