



# Highways Act 1980

## 1980 CHAPTER 66

### PART XIV

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

*Miscellaneous powers etc. of highway authorities and local authorities*

**282 Power of highway authority to execute works for mitigating adverse effect of constructing or improving etc. highway.**

- (1) A highway authority may carry out—
- (a) on land acquired by them under section 246 above;
  - (b) on any other land belonging to them;
  - (c) on any highway for which they are the highway authority;
  - (d) on any highway which they have been authorised to improve or construct by virtue of an order under section 14 or 18 above,
- works for mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surroundings of the highway.
- (2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.
- (3) A highway authority may develop or redevelop any land acquired by them under section 246 above, or any other land belonging to them, for the purpose of improving the surroundings of a highway in any manner which they think desirable by reason of its construction, improvement, existence or use.

**283 Power of Minister to conduct experiments.**

- (1) The Minister may, either by himself or through an authority or other organisation approved by him, conduct experiments or trials for the purpose of—
- (a) improving the construction of highways, road-ferries or subways, or

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- (b) testing the effect of various classes of vehicles on various types of highways.
- (2) The Minister may construct such highways and works, erect such plant, and provide such accommodation, as may be necessary for the purpose of conducting an experiment or trial under this section.
- (3) An experiment or trial under this section shall not be conducted on any highway except with the consent of the highway authority or other person responsible for the maintenance of the highway.
- (4) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person is entitled to recover from the Minister compensation in respect of the damage.

A person is not entitled to compensation under this subsection if the damage was caused by his own negligence; and if his own negligence contributed to the damage the compensation shall be reduced accordingly.

#### **284 Powers of Minister in relation to privately maintainable parts of trunk roads.**

Where a trunk road comprises a highway which a person is liable to maintain under a charter or special enactment or by reason of tenure, enclosure or prescription, the Minister is entitled to exercise in relation to that highway any power which he would be entitled to exercise in relation thereto if that highway were a highway maintainable at the public expense.

#### **[<sup>F1</sup>284A Trunk roads: miscellaneous functions of Secretary of State.**

The persons who may exercise the functions conferred by—

- (a) section 40 of the Public Health Acts Amendment Act <sup>M1</sup>1890 (cabmen's shelters);
- (b) section 42 of that Act (statutes and monuments);
- (c) section 14 of the <sup>M2</sup>Public Health Act 1925 (public drinking fountains, seats, etc.),

shall, in relation to any trunk road, include the Secretary of State.]

#### **Textual Amendments**

**F1** S. 284A inserted by Statute Law (Repeals) Act 1989 (c. 43), s. 1(2), **Sch. 2 para. 14**

#### **Marginal Citations**

**M1** 1890 c.59 (100:1).

**M2** 1925 c.71 (100:1).

#### **285 Power of Minister and Greater London Council to execute in Greater London road improvements not involving widening.**

- (1) Subject to subsection (3) below, where [<sup>F2</sup>the Minister of Transport, after consultation with the highway authority, is] of the opinion that, with a view to facilitating the movement of traffic it is expedient for works to be executed for the improvement of a highway in Greater London to which this section applies, being works which

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the highway authority could execute and which do not involve the widening of the highway, then—

- (a) the highway authority shall, within 3 months of being notified of that fact, inform the Minister. . . <sup>F3</sup> whether they are prepared to undertake those works and, if so, within what time; and
- (b) if the Minister. . . <sup>F3</sup> at the expiration of the said 3 months [<sup>F4</sup>is] not satisfied that the highway authority will with reasonable dispatch undertake those works (or within the said 3 months [<sup>F4</sup>is] satisfied that they will not), the Minister. . . <sup>F3</sup> may execute those works or other works appearing to him. . . <sup>F3</sup> to secure the same or an equivalent improvement of the highway.

For the purposes of this subsection it is not to be treated as widening a highway to take into the highway land not forming part of it but situated within its outer limits.

- (2) The highways to which subsection (1) above applies are highways for which a London borough council or the Common Council are the highway authority. . . <sup>F5</sup>
- (3) The Minister shall exercise his powers under subsection (1) above only if he considers it necessary in connection with any order made or proposed to be made by him under section 6 or section 9 of the Road Traffic Regulation Act [<sup>F6</sup>1984] by virtue of [<sup>F7</sup>paragraph 3 or paragraph 7 of Schedule 9 to] that Act.
- (4) Where the Minister [<sup>F8</sup>executes or proposes] to execute works under this section for the improvement of a highway, then for the purpose of or in connection with the execution of those works—
  - (a) he. . . <sup>F9</sup> shall (subject to the following provisions of this section) have all the powers and rights, and be subject to all the obligations and liabilities, of the highway authority; and
  - (b) he. . . <sup>F9</sup> may exercise of his. . . <sup>F9</sup> own motion any powers which, if the works were executed by the highway authority, he. . . <sup>F9</sup> could exercise on the application of that authority; and
  - (c) he. . . <sup>F9</sup> may do or require the highway authority to do anything which that authority has power to do in some capacity other than that of highway authority.
- (5) Where the Minister [<sup>F10</sup>executes] works under this section for the improvement of a highway the amount of his. . . <sup>F11</sup> expenses in connection therewith, as certified by him. . . <sup>F11</sup>, shall (except. . . <sup>F11</sup> in so far as they may be met by any grant made by the Minister) be paid to him. . . <sup>F11</sup> on demand by the highway authority; and that authority have the like power of raising money required to make such payment, and the like right to recover the whole or any part of any sum paid, as if the expenses of the Minister. . . <sup>F11</sup> had been incurred in executing the works as their agent.
- (6) Subsection (4) above does not transfer to the Minister. . . <sup>F12</sup> in connection with the execution of any works any powers, rights, obligations or liabilities of a highway authority under any enactment to which this subsection applies; but where the Minister [<sup>F13</sup>proceeds] under this section to execute works in a highway, any such enactment applies in relation to those works as if the Minister. . . <sup>F12</sup> were acting as agent of the highway authority, but so that the highway authority are to comply with any directions of the Minister. . . <sup>F14</sup> as to the exercise of their powers and rights.

This subsection applies to [<sup>F15</sup>Part III of the New Roads and Street Works Act 1991] and, in the case of any works, to such other enactments as the Minister. . . <sup>F12</sup> may specify for this purpose in a notice given by him. . . <sup>F14</sup> to the highway authority.

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- (7) Without prejudice to the generality of the foregoing provisions of this section, the powers exercisable under this section by the Minister. . . <sup>F16</sup> in place of a highway authority include any power of that authority to acquire land, or an interest or right in, over or under land; and any land, or any interest or right in, over or under land, acquired by the Minister. . . <sup>F16</sup> by virtue of this section shall be acquired in the name and on behalf of the highway authority, and shall vest in that authority accordingly.
- (8) A highway authority shall produce to the Minister. . . <sup>F17</sup> such documents relating to matters affecting the exercise of the Minister's. . . <sup>F17</sup> powers under this section, and furnish him. . . <sup>F17</sup> with such other information relating to those matters, as he. . . <sup>F17</sup> may require in connection with the exercise of those powers or any proposal to exercise them.

#### Textual Amendments

- F2** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 39(a)**
- F3** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F4** Word substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 39(a)**
- F5** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F6** 1984 substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 13 para. 46**
- F7** Words in s. 285(3) substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 13 para. 46**
- F8** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 39(b)**
- F9** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F10** Word substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 39(c)**
- F11** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F12** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F13** Word substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 39(d)**
- F14** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F15** Words in s. 285(6) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para.10**; S.I. 1992/2984, art. 2(2), **Sch.2**.
- F16** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F17** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**

## 286 Power to require angles of new buildings at corners of streets to be rounded off.

- (1) A local authority or, if there is a local highway authority for either of the two streets in question, that highway authority, may require the corner of a building intended to be erected at the corner of two streets in the area of the local authority to be rounded or splayed off to the height of the first storey or to the full height of the building, and to such extent otherwise as they may determine.
- (2) A person aggrieved by a requirement of a local authority or local highway authority under this section may appeal to a magistrates' court.
- (3) A local authority or local highway authority shall pay compensation for any loss which may be sustained through the exercise by them of their powers under this section.
- (4) This section does not apply to a building, other than a dwelling-house, belonging to any of the following undertakers and used by them for the following purposes respectively:
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- (a) railway undertakers, for purposes of a railway comprised in the railway undertaking;
- (b) canal undertakers, for purposes of a canal comprised in the canal undertaking;
- (c) inland navigation undertakers, for purposes of a navigation comprised in the inland navigation undertaking;
- (d) dock undertakers, for purposes of a dock comprised in the dock undertaking;
- (e) harbour undertakers, for purposes of a harbour comprised in the harbour undertaking;
- (f) pier undertakers, for purposes of a pier comprised in the pier undertaking.

## 287 Power to erect barriers in streets in cases of emergency etc.

- (1) Subject to the provisions of this section, for the purpose of securing public order or public safety or preventing congestion of traffic a competent authority may, in any case of emergency or on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed, cause barriers to be erected in any street and kept in position for so long as may be necessary for that purpose.

For the purposes of this section the following are competent authorities—

- (a) in the case of a street outside Greater London which is a highway, a local authority and also the highway authority;
  - (b) in the case of any other street, a local authority.
- (2) For the purpose of erecting barriers in a street under this section a competent authority may provide and maintain sockets or slots in or under the surface of the street.
- (3) A competent authority shall not exercise the powers conferred by this section in such a way as to deprive pedestrians of reasonable access to any premises.
- (4) Schedule 8 to this Act applies to the powers conferred on competent authorities by this section.
- (5) If a person wilfully removes a barrier, socket or slot erected or provided under this section, he is guilty of an offence and liable to a fine not exceeding [<sup>F18</sup>level 1 on the standard scale].
- (6) In this section “local authority” means any of the following, namely, the council of a district or London borough, . . . <sup>F19</sup> the Common Council and the Council of the Isles of Scilly [<sup>F20</sup>but in relation to Wales, means a Welsh council].

### Textual Amendments

**F18** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46

**F19** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

**F20** Words in s. 287(6) added (1.4.1996) by [1994 c. 19, s. 22\(1\)](#), [Sch. 7 Pt. I para.26](#) (with s. 54(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396, art. 3](#), [Sch.1](#).

### Modifications etc. (not altering text)

**C1** [S. 287](#) modified (22.7.2008) by [Transport for London Act 2008 \(c. i\)](#), ss. 1(1), [39](#) (with s. 48)

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## **288 Power to require gas and water pipes to be moved.**

- (1) Section 153 of the <sup>M3</sup>Public Health Act 1875 (power to require gas and water pipes to be moved) applies for the purposes of any provisions of this Act to which this section applies as it applies for the purposes of that Act; but the said section 153 does not apply in any case in which the code in Part II of the <sup>M4</sup>Public Utilities Street Works Act 1950 (relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) has effect.
- (2) A local authority shall pay compensation to any person who sustains damage by reason of the execution by them of works under this section.
- (3) This section applies to section 294 below and to the other provisions of this Act which are specified in Schedule 22 to this Act.

### **Marginal Citations**

- M3** 1875 c. 55.  
**M4** 1950 c. 39.

## **289 Powers of entry of highway authority for the purpose of survey.**

- (1) A person duly authorised in writing by a highway authority may at any reasonable time enter on any land for the purpose of surveying that or any other land in connection with the exercise by that authority, in their capacity as a highway authority, of any of their functions.
- (2) The power conferred by this section to enter on land includes power to place and leave on or in the land any apparatus for use in connection with any survey of that or any other land (whether from the air or on the ground) and to remove such apparatus.
- (3) The power conferred by this section to survey land includes power to search and bore for the purpose of ascertaining—
  - (a) the nature of the subsoil or the presence of minerals in it;
  - (b) whether any damage to a highway maintainable at the public expense for which the authority are the highway authority is being caused or is likely to be caused by mining operations or other activities taking place under the highway or in or under land adjoining, or in the vicinity of the highway.

## **290 Supplementary provisions as to powers of entry for the purpose of survey.**

- (1) A person authorised under section 289 above to enter on any land shall, if so required, produce evidence of his authority before or after entering on that land.
- (2) A person so authorised may take with him on to the land in question such other persons, and such vehicles and equipment, as he may consider necessary.
- (3) Subject to subsection (6) below, a person shall not under section 289 above demand admission as of right to any land which is occupied unless at least 7 days' notice of the intended entry has been given to the occupier.
- (4) Subject to subsection (6) below, a person shall not, in the exercise of a power conferred by section 289 above, place or leave any apparatus on or in any land or remove any apparatus therefrom unless notice of his intention to do so has been included in the

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notice required by subsection (3) above and a like notice has been given to the owner of the land.

- (5) A person shall not execute any works authorised by section 289(3) above unless notice of his intention to do so was included in the notices required by subsections (3) and (4) above and, where the interests [<sup>F21</sup>of the Coal Authority, of any licensed operator (within the meaning of the Coal Industry Act 1994, or] of any . . . <sup>F22</sup> or statutory undertakers are liable to be affected by the proposed works, a like notice has been given [<sup>F21</sup>to that Authority or, as the case may be, to the licensed operator or statutory undertakers concerned.]
- (6) Where a highway authority intend to place and leave apparatus on or in a highway or to remove apparatus therefrom, or to execute in relation thereto such works as are authorised by section 289(3) above, no notice need be given to the occupier or owner of the land over which the highway subsists; but if the highway authority are not the highway authority for the highway, they shall give to that authority such notice as is required by subsections (4) and (5) above to be given to the owner.
- (7) If <sup>F23</sup> . . . any . . . <sup>F24</sup> statutory undertakers to whom notice is given under subsection (5) above object to the proposed works on the ground that the execution thereof would be seriously detrimental to the carrying on of their undertaking . . . <sup>F24</sup>, the works shall not be executed except with the authority of the appropriate Minister.
- [<sup>F25</sup>(8) Where in the exercise of a power conferred by section 289 above works authorised by subsection (3) of that section are to be executed in a street—
- (a) section 55 of the New Roads and Street Works Act 1991 (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works,
  - (b) section 69 of that Act (requirements to be complied with where works likely to affect another person's apparatus in the street), and
  - (c) section 82 of that Act (liability for damage or loss caused),
- have effect in relation to the works as if they were street works within the meaning of Part III of that Act.]
- (9) [<sup>F26</sup>A universal service provider in connection with the provision of a universal postal service,][<sup>F27</sup>the Civil Aviation Authority and a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)] are to be deemed to be statutory undertakers and their respective undertakings statutory undertakings for the purposes of the foregoing provisions of this section.
- [<sup>F28</sup>(9A) For the purposes of subsection (9) above, the undertaking of a universal service provider shall be taken to be his undertaking so far as it relates to the provision of a universal postal service.]
- [<sup>F29</sup>(9B) For the purposes of subsection (9) above, the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall not be considered to be a statutory undertaking except to the extent that it is the person's undertaking as licence holder.]
- (10) In this section “the appropriate Minister” means—
- <sup>F30</sup>(a) . . . . .
  - (b) in relation to statutory undertakers carrying on any railway, tramway, road transport, dock, harbour or pier undertaking, the Minister of Transport; and



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(c) in all other cases, the Secretary of State.

#### Textual Amendments

- F21** Words in s. 290(5) substituted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 26(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**.
- F22** Words repealed by **Water Act 1989** (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F23** Words in s. 290(7) repealed (31.10.1994) by 1994 c. 21, s. 67, Sch. 9 para. 26(b), **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**.
- F24** Words repealed by **Water Act 1989** (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F25** S. 290(8) substituted (1.1.1993) by **New Roads and Street Works Act 1991** (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Part I, para. 11; S.I. 1992/2984, art. 2(2), **Sch. 2**.
- F26** Words in s. 290(9) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 49(9)(a)**
- F27** Words in s. 290(9) substituted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 4(c)(i)**
- F28** S. 290(9A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 49(9)(b)**
- F29** S. 290(9B) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 4(c)(ii)**
- F30** S. 290(10)(a) repealed by **Water Act 1989** (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27**, Pt. I

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

- C2** S. 290 modified by **Water Act 1989** (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(10)(vi), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- C3** S. 290(9): by **Telecommunications Act 1984** (c. 12, SIF 96), s. 109, Sch. 4 para. 3(1), **Sch. 5 para. 45** it is provided that references to British Telecommunications in s. 290(9) cease to have effect

## 291 Powers of entry of highway authority for purpose of maintaining, etc. certain structures and works.

- (1) Where a highway authority have power or a right to maintain, alter or remove any structure or work which is situated on, over or under any land, and that land neither belongs to the highway authority nor forms part of a highway for which they are the highway authority, then, if for the purpose of exercising that power or that right it is necessary for a person to enter on that land or any other land, a person duly authorised in writing by that authority may at any reasonable time enter on that land or any other land for that purpose.
- (2) Subsections (1), (2) and (3) of section 290 above have effect in relation to a person authorised under this section to enter on any land as they have effect in relation to a person authorised under section 289 above to enter on any land.
- (3) In relation to a bridge to which section 118 of the <sup>M5</sup>Transport Act 1968 (duty of highway authorities, etc. as respects bridges over railways or inland waterways) applies, and which belongs to a highway authority, subsections (1) and (2) above have effect subject to the provisions of that section.
- (4) In this section—
  - “structure” includes a bridge, fence, barrier or post;
  - “work” includes a tunnel, ditch, gutter, watercourse, culvert, drain, soak-away or pipe.



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- (5) Nothing in this section affects the powers of a highway authority under section 100 above.
- (6) Nothing in this section affects any agreement for the time being in force between a highway authority having power or a right to maintain, alter or remove a structure or work and any person having an interest in the land on, over or under which it is situated, being an agreement relating to the maintenance of or other dealing with the structure or work.

#### Marginal Citations

M5 1968 c. 73.

### 292 Compensation for damage resulting from, and offences connected with, exercise of powers of entry etc. under section 289 or 291.

- (1) Where, in the exercise of a power conferred by section 289 or 291 above to enter, or to do anything, on any land, any damage is caused to that land or to any chattels on it, any person interested in that land or those chattels may, subject to subsection (2) below, recover compensation in respect of that damage from the highway authority by whom or on whose behalf the power was exercised; and where in consequence of the exercise of such a power any person interested in the land or in any chattels on it is disturbed in his enjoyment thereof, he may recover from that authority compensation in respect of the disturbance.
- (2) Where any person is entitled under [<sup>F31</sup>section 82 of the New Roads and Street Works Act 1991], as applied by section 290(8) above, to compensation in respect of any matter, he is not entitled to recover compensation under subsection (1) above in respect of the same matter.
- (3) A person who wilfully obstructs a person acting in the exercise of a power conferred by section 289 or 291 above, or who removes or otherwise interferes with any apparatus placed or left on or in any land in exercise of a power conferred by section 289 above, is guilty of an offence and liable to a fine not exceeding [<sup>F32</sup>level 3 on the standard scale].
- (4) If a person who, in compliance with the provisions of section 289 or 291 above, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, then, unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land, he is guilty of an offence and liable—
  - (a) on summary conviction to a fine not exceeding the prescribed sum within the meaning of section 32(9) of the <sup>M6</sup>Magistrates' Courts Act 1980 (£1,000 or such other sum as may be fixed by order under section 143(1) of that Act); or
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.

#### Textual Amendments

**F31** Words in s. 292(2) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\), s. 168\(1\), Sch. 8, Part I, para. 12; S.I. 1992/2984, art. 2\(2\), Sch. 2.](#)

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**F32** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

#### Marginal Citations

**M6** [1980 c. 43](#).

### 293 Powers of entry for purposes connected with certain orders relating to footpaths and bridleways.

- (1) A person duly authorised in writing by the Secretary of State or other authority having power under this Act to make a public path creation order, a public path extinguishment order [<sup>F33</sup>, a rail crossing extinguishment order, [<sup>F34</sup>a special extinguishment order] a public path diversion order [<sup>F35</sup>, a rail crossing diversion order, a special diversion order or an SSSI diversion order]] may enter upon any land for the purpose of surveying it in connection with the making of the order.
- (2) For the purpose of surveying land, or of estimating its value, in connection with a claim for compensation payable by an authority in respect of that or any other land under section 28 above, or under that section as applied by section 121(2) above, a person who is an officer of the Valuation Office or who has been duly authorised in writing by the authority from whom the compensation is claimed may enter upon the land.
- (3) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before entering; and a person shall not under this section demand admission as of right to any land which is occupied unless at least 7 days' notice in writing of the intended entry has been given to the occupier.
- (4) A person who wilfully obstructs a person acting in the exercise of his powers under this section is guilty of an offence and liable to a fine not exceeding [<sup>F36</sup>level 3 on the standard scale].

#### Textual Amendments

- F33** Words in s. 293(1) substituted (31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, **Sch. 2**, para. 7; S.I. 1992/3144, art. 3, **Sch.**
- F34** Words in s. 293(1) inserted (12.2.2003 for E., 15.7.2005 for W. for certain purposes and otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 17(a); S.I. 2003/272, **art. 2(a)(k)(i)**; S.I. 2005/1314, **art. 3(d)(iii)**
- F35** Words in s. 293(1) substituted (12.2.2003 for E. for certain purposes and 21.5.2007 in so far as not already in force, 15.7.2005 for W. for certain purposes and otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 17(b); S.I. 2003/272, **art. 2(a)(k)(ii)**; S.I. 2005/1314, **art. 3(d)(iii)**; S.I. 2007/1493, **art. 2**
- F36** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

### 294 Entry, etc., of premises by highway authority or council for certain purposes.

- (1) If, in the discharge of functions conferred or imposed on an authority, being a highway authority or council, by a provision of this Act to which this section applies, it becomes necessary for an authorised officer of the authority to enter, examine or lay open any premises for the purpose of—
  - (a) surveying,
  - (b) making plans,
  - (c) executing, maintaining or examining works,

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- (d) ascertaining the course of sewers or drains,
- (e) ascertaining or fixing boundaries, or
- (f) ascertaining whether any hedge, tree or shrub is dead, diseased, damaged or insecurely rooted,

and the owner or occupier of the premises refuses to permit the premises to be entered, examined or laid open for any such purpose, the authority, after giving notice to the owner or occupier of their intention to do so, may make a complaint to a magistrates' court for an order authorising the authority by any authorised officer to enter, examine and lay open the premises for any such purpose.

- (2) If on the hearing of the complaint no sufficient cause is shown against the making of the order for which the complaint is made, the court may make the order, and thereupon any authorised officer of the complainant authority may, subject to subsection (3) below, at all reasonable times between the hours of 9 a.m. and 6 p.m., enter, examine or lay open the premises described in the order for such of the purposes mentioned in subsection (1) above as are specified in the order.
- (3) Except in a case of emergency, no entry shall be made on any premises, and no works shall be begun therein, under subsection (2) above unless at least 7 days' notice of the intended entry, and of the object thereof, has been given to the occupier of the premises.
- (4) Where, in the course of an entry on or examination or laying open of premises authorised by an order under this section, damage is caused to land or to chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the authority on whose complaint the order was made; and where by reason of any such entry, examination or laying open any person is disturbed in his enjoyment of land or chattels, he may recover from that authority compensation in respect of the disturbance.
- (5) This section applies to sections 101 and 154(2) above and to the other provisions of this Act specified in Schedule 22 to this Act.

## **295 Power of councils to dispose of certain materials.**

- (1) The council of a county or a council who are a local authority may remove, appropriate, or use, sell or otherwise dispose of all old materials existing in any street other than a highway maintainable at the public expense at the time of the execution by the council of any works in the street, unless those materials are removed by the owners of premises in the street within 3 days from the date of service of a notice from the proper officer of the council requiring the owners of those premises to remove the materials.
- (2) Where a council remove, appropriate, or use, sell or otherwise dispose of any materials in a street under subsection (1) above, they shall, on demand, pay or allow to the owner of any premises in the street such proportion of the reasonable value of the material as is attributable to those premises, and the amount thereof shall be settled, in case of dispute, by arbitration, or, if the amount claimed does not exceed [<sup>F37</sup>level 3 on the standard scale] and either party so requires, by a magistrates' court.

### **Textual Amendments**

**F37** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46

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**296 Power of highway authority or council to execute certain works on behalf of other person.**

A highway authority or a council may by agreement with any person execute at his expense any work which they have under this Act (except under Part XI) required him to execute, or any work in connection with a highway which he is otherwise under an obligation or is entitled to execute, and for that purpose they have all such rights as he would have.

**297 Power of highway authority or council to require information as to ownership of land.**

- (1) A highway authority or a council may, for the purpose of enabling them to discharge or exercise any of their functions under this Act, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.
- (2) Any person who, having been required in pursuance of this section to give any information, fails to give that information is guilty of an offence and liable to a fine not exceeding [<sup>F38</sup>level 3 on the standard scale].
- (3) Any person who, having been so required to give any information, knowingly makes any mis-statement in respect thereof is guilty of an offence and liable—
  - (a) on summary conviction to a fine not exceeding the prescribed sum within the meaning of section 32(9) of the <sup>M7</sup>Magistrates’ Courts Act 1980 (£1,000 or such other sum as may be fixed by order under section 143(1) of that Act); or
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.

**Textual Amendments**

**F38** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

**Marginal Citations**

**M7** [1980 c. 43](#).

**298 Duty of local authorities to furnish information to county councils and the Greater London Council.**

- (1) Every [<sup>F39</sup>non-metropolitan] district council shall furnish, and shall instruct their officers to furnish, any information in their power which may reasonably be required by any county council for the purpose of enabling that council to discharge their functions under this Act.

<sup>F40</sup>(2) .....

**Textual Amendments**

**F39** Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 40**

**F40** [S. 298\(2\)](#) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**

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### **299 Right to discharge water.**

- (1) Where there has been constructed or laid in land, or in the exercise of rights, acquired by a highway authority in the exercise of highway land acquisition powers, any drain or other work for the purpose of draining surface water from a highway, proposed highway, maintenance compound, trunk road picnic area, lorry area or service area, the water may be discharged into or through that drain or other work and into any inland waters, whether natural or artificial, or any tidal waters.
- (2) A highway authority shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any right under subsection (1) above.
- (3) This section is without prejudice to any enactment the purpose of which is to protect water against pollution.

### **300 Right of local authorities to use vehicles and appliances on footways <sup>[F41]</sup>, bridleways and restricted byways].**

- (1) No statutory provision prohibiting or restricting the use of footpaths, footways <sup>[F42]</sup>, bridleways or restricted byways] shall affect the use by a competent authority of appliances or vehicles, whether mechanically operated or propelled or not, for cleansing, maintaining or improving footpaths, footways <sup>[F42]</sup>, bridleways or restricted byways] or their verges, <sup>[F43]</sup>for preventing or removing obstructions to them or otherwise preventing or abating nuisances or other interferences with them,] or for maintaining or altering structures or other works situated therein.

For the purposes of this section—

- (a) the following are competent authorities, namely, the council of any county, district or London borough, the Common Council, the Council of the Isles of Scilly, any parish or community council, or parish meeting, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple; and
  - (b) “statutory provision” means a provision contained in, or having effect under, any enactment.
- (2) The Minister of Transport and the Secretary of State acting jointly may make regulations prescribing the conditions under which the rights conferred by this section may be exercised, and such regulations may in particular make provision as to—
    - (a) the construction of any appliances or vehicles used under this section,
    - (b) the maximum weight of any such appliances or vehicles, or the maximum weight borne by any wheel or axle,
    - (c) the maximum speed of any such appliances or vehicles,
    - (d) the hours during which the appliances or vehicles may be used, and
    - (e) the giving by the Minister of Transport or the Secretary of State of directions dispensing with or relaxing any requirement of the regulations as it applies to a particular authority or in any particular case.

#### **Textual Amendments**

- F41** Words in s. 300 sidenote substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2, Sch. Pt. I; [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3); [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3)

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- F42** Words in s. 300(1) substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2, Sch. Pt. I; [S.I. 2006/1172](#), art. 2(a)-(d) (with art. 3); [S.I. 2006/1279](#), art. 2(a)-(d) (with art. 3)
- F43** Words in s. 300(1) inserted (13.2.2004 for E. and 1.4.2004 for W.) by [2000 c. 37, s. 70\(3\)](#); [S.I. 2004/292, art. 2\(c\)](#); [S.I. 2004/315, art. 2\(b\)](#)

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

- C4** S. 300 applied (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2, **Sch. Pt. I**; [S.I. 2006/1172, art. 2](#); [S.I. 2006/1279, art. 2](#)
- C5** S. 300 modified (22.7.2008) by [Transport for London Act 2008 \(c. i\)](#), ss. 1(1), **40** (with s. 48)
- C6** Functions under s. 300(2) so far as exercisable jointly by Minister of Transport and Secretary of State now exercisable by Secretary of State for Transport: [S.I. 1981/238, art. 2\(1\)\(b\)](#)
- C7** S. 300(2): functions transferred (25.11.2002) by [The Transfer of Functions \(Transport, Local Government and the Regions\) Order 2002 \(S.I. 2002/2626\)](#), **arts. 5, 7** (with art. 8)

### 301 Restriction on exercise of powers of lighting authorities.

- (1) Subject to subsection (2) below, the powers of a lighting authority shall not be exercised for purposes of the lighting of any highway for which they are not the highway authority except with the consent of the highway authority (which may be given either generally or in respect of any particular highway or length of highway, and either without conditions or subject to such conditions as the highway authority think fit).
- (2) Subsection (1) above does not apply to the exercise of powers for the purpose only of the operation or maintenance of a lighting system not transferred to the highway authority under Part III of the <sup>M8</sup>Local Government Act 1966 or under section 270 above.
- (3) References in this section to the powers of a lighting authority are references to their powers under section 161 of the <sup>M9</sup>Public Health Act 1875 or section 3 of the <sup>M10</sup>Parish Councils Act 1957 or any corresponding local enactment.

#### Marginal Citations

- M8** 1966 c. 42.  
**M9** 1875 c. 55.  
**M10** 1957 c. 42.

<sup>F44</sup> *London borough council affecting roads of another authority*

#### Textual Amendments

- F44** S. 301A and crossheading inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by [1999 c. 29, s.266](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801, art. 2\(2\)\(b\)\(c\)](#), [Sch. Pts. 2, 3](#)

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**<sup>F45</sup>301A London borough council exercising powers so as to affect another authority's roads.**

(1) No London borough council shall exercise any power under this Act in a way which will affect, or be likely to affect,—

(a) a GLA road, or

<sup>F46</sup>(aa) [ a strategic road,]

(b) a road in another London borough [<sup>F47</sup> other than a GLA road or strategic road]

unless the requirements of subsections (2) and (3) below have been satisfied.

(2) The first requirement is that the council has given notice of the proposal to exercise the power in the way in question—

(a) to Transport for London; and

(b) in a case where the road concerned is in another London borough, to the council for that borough.

(3) The second requirement is that—

(a) the proposal has been approved

<sup>F48</sup>(i) [ in the case of a GLA road, by Transport for London;

(ii) in the case of a strategic road, by Transport for London and, where the road concerned is in another London borough, the council for that borough;

(iii) in the case of a road within subsection (1)(b), by the London borough council concerned; or]

(b) the period of one month beginning with the date on which Transport for London and, where applicable, the council received notice of the proposal has expired without Transport for London or the council having objected to the proposal; or

(c) any objection made by Transport for London or the council has been withdrawn; or

(d) where an objection has been made by Transport for London or a London borough council and not withdrawn, the Greater London Authority has given its consent to the proposal after consideration of the objection.

<sup>F49</sup>(3A) [ References in paragraphs (b) to (d) of subsection (3) to objections are to objections made by a person who, in the circumstances, has the power to give an approval under paragraph (a) of that subsection.]

(4) Before deciding whether to give any consent for the purposes of subsection (3)(d) above, the Greater London Authority may cause a public inquiry to be held.

(5) If Transport for London has reason to believe—

(a) that a London borough council is proposing to exercise a power under this Act in a way which will affect, or be likely to affect,

<sup>F50</sup>(i) [ a GLA road,

(ii) a strategic road, or

(iii) a road in another London borough other than a GLA road or strategic road, and]



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- (b) that notice of the proposal is required to be, but has not been, given in accordance with subsection (2) above,
- Transport for London may give a direction to the council requiring it not to proceed with the proposal until the requirements of subsections (2) and (3) above have been satisfied.
- (6) If a London borough council exercises any power in contravention of this section, Transport for London may take such steps as it considers appropriate to reverse or modify the effect of the exercise of that power.
- (7) For the purposes of subsection (6) above, Transport for London shall have power to exercise any power of the London borough council on behalf of that council.
- (8) Any reasonable expenses incurred by Transport for London in taking any steps under subsection (6) above shall be recoverable by Transport for London from the London borough council concerned as a civil debt.
- (9) The Mayor of London may issue a direction dispensing with the requirements of subsections (2) and (3) above in such circumstances as may be specified in the direction.
- (10) A direction under subsection (9) above may, in particular, dispense with those requirements as respects—
- (a) all or any of the London borough councils;
  - (b) all or any of the GLA roads; [<sup>F51</sup>or strategic roads]
  - (c) all or any of the roads which are [<sup>F52</sup>not GLA roads, strategic roads or] trunk roads;
  - (d) the exercise of such powers as may be specified in the direction in such manner or circumstances as may be so specified.
- (11) Any direction under subsection (9) above may be varied or revoked by a further direction under that subsection.
- (12) Any reference in this section to a GLA road includes a reference to a GLA side road, within the meaning of the <sup>M11</sup>Road Traffic Regulation Act 1984 (see sections 124A(9) and 142(1) of that Act).
- (13) In this section “road” means any length of highway or of any other road to which the public has access and includes bridges over which a road passes.
- (14) Subsection (13) above is without prejudice to the construction of references to GLA roads or GLA side roads.
- (15) The functions of the Greater London Authority under this section shall be functions of the Authority which are exercisable by the Mayor of London acting on behalf of the Authority.
- (16) For the purposes of this section—
- (a) the City of London shall be treated as if it were a London borough;
  - (b) the Common Council shall be treated as if it were the council for a London borough; and
  - (c) the Inner Temple and the Middle Temple shall be treated as forming part of the City.]

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[<sup>F53</sup>(17) In this section “strategic road” has the meaning given by section 60 of the Traffic Management Act 2004.]

#### Textual Amendments

- F45** S. 301A and cross-heading inserted (8.5.2000 for specified purposes and otherwise 3.7.2000) by 1999 c. 29, s.266 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b)(c), Sch. Pts. 2, 3
- F46** S. 301A(1)(aa) inserted (4.10.2004 for E.) by Traffic Management Act 2004 (c. 18), s. 62(2)(a) (with s. 38); S.I. 2004/2380, art. 2(e)
- F47** Words in s. 301A(1)(b) inserted (4.10.2004 for E.) by Traffic Management Act 2004 (c. 18), s. 62(2)(b) (with s. 38); S.I. 2004/2380, art. 2(e)
- F48** S. 301A(3)(a)(i)-(iii) substituted (4.10.2004 for E.) for words in s. 301A(3)(a) by Traffic Management Act 2004 (c. 18), s. 62(3) (with s. 38); S.I. 2004/2380, art. 2(e)
- F49** S. 301A(3A) inserted (4.10.2004 for E.) by Traffic Management Act 2004 (c. 18), s. 62(4) (with s. 38); S.I. 2004/2380, art. 2(e)
- F50** S. 301A(5)(a)(i)-(iii) substituted (4.10.2004 for E.) for words in s. 301A(5)(a) by Traffic Management Act 2004 (c. 18), s. 62(5) (with s. 38); S.I. 2004/2380, art. 2(e)
- F51** Words in s. 301A(10)(b) inserted (4.10.2004 for E.) by Traffic Management Act 2004 (c. 18), s. 62(6)(a) (with s. 38); S.I. 2004/2380, art. 2(e)
- F52** Words in s. 301A(10)(c) substituted (4.10.2004 for E.) by Traffic Management Act 2004 (c. 18), s. 62(6)(b) (with s. 38); S.I. 2004/2380, art. 2(e)
- F53** S. 301A(17) inserted (4.10.2004 for E.) by Traffic Management Act 2004 (c. 18), s. 62(7) (with s. 38); S.I. 2004/2380, art. 2(e)

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

- C8** S. 301A(9) restricted (4.1.2005 for E. and 26.10.2006 for W.) by Traffic Management Act 2004 (c. 18), s. 29(8)(a) (with s. 38); S.I. 2004/3110, art. 2(a); S.I. 2006/2826, art. 2(2)(b)

#### Marginal Citations

- M11** 1984 c. 27.

[<sup>F54</sup>**301B**Royal Parks or highways in London affected by proposals relating to the other.

- (1) The Secretary of State shall not exercise any of his functions in relation to the management of roads or traffic in a Royal Park in such a way as to affect a highway in Greater London unless he has consulted the highway authority for the highway about the exercise of those functions in that way.
- (2) A highway authority shall not exercise any of its functions in relation to a highway in Greater London in such a way as to affect a Royal Park unless it has consulted the Secretary of State about the exercise of those functions in that way.
- (3) The duty imposed by subsection (1) or (2) above shall not apply if it would not be reasonably practicable for the Secretary of State or, as the case may be, the highway authority to consult the other before exercising functions; but, in such a case, as soon as practicable after so exercising functions the Secretary of State or, as the case may be, the highway authority shall inform the other that those functions have been so exercised.
- (4) In this section “Royal Park” means any park to which the <sup>M12</sup>Parks Regulation Act 1872 applies (see sections 1 and 3 of the <sup>M13</sup>Parks Regulation (Amendment) Act 1926).]

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#### Textual Amendments

**F54** S. 301B inserted (3.7.2000) by 1999 c. 29, s.267 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), Sch. Pt. 3

#### Marginal Citations

**M12** 1872 c. 15.

**M13** 1926 c. 36.

### *Inquiries*

#### **302 Provisions as to inquiries.**

- (1) Subject to subsection (2) below, the Minister and the Secretary of State may each cause such inquiries to be held as he may consider necessary or desirable for the purposes of his functions under this Act, and subsections (2) to (5) of section 250 of the<sup>M14</sup> Local Government Act 1972 (giving of evidence at, and defraying of costs, of inquiries) apply, subject to subsection (2) below, in relation to any inquiry which either of the said Ministers may cause to be held under this section, or in compliance with any requirement of this Act, with the substitution in the case of an inquiry held by the Secretary of State, for references to a Minister, of references to the Secretary of State.
- (2) Subsection (4) of the said section 250 (costs of the Minister holding the inquiry to be defrayed by the parties) does not apply in relation to—
- (a) an inquiry caused to be held by the Minister for the purposes of his functions under section 93 above, or
  - (b) an inquiry held in compliance with paragraph 3 of Schedule 10 to this Act, or with paragraph 9 of Schedule 11 to this Act,
- in so far as the Minister is of opinion, having regard to the object and result of the inquiry, that the Minister's costs should be defrayed by him.

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

**C9** S. 302 applied (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 25(1)(2); S.I. 1991/2288, art. 3, Sch.

#### Marginal Citations

**M14** 1972 c. 70.

### *Obstruction of persons executing Act*

#### **303 Penalty for obstructing execution of Act.**

A person who wilfully obstructs any person acting in the execution of this Act or any byelaw or order made under it is, in any case for which no other provision is made by this Act, guilty of an offence and liable to a fine not exceeding [<sup>F55</sup>level 1 on the standard scale]; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £5 for each day on which the offence is so continued.

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#### Textual Amendments

**F55** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**

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

**C10** [S. 303](#) applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), **s. 25(1)**(with ss. 25(2), 167(2)); [S.I. 1991/2288](#), **art. 3, Sch.**

### **304 Power to require occupier to permit works to be executed by owner.**

If on a complaint made by the owner of any premises, it appears to a magistrates' court that the occupier of the premises prevents the owner from executing any work which he is by this Act required to execute, the court may order the occupier to permit the execution of the work.

#### *Recovery of expenses*

### **305 Recovery of expenses by councils and highway authorities.**

- (1) Where a council or a highway authority have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable—
  - (a) under any of the provisions of this Act to which this section applies, or
  - (b) by agreement with the council or highway authority,those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a demand for the expenses, may be recovered by the council or the highway authority from the owner for the time being of the premises; and as from the date of the completion of the works the expenses and interest accrued due thereon are, until recovered, a charge on the premises and on all estates and interests therein.
- (2) A council or highway authority may by order declare any expenses and interest recoverable by them under this section to be payable by annual instalments within a period not exceeding 30 years, together with interest on them at such reasonable rate as the authority may determine; and any such instalment and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred.
- (3) A person aggrieved by an order of a council or highway authority under subsection (2) above, or by the refusal of a council or highway authority to make such an order, may, except in a case where an appeal lies to the Minister under section 233 above, appeal to a magistrates' court.
- (4) Schedule 13 to this Act applies in relation to any sum paid by an occupier of premises under the foregoing provisions of this section.
- (5) Any sum which a council or highway authority are entitled to recover under this section or any other provision of this Act, and with respect to the mode of recovery of which provision is not made by any other section of this Act, may be recovered either summarily as a civil debt or in any court of competent jurisdiction.

*Status: Point in time view as at 18/12/2013. This version of this part contains provisions that are prospective.*

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- (6) Any charge acquired by the Minister by virtue of subsection (1) above is (without prejudice to the operation of section 1 of the <sup>M15</sup>Local Land Charges Act 1975 as regards any charge acquired by a council by virtue of that subsection) a local land charge.
- (7) This section applies to the following provisions of this Act, namely, sections 152, 153, 165, 167, 177, 180, 184 and 230, except 230(7).

#### **Marginal Citations**

**M15** 1975 c. 76.

### **306 Time-limit for summary proceedings for recovery of expenses.**

The time within which summary proceedings may be taken for the recovery of any sum which a highway authority or council are entitled to recover under this Act shall be reckoned—

- (a) in all cases except the one mentioned in paragraph (b) below, from the date of the service of a demand for the sum; and
- (b) in a case in which an appeal has been made to the Minister under section 233 above, from the date on which the decision on the appeal is notified to the appellant or the appeal is withdrawn, as the case may be.

#### *Determination of disputes as to compensation*

### **307 Disputes as to compensation which are to be determined by [<sup>F56</sup>Upper Tribunal] and related provisions.**

- (1) Any dispute arising on a claim for compensation under any provision of this Act to which this section applies shall be determined by the [<sup>F57</sup>Upper Tribunal].

The provisions of this Act to which this section applies are sections 21, 22, 28, 73, 74, 109, 110, 121(2), 126, <sup>F58</sup> . . . and 292.

- (2) For the purposes of any reference to the [<sup>F57</sup>Upper Tribunal] under this section, section 4 of the <sup>M16</sup>Land Compensation Act 1961 (costs) has effect with the substitution, for references to the acquiring authority, of references to the authority from whom the compensation in question is claimed.
- (3) Rules 2 to 4 of the Rules in section 5 of the said Act of 1961 (rules for valuation on a compulsory acquisition) apply to the calculation of compensation under any provision of this Act to which this section applies, in so far as it is calculated by reference to the depreciation of the value of an interest in land.
- (4) In determining the amount of compensation payable under section 109, 110 or 126 above the [<sup>F57</sup>Upper Tribunal] shall have regard to any new means of access to the premises of the claimant or, as the case may be, any new right of access to a watercourse from the premises of the claimant, provided by the highway authority from whom the compensation is claimed.
- (5) In determining the amount of compensation payable under section 73 above in respect of injurious affection, the [<sup>F57</sup>Upper Tribunal]—

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- (a) shall take into account any benefit accruing to the claimant by reason of the improvement of the street in relation to which an improvement line has been prescribed under that section, and
- (b) may take into account and embody in [<sup>F59</sup>its] award any undertaking with regard to the exercise of the powers of a highway authority under that section in relation to the property affected which the authority have offered to give to the claimant;
- and the terms of any undertaking so embodied in the award are binding on and enforceable against the authority.
- (6) In determining the amount of compensation payable under section 74 above, the [<sup>F57</sup>Upper Tribunal] shall take into account any benefit accruing to the claimant by reason of any improvement made or about to be made to the highway in relation to which a building line has been prescribed under that section.
- (7) In determining the amount of compensation payable under section 193 or section 200(2) above, the [<sup>F57</sup>Upper Tribunal] shall take into account any benefit accruing to the claimant by reason of the widening of a street under the said section 193 or the said section 200(2), as the case may be.

#### Textual Amendments

- F56** Words in s. 307 heading substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 137(a)** (with art. 5(6), Sch. 5)
- F57** Words in s. 307(1)(2)(4)(5)(6)(7) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 137(a)** (with art. 5(6), Sch. 5)
- F58** Words in s. 307(1) repealed (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 84(6), **Sch. 19 Pt.V** (with ss. 81(2), 84(5)); S.I. 1991/2067, art. 3.
- F59** Word in s. 307(5)(b) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 137(b)** (with art. 5(6), Sch. 5)

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

- C11** S. 307 modified (28.4.2003) by [The Network Rail \(West Coast Main Line\) Order 2003 \(S.I. 2003/1075\)](#), **art. 8(11)**
- C12** S. 307 modified (16.8.2012) by [The Hinkley Point Harbour Empowerment Order 2012 \(S.I. 2012/1914\)](#), arts. 1(1), **19(11)** (with arts. 34, 35, 37, 40)
- C13** S. 307 applied (with modifications) (13.11.2012) by [The Chiltern Railways \(Bicester to Oxford Improvements\) Order 2012 \(S.I. 2012/2679\)](#), arts. 1, **16(13)** (with art. 42(2))
- C14** S. 307(1)-(3) extended by [Cycle Tracks Act 1984 \(c. 38, SIF 59\)](#), **s. 5(3)**

#### Marginal Citations

- M16** 1961 c. 33.

### 308 Disputes as to compensation which are to be determined by arbitration or county court.

- (1) Any dispute arising on a claim for compensation under this Act, being a dispute for the determination of which provision is not made by or under any section of this Act

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other than this section, shall be determined, if the parties so agree, by arbitration or, in default of agreement, by a county court.

- (2) A county court shall have jurisdiction to deal with any dispute which by virtue of subsection (1) above is to be determined by such a court notwithstanding that, by reason of the amount of the claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.

### **309 Compensation in respect of depreciation in value of interest in land subject to mortgage.**

Where an interest in land is subject to a mortgage—

- (a) any compensation payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage;
- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person;
- (c) a mortgagee is not entitled to claim any such compensation in respect of his interest as such; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

*Prosecutions, appeals, etc.*

### **310 Summary proceedings for offences.**

All offences under this Act or under byelaws made under it are, except as provided by sections 292(4) and 297(3) above, punishable on summary conviction.

### **311 Continuing offences.**

- (1) Where by virtue of any provision of this Act, or of byelaws made under it, a person convicted of an offence is, if the offence in respect of which he was convicted is continued after conviction, guilty of a further offence and liable to a fine for each day on which the offence is so continued, the court before whom the person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court.
- (2) Where a court fixes such a period the defendant is not liable to a fine in respect of the further offence for any day before the expiration of that period.

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

**C15** S. 311 applied (22.7.2008) by [Transport for London Act 2008 \(c. i\), ss. 1, 35\(4\)](#) (with [ss. 35\(8\), 48](#))



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### 312 Restriction on institution of proceedings.

- (1) [<sup>F60</sup>Subject to subsection (3) below, proceedings] for an offence under any provision of this Act to which this section applies or under byelaws made under any such provision shall not, without the written consent of the Attorney General, be taken by any person other than the person aggrieved, or a highway authority or council having an interest in the enforcement of the provision or byelaws in question.
- (2) This section applies to sections 167 and 177 above and to the provisions of this Act specified in Schedule 22 to this Act.
- [<sup>F61</sup>(3) A constable may take proceedings—
  - (a) for an offence under paragraph (b) of section 171(6) above; or
  - (b) for an offence under paragraph (c) of that subsection consisting of failure to perform a duty imposed by section 171(5)(a) above; or
  - (c) for an offence under section 174 above,without the consent of the Attorney General.]

#### Textual Amendments

**F60** Words substituted by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. [21\(2\)\(a\)](#)

**F61** S. 312(3) inserted by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), s. [21\(2\)\(b\)](#)

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

**C16** S. 312 applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. [25\(1\)\(2\)](#); S.I. 1991/2288, art. 3, [Sch.](#)

### <sup>F62</sup>313 .....

#### Textual Amendments

**F62** S. 313 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. I](#) Group4

### 314 Offences by body corporate.

- (1) Where an offence under any provision of this Act to which this section applies is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) This section applies to sections [<sup>F63</sup>137, 137ZA, ] 139, 140, 167, 168, [<sup>F64</sup>and 177] above.

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#### Textual Amendments

- F63** Words in s. 314(3) inserted (15.1.2005) by [Highways \(Obstruction by Body Corporate\) Act 2004 \(c. 29\), ss. 1, 2\(1\)](#)
- F64** Words in s. 314(3) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\), s. 168\(1\), Sch. 8, Part I, para. 13; S.I. 1992/2984, art. 2\(2\), Sch. 2.](#)

#### PROSPECTIVE

### [<sup>F65</sup>314A Fixed penalties for certain offences under Part 9

- (1) A fixed penalty offence is any offence under Part 9 which—
  - (a) is listed in the first column in Schedule 22A (and described in general terms in the second column), and
  - (b) is prescribed in regulations made by the Secretary of State.
- (2) Offences listed in that Schedule which are committed by virtue of section 314 (offences committed by bodies corporate, etc.) are not fixed penalty offences.
- (3) Schedule 22B (which makes provision about fixed penalties for fixed penalty offences) has effect.
- (4) Regulations under subsection (1)(b) may—
  - (a) make provision for Greater London different from that made for the rest of England;
  - (b) make consequential provision (including provision disapplying sections 8 to 11 of, and Schedule 2 to, the London Local Authorities and Transport for London Act 2003 in relation to any offence prescribed in such regulations);
  - (c) make transitional provision.]

#### Textual Amendments

- F65** [S. 314A](#) inserted (prosp.) by [Traffic Management Act 2004 \(c. 18\), ss. 64\(1\), 99 \(with s. 38\)](#)

### 315 Notice to be given of right of appeal.

Where an appeal lies under this Act to the Crown Court or a magistrates' court against a requirement, order, refusal or other decision of a highway authority or a council, the notice given by the authority or council to the person concerned of the making of the requirement or order or of the refusal or other decision against which such an appeal lies shall state the right of appeal to the Crown Court or a magistrates' court, as the case may be, and the time within which such an appeal may be brought.

### 316 Appeals and applications to magistrates' courts.

- (1) Where any provision of this Act provides—
  - (a) for an appeal to a magistrates' court against a requirement, order, refusal or other decision of a highway authority or a council, or

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(b) for any other matter to be determined by, or an application in respect of any matter to be made to, a magistrates' court,  
the procedure shall be by way of complaint for an order.

(2) The time within which an appeal such as is mentioned in subsection (1)(a) above may be brought is 21 days from the date on which notice of the decision of the highway authority or council is served on the person wishing to appeal, and for the purpose of this subsection the making of the complaint is to be deemed to be the bringing of the appeal.

### **317 Appeals to the Crown Court from decisions of magistrates' courts.**

(1) Where a person aggrieved by an order, determination or other decision of a magistrates' court under this Act is not by any other enactment authorised to appeal to the Crown Court he may appeal to that court.

(2) The applicant for an order under section 116 above or any person who was entitled under subsection (7) of that section to be, and was, or claimed to be, heard on the application may appeal to the Crown Court against the decision made by the magistrates' court on the application.

[<sup>F66</sup>(3) Any person who, in relation to the decision of a magistrates' court on an application under section 130B above, does not fall within subsection (1) above but—

(a) is, within the meaning of section 130A above, a person for the time being responsible for the obstruction to which the application related, or

(b) when the application was heard, was such a person and was, or claimed to be, heard on the application,

may appeal to the Crown Court against the decision on any ground relating to the matters mentioned in section 130B(4) above.]

#### **Textual Amendments**

**F66** S. 317(3) inserted (13.2.2004 for E. and 1.4.2004 for W.) by 2000 c. 37, s. 63(2); S.I. 2004/292, art. 2(a); S.I. 2004/315, art. 2(a)

### **318 Effect of decision of court upon an appeal.**

Where on an appeal under this Act a court varies or reverses a decision of a highway authority or of a council it shall be the duty of the authority or the council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

### **319 Judges and justices not to be disqualified by liability to rates.**

The judge of any court or a justice of the peace is not disqualified for acting in cases arising under this Act by reason only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or to be benefited by, any rate or fund out of which any expenses of a council are to be defrayed.

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

**C17** S. 319 applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 25\(1\)\(2\)](#); [S.I. 1991/2288, art. 3, Sch.](#)

*Notices, etc.*

**320 Form of notices etc.**

All notices, consents, approvals, orders, demands, licences, certificates and other documents authorised or required by or under this Act to be given, made or issued by, or on behalf of, a highway authority or a council, and all notices, consents, requests and applications authorised or required by or under this Act to be given or made to a highway authority or a council, shall be in writing.

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

**C18** S. 320 applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 25\(1\)\(2\)](#); [S.I. 1991/2288, art. 3, Sch.](#)

**321 Authentication of documents etc.**

- (1) Any notice, consent, approval, order, demand, licence, certificate or other document which a council (whether as a highway authority or in any other capacity) are authorised or required by or under this Act to give, make or issue may be signed on behalf of the council—
  - (a) by the proper officer of the council, or
  - (b) by any officer of the council authorised by them in writing to sign documents of a particular kind or, as the case may be, the particular document.
- (2) Any document purporting to bear the signature of the proper officer of the council, or of an officer expressed to be duly authorised by the council to sign such a document or the particular document, shall for the purposes of this Act, and of any byelaws, regulations and orders made under it, be deemed, until the contrary is proved, to have been duly given, made or issued by the council.

In this subsection “signature” includes a facsimile of a signature by whatever process reproduced.

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

**C19** S. 321 applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 25\(1\)\(2\)](#); [S.I. 1991/2288, art. 3, Sch.](#)

**322 Service of notices etc.**

- (1) Any notice, consent, approval, order, demand, licence, certificate or other document required or authorised by or under this Act to be given or served on a corporation

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is duly given or served if it is given to or served on the secretary or clerk of the corporation.

(2) Subject to the provisions of this section, any notice, consent, approval, order, demand, licence, certificate or other document required or authorised by or under this Act to be given or served on any person may be given or served either—

- (a) by delivering it to that person, or
- (b) by leaving it at his proper address, or
- (c) by post;

so, however, that where any such document is sent by post otherwise than in a registered letter, or by the recorded delivery service, it shall be deemed not to have been given or served if it is proved that it was not received by the person to whom it was addressed.

(3) For the purposes of this section, and of section 7 of the <sup>M17</sup>Interpretation Act 1978 in its application to this section, the proper address of any person to or on whom any such document is to be given or served—

- (a) where the person has furnished an address for service in accordance with arrangements agreed to in that behalf, is the address furnished;
- (b) where the person has not furnished an address as provided by paragraph (a) above, is
  - (i) in the case of the secretary or clerk of a corporation, that of the registered or principal office of the corporation, and
  - (ii) in any other case, the person's usual or last known place of abode.

(4) If the name or the address of any owner, lessee or occupier of premises to or on whom any such document is to be given or served cannot after reasonable inquiry be ascertained by the person seeking to give or serve the document, the document may be given or served by—

- (a) addressing it to the person to whom it is to be given or on whom it is to be served by the description of “owner”, “lessee”, or “occupier” of the premises (describing them) to which the document relates, and
- (b) delivering it to some responsible person resident or appearing to be resident on the premises or if there is no such person to whom it can be delivered, affixing it or a copy of it to some conspicuous part of the premises.

(5) The foregoing provisions of this section do not apply to the service of—

- (a) a notice required or authorised to be served under [<sup>F67</sup>Part II of, or Schedule 1 to, the Acquisition of Land Act 1981] as applied by this Act, or
- (b) a summons.

#### Textual Amendments

**F67** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, [Sch. 4 para. 31\(14\)](#)

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

**C20** S. 322 applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 25(1)(2); S.I. 1991/2288, art. 3, [Sch.](#)

#### Marginal Citations

**M17** 1978 c. 30.

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### **323 Reckoning of periods.**

- (1) For the purposes of this Act—
- (a) in reckoning any period which is therein expressed to be a period from or before a given date, that date is to be excluded; and
  - (b) in reckoning any period therein mentioned of 8 days or less which apart from this provision would include a Sunday, Christmas Day, Good Friday or a bank holiday, that day is to be excluded.
- (2) In this section “bank holiday” means a day which is a bank holiday under the <sup>M18</sup>Banking and Financial Dealings Act 1971.

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

**C21** S. 323 applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. **25(1)(2)**; S.I. 1991/2288, art. 3, [Sch.](#)

#### **Marginal Citations**

**M18** 1971 c. 80.

*Regulations, schemes, orders, etc.*

### **324 Regulations for procedure in connection with, and centre line of roads authorised etc. by, certain schemes and orders.**

- (1) Subject to Schedule 1 to this Act, the Minister of Transport may make regulations for prescribing the procedure to be followed in connection with the making and confirmation of schemes under section 16 above and orders under sections 17 and 18 above.
- (2) The Minister shall make regulations for securing that the centre line of—
- (a) a special road authorised by a scheme under section 16 above,
  - (b) a proposed highway directed by an order under section 10 above to become a trunk road, or
  - (c) a new highway to be constructed in pursuance of an order under section 14 or 18 above,
- is indicated on a map on such scale as may be prescribed by the regulations and for securing that any limits of deviation which apply in relation to the centre line of that road or highway or any part thereof by virtue of subsection (3) below are indicated or stated in such manner as may be prescribed by the regulations.
- (3) Where any such scheme or order as is referred to in subsection (2) above so provides in relation to a road or highway to which it relates or any part thereof, being such a road or highway as is referred to in that subsection, the centre line of that road or highway or that part thereof, as the case may be, may deviate from the centre line as indicated on the map referred to in that subsection within such limits of deviation, not exceeding 55 yards on either side of the centre of that line, as may be specified in the scheme or order.

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### 325 Provisions as to regulations, schemes and orders.

(1) The following powers conferred by this Act on a Minister of the Crown are exercisable by statutory instrument:—

- (a) all powers to make regulations,
- (b) the power to make or confirm schemes under section 16 above, and the power to confirm schemes under section 106(3) above,
- <sup>F68</sup>(c) .....
- (d) all powers to make or confirm orders, except those conferred by any of the following provisions of this Act, namely, sections 14, [<sup>F69</sup>14B,] 18, [<sup>F70</sup>20,] 26, 27, 108(1), [<sup>F71</sup>118, 118A, 118B(4), 119, 119A, 119B(4), 119D]120 [<sup>F72</sup>, 124 and 266B] and paragraph 2 of Schedule 21.

(2) A statutory instrument containing—

- (a) regulations made under this Act, other than a statutory instrument containing only regulations made under section [<sup>F73</sup>120(3A) or] 257(4) above [<sup>F74</sup> or such regulations as are mentioned in subsection (2A) below [<sup>F75</sup> or regulations made by the National Assembly for Wales under Part 8A]], or
- (b) an order made under section [<sup>F76</sup>14A or][<sup>F77</sup>17 [<sup>F78</sup> or 118B(1)(a)] above or] 344(4) below,

is subject to annulment in pursuance of a resolution of either House of Parliament.

[<sup>F79</sup>(2A) A statutory instrument containing—

- (a) the first regulations for the purposes of section 140A,
- (b) the first regulations for the purposes of section 171A as it applies in relation to erecting or retaining a relevant structure within the meaning of section 169(1) above, or
- (c) the first regulations for the purposes of section 171A as it applies in relation to depositing building materials, rubbish or other things, or making a temporary excavation, as mentioned in section 171(1) above, shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament.]

<sup>F80</sup>(3) .....

#### Textual Amendments

- F68** S. 325(1)(c) repealed (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1\)](#), s. 84(6), [Sch. 19 Pt. V](#) (with ss. 81(2), 84(5)); S.I. 1991/2067, [art. 3](#)
- F69** Words in s. 325(1)(d) inserted (3.7.2000) by 1999 c. 29, [s. 263\(2\)\(a\)\(i\)](#) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), [Sch. Pt. 3](#)
- F70** Word in s. 325(1)(d) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(2), [Sch. 9](#); S.I. 1992/2984, art. 2(2), [Sch. 2](#)
- F71** Words in s. 325(1)(d) substituted (30.1.2001 and 12.2.2003 for E. for specified purposes and 21.5.2007 in so far as not already in force, 1.5.2001 and 15.7.2005 for W. for specified purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 18\(a\)](#); S.I. 2001/114, art. 2(1)(a)(e); S.I. 2001/1410, art. 2(c)(k); S.I. 2003/272, [art. 2\(a\)\(l\)\(i\)](#); S.I. 2005/1314, [art. 3\(d\)\(iv\)\(aa\)](#); S.I. 2007/1493, [art. 2](#)
- F72** Words in s. 325(1)(d) substituted (3.7.2000) by 1999 c. 29, [s. 263\(2\)\(a\)\(ii\)](#) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), [Sch. Pt. 3](#)
- F73** Words in s. 325(2)(a) inserted (22.12.1992 for certain purposes and otherwise 31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, [Sch. 2](#), para. 8; S.I. 1992/3144, arts. 2, 3, [Sch.](#)



*Status: Point in time view as at 18/12/2013. This version of this part contains provisions that are prospective.*

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- F74** Words in s. 325(2)(a) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Part I, para. 14; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F75** Words in s. 325(2)(a) inserted (7.4.2005) by Clean Neighbourhoods and Environment Act 2005 (c. 16), s. 106, **Sch. 4 para. 1**
- F76** Words in s. 325(2)(b) inserted (3.7.2000) by 1999 c. 29, s. 263(2)(b) (with Sch. 12 para. 9(1)); S.I. 2000/801, 2(2)(c), Sch. Pt. 3
- F77** Words in s. 325(2)(b) inserted (1.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 20(2)(b) (with ss. 25(2), 167(2)); S.I. 1991/2288, art. 3, **Sch.**
- F78** Words in s. 325(2)(b) inserted (12.2.2003 for E., 15.7.2005 for W. for specified purposes and otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 18(b); S.I. 2003/272, **art. 2(a)(i)(ii)**; S.I. 2005/1314, **art. 3(d)(iv)(bb)**
- F79** S. 325(2A) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Part I, para. 14; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F80** S. 325(3) omitted (1.11.1991) by virtue of New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 20(2)(a) (with ss. 25(2), 167(1)); S.I. 1991/2288, art. 3, **Sch.**

### 326 Revocation and variation of schemes and orders.

- (1) Section 14(b) of the <sup>M19</sup>Interpretation Act 1978 (implied power to revoke or amend orders made by statutory instrument) does not apply to an order made under section 74, 93 <sup>F81</sup> . . . of this Act.
- (2) An order made or confirmed by the Minister, or the Secretary of State, under section 14, [<sup>F82</sup>14B,] 18, <sup>F83</sup> . . . 27, 108(1), 120, [<sup>F84</sup>, 124 or 266B] of, or paragraph 2 of Schedule 21 to, this Act (which confer power to make orders otherwise than by statutory instrument) may be revoked or varied by a subsequent order made or confirmed in the like manner and subject to the like provisions.
- <sup>F85</sup>(3) . . . . .
- (5) Without prejudice to subsection (2) above, an order to which this subsection applies confirmed by the Minister, or the Secretary of State, or confirmed as an unopposed order by the authority making it, may be revoked or varied by a subsequent order made or confirmed in the like manner and subject to the like provisions, except that an order confirmed in either way may be revoked or varied by an order confirmed in the other way.
- This subsection applies to a public path creation order, a public path extinguishment order, [<sup>F86</sup>a rail crossing extinguishment order, a special extinguishment order, a public path diversion order, a rail crossing diversion order, a special diversion order or an SSSI diversion order] and an order under section 124 above.
- (6) Subject to the following provisions of this section, a scheme revoking or varying a scheme made or confirmed under section 16 or section 106(3) above, and an order varying or revoking an order made or confirmed under section 14, [<sup>F87</sup>14A, 14B,] 17, 18, 108(1) [<sup>F88</sup>, 124 or 266B] above may contain such consequential provisions as appear to the Minister to be expedient.
- (7) Where a scheme under section 16 above is revoked by a subsequent scheme, any part of the special road authorised to be provided by the scheme which has been constructed before the date on which the revoking scheme comes into operation and any highway appropriated by or transferred to the special road authority before that date shall cease on that date to be a special road within the meaning of this Act, but shall, where the special road is a trunk road, continue to be a trunk road.

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- (8) Where a scheme under section 16 above is varied by a subsequent scheme, subsection (7) above applies in relation to any part of the special road which ceases to form part of a route of that road in consequence of the variation.
- (9) Subject to the foregoing provisions of this section, the revocation or variation of a scheme under section 16 or section 106(3) above does not affect the validity of anything done in pursuance of the scheme before the date on which the revoking or varying scheme comes into force, or the validity of any order made under section 18 above before that date in connection with the special road to be provided under the scheme.

#### Textual Amendments

- F81** Words in s. 326(1) repealed (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 123:1), s. 84(6), Sch. 19 Pt. V (with ss. 81(2), 84(5)); S.I. 1991/2067, **art. 3**
- F82** Words in s. 326(2) inserted (3.7.2000) by 1999 c. 29, s. 263(4)(i) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F83** Word in s. 326(2) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F84** Words in s. 326(2) substituted (3.7.2000) by 1999 c. 29, s. 263(4)(ii) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F85** S. 326(3)(4) repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F86** Words in s. 326(5) substituted (30.1.2001 and 12.2.2003 for E. for specified purposes and 21.5.2007 in so far as not already in force, 1.5.2001 and 15.7.2005 for W. for specified purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 19; S.I. 2001/114, art. 2(1)(a)(f); S.I. 2001/1410, art. 2(c)(l); S.I. 2003/272, **art. 2(a)(m)**; S.I. 2005/1314, **art. 3(d)(v)**; S.I. 2007/1493, **art. 2**
- F87** Words in s. 326(6) inserted (3.7.2000) by 1999 c. 29, s. 263(5)(i) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F88** Words in s. 326(6) substituted (3.7.2000) by 1999 c. 29, s. 263(5)(ii) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**

#### Marginal Citations

- M19** 1978 c. 30.

### *Crown application*

#### **327 Application of Act to Crown land.**

- (1) The provisions of this section apply in relation to any land belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.
- (2) The appropriate authority in relation to any land and a highway authority may agree that any provisions of this Act specified in the agreement shall apply to that land and, while the agreement is in force, those provisions shall apply to that land accordingly, subject however to the terms of the agreement.
- (3) Any such agreement as is mentioned in subsection (2) above may contain such consequential and incidental provisions, including provisions of a financial character, as appear to the appropriate authority to be necessary or equitable, but provisions of

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a financial character shall not be included in an agreement made by a government department without approval of the Treasury.

- (4) In this section “the appropriate authority” means—
- (a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question;
  - (b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of that Duchy;
  - (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints;
  - (d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department;
- and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

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

**C22** S. 327 applied (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. [167\(1\)](#)(with s. 25(2)); S.I. 1991/2288, art. 3, [Sch.](#)

*Interpretation*

**328 Meaning of “highway”.**

- (1) In this Act, except where the context otherwise requires, “highway” means the whole or a part of a highway other than a ferry or waterway.
- (2) Where a highway passes over a bridge or through a tunnel, that bridge or tunnel is to be taken for the purposes of this Act to be a part of the highway.
- (3) In this Act, “highway maintainable at the public expense” and any other expression defined by reference to a highway is to be construed in accordance with the foregoing provisions of this section.

**329 Further provision as to interpretation.**

- (1) In this Act, except where the context otherwise requires—

<sup>F89</sup>

“Act of 1965” means the <sup>M20</sup>Compulsory Purchase Act 1965;

“adjoining” includes abutting on, and “adjoins” is to be construed accordingly;

“advance payments code” has the meaning provided by section 203(1) above;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” is to be construed accordingly;

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“apparatus” includes any structure constructed for the lodging therein of apparatus;

“approach”, in relation to a bridge or tunnel, means the highway giving access thereto, that is to say, the surface of that highway together with any embankment, retaining wall or other work or substance supporting or protecting the surface;

“bridge” does not include a culvert, but, save as aforesaid, means a bridge or viaduct which is part of a highway, and includes the abutments and any other part of a bridge but not the highway carried thereby;

“bridleway” means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway;

“by-pass” has the meaning provided by section 82(6) above;

“canal undertakers” means persons authorised by any enactment to carry on a canal undertaking;

“carriageway” means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

“cattle-grid” has the meaning provided by section 82(6) above;

“City” means the City of London;

“classified road” means a highway or proposed highway which is a classified road in accordance with section 12 above;

“Common Council” means the Common Council of the City of London;

“contravention” in relation to a condition, restriction or requirement, includes failure to comply with that condition, restriction or requirement, and “contravene” is to be construed accordingly;

“council” means a county council <sup>F90</sup> . . . or a local authority;

“cycle track” means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles [<sup>F91</sup>(other than pedal cycles which are motor vehicles within the meaning of [<sup>F92</sup>the Road Traffic Act 1988])] with or without a right of way on foot;

[<sup>F93</sup> “ definitive map and statement ” has the same meaning as in Part III of the Wildlife and Countryside Act 1981; ]

“dock undertakers” means persons authorised by any enactment to carry on a dock undertaking;

“drainage authority” [<sup>F94</sup>means the Environment Agency, the Natural Resources Body for Wales or] an internal drainage board;

[<sup>F95</sup> “ driver information system ” has the same meaning as in Part II of the Road Traffic (Driver Licensing and Information Systems) Act 1989, and references to an “operator” of a driver information system are references to an operator licensed under that Part of that Act; ]

<sup>F96</sup>  
.....

“enactment” includes an enactment in a local or private Act of Parliament and a provision of an order, scheme, regulations or other instrument made under or confirmed by a public general, local or private Act of Parliament;

[<sup>F97</sup> “ field-edge path ” means a footpath or bridleway that follows the sides or headlands of a field or enclosure; ]

“financial year” means a year ending on 31st March;

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“footpath” means a highway over which the public have a right of way on foot only, not being a footway;

“footway” means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only;

“functions” includes powers and duties;

[<sup>F98</sup> “ GLA road ” shall be construed in accordance with section 14D(1) above; ]  
<sup>F99</sup>  
 .....

“harbour undertakers” means persons authorised by any enactment to carry on a harbour undertaking;

“highway land acquisition powers” has the meaning provided by section 250(1) above;

“highway maintainable at the public expense” means a highway which by virtue of section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense;

“horse” includes pony, ass and mule, and “horseback” is to be construed accordingly;

“hours of darkness” means the time between half an hour after sunset and half an hour before sunrise;

“improvement” means the doing of any act under powers conferred by Part V of this Act and includes the erection, maintenance, alteration and removal of traffic signs, and the freeing of a highway or road-ferry from tolls;

“inland navigation undertakers” means persons authorised by any enactment to carry on an inland navigation undertaking;

“land” includes land covered by water and any interest or right in, over or under land;

“lease” includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or mortgage, and “lessee” is to be construed accordingly;

“lighting authority” means a council or other body authorised to provide lighting under section 161 of the <sup>M21</sup>Public Health Act 1875 or under section 3 of the <sup>M22</sup>Parish Councils Act 1957 or any corresponding local enactment;

“local authority” means the council of a district or London borough or the Common Council [<sup>F100</sup>but, in relation to Wales, means a Welsh council];

“local highway authority” means a highway authority other than the Minister;

“local planning authority” has the same meaning as in [<sup>F101</sup>the Town and Country Planning Act 1990];

“lorry area” means an area provided under section 115 above;

“made-up carriageway” means a carriageway, or a part thereof, which has been metalled or in any other way provided with a surface suitable for the passage of vehicles;

“maintenance” includes repair, and “maintain” and “maintainable” are to be construed accordingly;

“maintenance compound” means an area of land (with or without buildings) used or to be used in connection with the maintenance of highways, or a particular highway;

<sup>F102</sup>  
 .....

“the Minister”, subject to subsection (5) below, means as respects England, the Minister of Transport and as respects Wales, the Secretary of State; and in

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section 258 of, and paragraphs 7, 8(1) and (3), 14, 15(1) and (3), 18(2), 19 and 21 of Schedule 1 to, this Act, references to the Minister and the Secretary of State acting jointly are to be construed, as respects Wales, as references to the Secretary of State acting alone;

“navigation authority” means persons authorised by any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

“owner”, in relation to any premises, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if the premises were so let;

<sup>F103</sup> . . . . .

“pier undertakers” means persons authorised by any enactment to carry on a pier undertaking;

“premises” includes land and buildings;

“private street works code” has the meaning provided by section 203(1) above;

“proposed highway” means land on which, in accordance with plans made by a highway authority, that authority are for the time being constructing or intending to construct a highway shown in the plans;

[<sup>F104</sup> “ proprietor ”, in relation to a school, has the same meaning as in the Education Act 1996; ]

“public general enactment” means an enactment in an Act treated as a public general Act under the system of division of Acts adopted in the regnal year 38 George 3, other than an Act for confirming a provisional order;

“public path creation agreement” means an agreement under section 25 above;

“public path creation order” means an order under section 26 above;

“public path diversion order” means an order under section 119 above;

“public path extinguishment order” means an order under section 118 above;

“public utility undertakers” means persons authorised by any enactment to carry on any of the following undertakings, that is to say, an undertaking for the supply of <sup>F105</sup> . . . gas <sup>F106</sup> . . . or hydraulic power;

“rack rent”, in relation to any premises, means a rent which is not less than two-thirds of the rent at which the premises might reasonably be expected to let from year to year, free from all usual tenant’s rates and taxes, <sup>F107</sup> . . . and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to command such rent;

[<sup>F108</sup> “ rail crossing diversion order ” means an order under section 119A above;

“ rail crossing extinguishment order ” means an order under section 118A above;.

] ]

“railway” includes a light railway;

“railway undertakers” means persons authorised by any enactment to carry on a railway undertaking;

“reconstruction”, in relation to a bridge, includes the construction of a new bridge and approaches thereto in substitution for the existing bridge and the approaches thereto;

[<sup>F109</sup> “ restricted byway ” has the same meaning as in Part II of the Countryside and Rights of Way Act 2000; ]

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“road-ferry” means a ferry connecting the termination of a highway which is, or is to become, a highway maintainable at the public expense with the termination of another highway which is, or is to become, such a highway;

[<sup>F110</sup> “ road hump ” has the meaning provided by section 90F(1); ]

[<sup>F111</sup> “ school ” has the same meaning as in the Education Act 1996; ]

“service area” means an area of land adjoining, or in the vicinity of, a special road, being an area in which there are, or are to be, provided service stations or other buildings or facilities to be used in connection with the use of the special road;

[<sup>F112</sup> .....

[<sup>F113</sup> “ special diversion order ” means an order under section 119B(4) above; ]

“special enactment” means any enactment other than a public general enactment;

[<sup>F114</sup> “ special extinguishment order ” means an order under section 118B(4) above; ]

“special road” means a highway, or a proposed highway, which is a special road in accordance with section 16 above [<sup>F115</sup> or by virtue of an order granting development consent under the Planning Act 2008];

“special road authority” has the meaning provided by section 16(4) above;

[<sup>F116</sup> “ SSSI diversion order ” means an order under section 119D above; ]

“statutory undertakers” means persons authorised by any enactment to carry on any of the following undertakings:—

- (a) a railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or
- (b) an undertaking for the supply of [<sup>F117</sup> ... [<sup>F118</sup> ... [<sup>F119</sup> ... or hydraulic power,

and “statutory undertaking” is to be construed accordingly;

[<sup>F120</sup> “ street ” has the same meaning as in Part III of the New Roads and Street Works Act 1991; ]

[<sup>F121</sup> “ street works licence ” means a licence under section 50 of the New Roads and Street Works Act 1991, and “ licensee ” in relation to such a licence, has the meaning given by subsection (3) of that section; ]

“swing bridge” includes any opening bridge operated by mechanical means;

“traffic” includes pedestrians and animals;

[<sup>F122</sup> “ traffic calming works ”, in relation to a highway, means works affecting the movement of vehicular or other traffic for the purpose of—

- (a) promoting safety (including avoiding or reducing, or reducing the likelihood of, danger connected with terrorism within the meaning of section 1 of the Terrorism Act 2000 (c. 11)), or
- (b) preserving or improving the environment through which the highway runs;]

“traffic sign” has the same meaning as in [<sup>F123</sup> section 64 of the Road Traffic Regulation Act 1984];

“tramway undertakers” means persons authorised by any enactment to carry on a tramway undertaking;

“transport undertakers” means persons authorised by any enactment to carry on any of the following undertakings, that is to say, a railway, canal, inland navigation, dock, harbour or pier undertaking, and “transport undertaking” is to be construed accordingly;



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“trunk road” means a highway, or a proposed highway, which is a trunk road by virtue of section 10(1) or section 19 above or by virtue of an order or direction under section 10 above <sup>[F124]</sup>or an order granting development consent under the Planning Act 2008,]or under any other enactment;

“trunk road picnic area” has the meaning provided by section 112(1) above;

<sup>[F125]</sup>“universal service provider” has the same meaning as in <sup>[F126]</sup>Part 3 of the Postal Services Act 2011]; and references to the provision of a universal postal service shall be construed in accordance with <sup>[F127]</sup>that Part];]

<sup>[F128]</sup> “ water undertakers ” <sup>[F94]</sup>means the Environment Agency, the Natural Resources Body for Wales or]a water undertaker. ]

<sup>[F129]</sup> “ Welsh council ” means the council of a Welsh county or county borough. ]

- (2) A highway at the side of a river, canal or other inland navigation is not excluded from the definition in subsection (1) above of <sup>[F130]</sup>“bridleway”, “footpath” or “restricted byway”], by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.

<sup>[F131]</sup>(2A) In this Act—

- (a) any reference to a county shall be construed in relation to Wales as including a reference to a county borough;
- (b) any reference to a county council shall be construed in relation to Wales as including a reference to a county borough council; and
- (c) section 17(4) and (5) of the Local Government (Wales) Act 1994 (references to counties and districts to be construed generally in relation to Wales as references to counties and county boroughs) shall not apply.]

- (3) In a case where two or more parishes are grouped under a common parish council, references in this Act to a parish are to be construed as references to those parishes.

<sup>[F132]</sup>(3A) In a case where two or more communities are grouped under a common community council, references in this Act to a community are to be construed as references to those communities.]

- (4) Any reference in this Act to property of railway undertakers, canal undertakers, inland navigation undertakers, dock undertakers, harbour undertakers <sup>F133</sup> . . . pier undertakers is, where the undertakers are a body to which this subsection applies, to be taken as a reference to property of that body held or used by them wholly or mainly for the purposes of so much of their undertaking as consists of the carrying on of a railway undertaking or, as the case may be, of a canal undertaking, an inland navigation undertaking, a dock undertaking, a harbour undertaking or a pier undertaking.

This subsection applies to the following bodies, namely, the British Railways Board, the British Transport Docks Board, <sup>[F134]</sup>Canal & River Trust], <sup>[F135]</sup>Transport for London], <sup>F136</sup> . . . <sup>F137</sup> . . . any wholly-owned subsidiary (within the meaning of the <sup>M23</sup>Transport Act 1968) or joint subsidiary (within the meaning of section 51(5) of that Act) of any of those bodies <sup>[F138]</sup>other than Transport for London, or any of its subsidiaries (within the meaning of the Greater London Authority Act 1999)].

<sup>[F139]</sup>(4A) Any reference in this Act to apparatus belonging to, or used or maintained by the operator of <sup>[F140]</sup>an electronic communications code network] shall have effect as a reference to <sup>[F141]</sup>electronic communications apparatus] kept installed for the purposes of that <sup>[F142]</sup>network].]

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- (5) In relation to that part of the road constructed by the Minister of Transport along the line described in Schedule 1 to the <sup>M24</sup>North of Almondsbury—South of Haysgate Trunk Road Order 1947 and referred to in that Order as “the new road” which lies to the east of the most easterly point before reaching the River Wye at which eastbound traffic of Classes I and II (as specified in Schedule 4 to this Act) can leave that road by another special road, the functions of the Minister under this Act shall be exercisable [<sup>F143</sup>by the Secretary of State for Transport].

### Textual Amendments

- F89** Definition repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 6 Pt. I**
- F90** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F91** Words inserted by [Cycle Tracks Act 1984 \(c. 38, SIF 59\)](#), s. **1(1)(2)**
- F92** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, **Sch. 3 para. 21(2)**
- F93** Definition of "definitive map and statement" in s. 329(1) inserted (12.2.2003 for E. and 31.5.2005 for W.) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 20\(a\)](#); S.I. 2003/272, **art. 2(a)(n)**; S.I. 2005/1314, **art. 2(b)(vi)**
- F94** Words in s. 329(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 167** (with Sch. 7)
- F95** Definition inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 13(1), **Sch. 4 para 3(13)**
- F96** Definition repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), [Sch. 17 para. 35\(1\)](#), **Sch. 18**
- F97** Definition inserted by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), s. 2
- F98** Definition in s. 329(1) inserted (3.7.2000) by 1999 c. 29, s. **263(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F99** Definition repealed by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. **67(4)** **Sch. 9 Pt. I**
- F100** Words in s. 329(1) added (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 27(2)(a)** (with s. 54(7), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 3, **Sch. 1**.
- F101** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, **Sch. 2 para. 45(17)**
- F102** Definition repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F103** Definition in s. 329(1) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3)(f), **Sch. 15 Pt. V(I)** (with [Sch. 14 paras. 7\(2\), 36\(9\)](#)); S.I. 1999/2657, **art. 2(d)(iii)**
- F104** Definition of "proprietor" in s. 329(1) inserted (12.2.2003 for E. and 31.5.2005 for W.) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 20\(b\)](#); S.I. 2003/272, **art. 2(a)(n)**; S.I. 2005/1314, **art. 2(b)(vi)**
- F105** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), [Sch. 17 para. 35\(1\)](#), **Sch. 18**
- F106** Word repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), **Sch. 27, Pt. I**
- F107** Words in s. 329(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV Group 3**
- F108** Definitions of "rail crossing diversion order" and "rail crossing extinguishment order" in s. 329(1) inserted (22.12.1992 for certain purposes and otherwise 31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, **Sch. 2 para. 9**; S.I. 1992/3144, arts. 2, 3, **Sch.**
- F109** Definition of "restricted byway" in s. 329(1) inserted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), [Sch. 5 Pt. II para. 16\(a\)](#); S.I. 2006/1172, **art. 2(g)(iv)**; S.I. 2006/1279, **art. 2(g)**
- F110** Definition inserted by [Transport Act 1981 \(c. 56, SIF 126\)](#), s. 32, **Sch. 10 Pt. I para. 3**
- F111** Definition of "school" in s. 329(1) inserted (12.2.2003 for E. and 31.5.2005 for W.) by 2000 c. 37, ss. 57, 103(3), [Sch. 6 Pt. I para. 20\(c\)](#); S.I. 2003/272, **art. 2(a)(n)**; S.I. 2005/1314, **art. 2(b)(vi)**
- F112** Definition repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), **Sch. 27, Pt. I**

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- F113** Definition of "special diversion order" in s. 329(1) inserted (12.2.2003 for E., 15.7.2005 for W. for specified purposes and otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 20(d); S.I. 2003/272, **art. 2(a)(n)**; S.I. 2005/1314, **art. 3(d)(vi)**
- F114** Definition of "special extinguishment order" in s. 329(1) inserted (12.2.2003 for E., 15.7.2005 for W. for specified purposes and otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 20(e); S.I. 2003/272, **art. 2(a)(n)**; S.I. 2005/1314, **art. 3(d)(vi)**
- F115** Words in s. 329(1) in definition of "special road" inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, **Sch. 2 para. 29(2)** (with s. 226); S.I. 2010/101, **art. 2** (with art. 6)
- F116** Definition of "SSSI diversion order" in s. 329(1) inserted (12.2.2003 for E., otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 20(f); S.I. 2003/272, **art. 2(a)(n)**
- F117** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F118** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. 1**
- F119** Word repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27**, Pt. 1
- F120** Definition of "street" in s. 329(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. 1 para. 15(2)**; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F121** Definition of "street works licence" in s. 329(1) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. 1 para. 15(3)**; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F122** In s. 329(1) definition of "traffic calming works" substituted (19.1.2005) by Civil Contingencies Act 2004 (c. 36), s. 32(1), **Sch. 2 Pt. 3 para. 15(2)**; S.I. 2004/3281, **art. 2(3)(4)**
- F123** Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 13 para. 47**
- F124** Words in s. 329(1) in definition of "trunk road" inserted (1.3.2010) by Planning Act 2008 (c. 29), ss. 36, 241, **Sch. 2 para. 29(3)** (with s. 226); S.I. 2010/101, **art. 2** (with art. 6)
- F125** In s. 329(1) definition of "universal service provider" inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 49(10)**
- F126** Words in s. 329(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 91, 93(2)(3), **Sch. 12 para. 104(a)**; S.I. 2011/2329, **art. 3(1)**
- F127** Words in s. 329(1) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), ss. 91, 93(2)(3), **Sch. 12 para. 104(b)**; S.I. 2011/2329, **art. 3(1)**
- F128** Definition substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 25 para. 62(12)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F129** Definition in s. 329(1) added (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. 1 para. 27(2)(b)** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F130** Words in s. 329(2) substituted (2.5.2006 for E. and 11.5.2006 for W.) by 2000 c. 37, ss. 51, 103(3), Sch. 5 Pt. II para. 16(b); S.I. 2006/1172, **art. 2(g)(iv)**; S.I. 2006/1279, **art. 2(g)**
- F131** S. 329(2A) inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. 1 para. 27(3)** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F132** S. 329(3A) inserted (1.10.1995) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. 1 para. 27(4)** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2490, art. 4(1), **Sch. 2**
- F133** Word expressed to be repealed by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(b), **Sch. 7**
- F134** Words in s. 329(4) substituted (2.7.2012) by The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), **Sch. 3 para. 6(5)** (with arts. 4-6)
- F135** Words in s. 329(4) substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 2, **Sch. 1 Pt. 1 para. 7(7)(a)**
- F136** Words repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. X**
- F137** Word repealed by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(a), **Sch. 6 para. 21(b)**
- F138** Words in s. 329(4) substituted (15.7.2003) by The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), art. 2, **Sch. 1 Pt. 1 para. 7(7)(b)**
- F139** S. 329(4A) inserted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 76(13), **Sch. 5 para. 45**

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- F140** Words in s. 329(4A) substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by **Communications Act 2003 (c. 21)**, ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(f)(2)(a)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F141** Words in s. 329(4A) substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by **Communications Act 2003 (c. 21)**, ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(f)(2)(c)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F142** Word in s. 329(4A) substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by **Communications Act 2003 (c. 21)**, ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(f)(2)(e)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F143** Words substituted by S.I. 1981/238, **art. 3(1)**

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

- C23** S. 329(5): functions of First Secretary of State transferred (21.8.2006) to Secretary of State by **The Secretary of State for Communities and Local Government Order 2006 (S.I. 2006/1926)**, **art. 4(2)**

**Marginal Citations**

- M20** 1965 c. 56.
- M21** 1875 c. 55.
- M22** 1957 c. 42.
- M23** 1968 c. 73.
- M24** S. R. & O. 1947/1562.

**330 Construction of certain enactments relating to execution of works by statutory undertakers.**

- (1) Where by any enactment empowering statutory undertakers to execute works under, in, upon, over, along or across a highway the undertakers are thereby required—
  - (a) to give notice to, or obtain the consent or approval of, a council,
  - (b) to carry out the works under the superintendence of a council,
  - (c) to reinstate the highway to the satisfaction of a council, or
  - (d) to do anything in relation to a road for which a county council [<sup>F144</sup>or metropolitan district council] are the highway authority (whether so described or described as a “county road”),

any such requirement, and any provision of the enactment empowering the council to act in default of the undertakers or otherwise to enforce any such requirement, has effect, in relation to a trunk road, with the substitution, for references to the council, of references to the Minister and, for references to a road for which a county council [<sup>F144</sup>or metropolitan district council] are the highway authority (or a county road), of references to a trunk road.

- (2) Notwithstanding the provisions of any enactment as to the determination of disputes arising between statutory undertakers and a council in connection with the execution of any such works, any such dispute arising in the case of a trunk road between statutory undertakers and the Minister shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

<sup>F145</sup>(3) .....

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#### Textual Amendments

**F144** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 41**

**F145** [S. 330\(3\)](#) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(2), **Sch.9**; [S.I. 1992/2984](#), art. 2(2), **Sch. 2**

### **331 References to functions of council as respects any highway.**

Except where this Act otherwise requires, any enactment or document relating to the functions of a council as respects any highway is, in relation to functions not exercisable in the case of a trunk road by the Minister, to be construed as if references therein to highways included references to trunk roads.

### **332 Widening of carriageway not to cease to be improvement by reason of diminution etc. of footway.**

For the purposes of this Act and of any other enactment relating to highways, the widening of the carriageway of a highway is not to be treated as being otherwise than an improvement by reason only of the fact that it involves diminution or removal of a footway thereon.

*Savings etc.*

### **[<sup>F146</sup>333 Saving for rights and liabilities as to interference with highways.**

- (1) No provision of this Act relating to obstruction of or other interference with highways is to be taken to affect any right of a highway authority or other person under any enactment not contained in this Act, or under any rule of law, to remove an obstruction from a highway or otherwise abate a nuisance or other interference with the highway, or to affect the liability of any person under such an enactment or rule to proceedings (whether civil or criminal) in respect of any such obstruction or other interference.
- (2) Nothing in section 134 or 135 above relating to disturbance of the surface of a highway in any manner is to be taken as affecting any right existing apart from this Act to disturb its surface in that manner.]

#### Textual Amendments

**F146** [S. 333\(2\)](#) inserted (the existing provision being renumbered as subsection (1)) as provided by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), s. 3

- [<sup>F147</sup>334**
- (1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made under it affects any rights conferred by or in accordance with the [<sup>F148</sup>electronic communications code] on the operator of [<sup>F149</sup>an electronic communications code network] or any duty of any such operator under that code or applies to any [<sup>F150</sup>electronic communications apparatus] kept installed for the purposes of any such [<sup>F151</sup>network]; <sup>F152</sup> . . .

- (2) Where—

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- (a) land is conveyed by a highway authority in pursuance of section 256 above, or
- (b) a highway is stopped up or diverted in pursuance of an order to which this paragraph applies,

and immediately before the conveyance or, as the case may be, at the beginning of the day on which the order comes into force there is under, in, upon, over, along or across the land conveyed or, as the case may be, the highway stopped up or diverted any [<sup>F150</sup>electronic communications apparatus] kept installed for the purposes of [<sup>F149</sup>an electronic communications code network], then the provisions of subsection (3) below have effect.

Paragraph (b) above applies to the following orders, namely an order made or confirmed by the Minister under section 14 or 18 above, a public path extinguishment order [<sup>F153</sup>, a special extinguishment order, a public path diversion order, a special diversion order and an SSSI diversion order].

- (3) In the circumstances mentioned in subsection (2) above, the operator of [<sup>F154</sup>the electronic communications code network] has the same power in respect of the [<sup>F150</sup>electronic communications apparatus] as if the conveyance had not been made or, as the case may be, the order had not come into force; but the transferee of the land or, as the case may be, any person entitled to land over which the stopped up or diverted highway subsisted shall be entitled to require the alteration of the apparatus.
- (4) Where in pursuance of an order made by a magistrates' court under section 116 above a highway is stopped up or diverted, the following provisions of this subsection have effect in relation to so much of any [<sup>F150</sup>electronic communications apparatus] kept installed for the purposes of [<sup>F149</sup>an electronic communications code network] as is under, in, upon, over, along or across land which by reason of the stopping up or diversion ceases to be a highway ("the affected apparatus")—
  - (a) the power of the operator of the [<sup>F151</sup>network] to remove the affected apparatus is exercisable notwithstanding the making of the order, so however that the said power is not exercisable, as respects the whole or any part of the affected apparatus, after the expiration of a period of 3 months from the date of the sending of the notice referred to in subsection (5) below unless before the expiration of that period the operator of the [<sup>F151</sup>network] has given notice to the authority on whose application the order was made of his intention to remove the affected apparatus or that part of it, as the case may be;
  - (b) the operator of the [<sup>F151</sup>network] may by notice in that behalf to the said authority abandon the affected apparatus or any part of it, and is to be deemed, as respects the affected apparatus or any part of it, to have abandoned it at the expiration of the said period of 3 months unless before the expiration of that period he has removed it or given notice of his intention to remove it;
  - (c) the operator of the [<sup>F151</sup>network] is entitled to recover from the said authority the expense of providing, in substitution for the affected apparatus and any [<sup>F150</sup>electronic communications apparatus] connected with it which is rendered useless in consequence of the removal or abandonment of the affected apparatus, any [<sup>F150</sup>electronic communications apparatus] in such other place as he may require;
  - (d) where under paragraph (b) above the operator of the [<sup>F151</sup>network] has abandoned the whole or any part of the affected apparatus, it vests in the authority there referred to and shall be deemed, with its abandonment, to cease to be kept installed for the purposes of [<sup>F149</sup>an electronic communications code network].

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(5) As soon as practicable after the making of an order under section 116 above in circumstances in which subsection (4) above applies in relation to the operator of [<sup>F149</sup>an electronic communications code network] the authority on whose application the order was made shall by notice to the operator inform him of the making of the order.

(6) Where an order under section 14 or 18 above provides for the alteration of a highway and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any [<sup>F150</sup>electronic communications apparatus] kept installed for the purposes of [<sup>F149</sup>an electronic communications code network], the highway authority shall be entitled to require the alteration of the apparatus.

This subsection does not have effect so far as it relates to the alteration of any [<sup>F150</sup>electronic communications apparatus] for the purposes of [<sup>F155</sup>major highway works, major bridge works or major transport works within the meaning of Part III of the New Roads and Street Works Act 1991].

(7) Where in pursuance of an order under section 14 or 18 above a highway is stopped up or diverted, or an order under either of those sections provides for the alteration of a highway, and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any [<sup>F150</sup>electronic communications apparatus] kept installed for the purposes of [<sup>F149</sup>an electronic communications code network] then, without prejudice to subsections (2), (3) and (6) above, the provisions of subsection (8) below have effect.

(8) Paragraph 23 of the [<sup>F148</sup>electronic communications code] (which provides a procedure for certain cases where works involve the alteration of [<sup>F150</sup>electronic communications apparatus]) shall apply, for the purposes of the construction or improvement of the trunk road, special road or classified road, as the case may be, to which the order relates and of any works authorised by the order, to the Minister or other highway authority by whom the order in question was made.

(9) Without prejudice to [<sup>F156</sup>the provisions of Part III of the New Roads and Street Works Act 1991 relating to major highway works, major bridge works or major transport works] the said paragraph 23 shall apply for the purposes of—

- (a) any work authorised or required by an order under section 93 above to be done by a highway authority or the owners of a bridge,
- (b) any work which a highway authority is authorised to carry out under section 96 above, and
- (c) any work authorised or required by a licence under section 176 above to be done by the person to whom the licence is granted,

to the authority or person authorised or required to carry out the work.

(10) Where, in pursuance of any order or scheme made or confirmed under this Act, a navigable watercourse is diverted and, immediately before the date on which the order or scheme comes into force, there is under, in, upon, over, along or across the watercourse, or any towing path or other way adjacent to it, any [<sup>F150</sup>electronic communications apparatus] kept installed for the purposes of [<sup>F149</sup>an electronic communications code network], the operator of that [<sup>F151</sup>network] has the same powers in respect of that apparatus as if the order or scheme had not come into force; but—

- (a) the highway authority by whom the order or scheme was made, or



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- (b) any person entitled to land on which so much of the watercourse, towing path or way as is diverted in pursuance of the order or scheme was previously situated,  
shall be entitled to require the alteration of the apparatus.
- (11) Sub-paragraph (8) of paragraph 23 of the <sup>F148</sup>electronic communications code] (offence) shall be deemed to be omitted for the purposes of the application by this section of that paragraph to the Minister.
- (12) Paragraph 1(2) of the <sup>F148</sup>electronic communications code] (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this section as it applies for the purposes of that code.
- (13) Paragraph 21 of the <sup>F148</sup>electronic communications code] (restriction on removal of <sup>F150</sup>electronic communications apparatus) shall apply in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any <sup>F150</sup>electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.]

#### Textual Amendments

- F147** S. 334 substituted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 76(14)(15), **Sch. 5 para. 45**
- F148** Words in s. 334 substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(g)(2)(d)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F149** Words in s. 334 substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(g)(2)(a)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F150** Words in s. 334 substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by Communications Act 2003 (c. 21), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(g)(2)(c)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F151** Word in s. 334 substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(g)(2)(e)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F152** Words in s. 334(1) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F153** Words in s. 334(2) substituted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as it is not already in force, 15.7.2005 for W. for specified purposes and otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 21; S.I. 2003/272, **art. 2(a)(o)**; S.I. 2005/1314, **art. 3(d)(vii)**; S.I. 2007/1493, **art. 2**
- F154** Words in s. 334 substituted (25.7.2003 for specified purposes, 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(g)(2)(b)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F155** Words in s. 334(6) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8**, Part I, para. 16(2); S.I. 1992/2984, art. 2(2), **Sch. 2**
- F156** Words in s. 334(9) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Part I para. 16(3)**; S.I. 1992/2984, art. 2(2), **Sch. 2**

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### 335 Saving for minerals etc.

- (1) Notwithstanding anything in Part XII of this Act all mines and minerals of any description whatsoever under any highway vested in a highway authority by virtue of any provision contained in the said Part XII belong to the person who would be entitled thereto if the highway were not vested in the authority, and the person entitled to any such mine or minerals has the same powers of working and of getting the same as if the highway were not vested in a highway authority.
- (2) Nothing in this section affects any liability (whether civil or criminal) of the person entitled to any such mine or minerals in respect of damage to the highway resulting from the exercise of the said powers.

### 336 Saving for Coast Protection Act 1949.

Nothing in this Act authorises the excavation or removal of any materials the excavation or removal of which is prohibited by section 18 of the <sup>M25</sup>Coast Protection Act 1949 (which makes it unlawful except as therein mentioned to excavate or remove certain materials on, under or forming part of any portion of the seashore to which the provisions of that section are applied), or the carrying out of any operation in contravention of section 34 of that Act (which restricts the carrying out of certain operations detrimental to navigation).

#### Marginal Citations

M25 1949 c. 74.

### [<sup>F157</sup>337 Saving for obligation to obtain planning permission or development consent

Nothing in this Act authorises—

- (a) the carrying out of any development of land for which permission is required by virtue of section 57 of the Town and Country Planning Act 1990 and which is not authorised by permission granted or deemed to be granted under or for the purposes of Part 3 of that Act; or
- (b) the carrying out of any development for which development consent is required under the Planning Act 2008 and for which development consent has not been granted under that Act.]

#### Textual Amendments

**F157** S. 337 substituted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), ss. 36, 241, [Sch. 2 para. 30](#) (with s. 226); [S.I. 2010/101](#), [art. 2](#) (with [art. 6](#))

### 338 Saving for works, etc., of dock, harbour and canal undertakers.

- (1) Subject to the provisions of this section, nothing in any of the provisions of this Act to which this section applies authorises a highway authority or council, without the consent of the dock, harbour or canal undertakers concerned—
  - (a) to execute any works in, across, or under any dock, harbour, basin, wharf, quay or lock; or

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- (b) to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof.
- (2) A consent required for the purposes of subsection (1) above shall not be unreasonably withheld, and if any question arises whether the withholding of a consent is unreasonable either party may require it to be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.
- (3) On an arbitration under this section, the arbitrator shall determine—
- (a) whether any works which the highway authority or council propose to execute are such works as under subsection (1) above they are not entitled to execute without the consent of the undertakers concerned; and
  - (b) if they are such works, whether the injury, if any, to the undertakers will be of such a nature as to admit of being fully compensated by money; and
  - (c) if the works are of such a nature, the conditions subject to which the authority or council may execute the works, including the amount of the compensation, if any, to be paid by them to the undertakers.

If the arbitrator determines that the proposed works are such works as the highway authority or council are not entitled to execute without the consent of the undertakers and that the works would cause injury to the undertakers of such a nature as not to admit of being fully compensated by money, the authority or council shall not proceed to execute the works; but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator determines.

- (4) For the purposes of this section, dock, harbour and canal undertakers are to be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of navigating on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof.
- (5) This section applies to section 230(7) and section 294 above and to the provisions specified in Schedule 22 of this Act, but subsections (2) and (3) above do not apply as respect a consent required in relation to section 230(7).
- (6) In this section “canal” includes inland navigation.

### **339 Saving for works etc. of drainage authorities etc.**

- (1) Subject to the provisions of this section, nothing in any of the provisions of this Act to which this section applies authorises a highway authority or any other person to use or interfere with any watercourse (including the banks thereof), or any drainage or other works, vested in or under the control of [<sup>F158</sup>the National Rivers Authority] or other drainage body within the meaning of the [<sup>F159</sup>Land Drainage Act 1991] without the consent of [<sup>F160</sup>the National Rivers Authority or that] body.
- (2) A consent required for the purposes of subsection (1) above shall not be unreasonably withheld, and if any question arises whether the withholding of a consent is unreasonable either party may require it to be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

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- (3) This section applies to sections 45, 100, 101, 110, 294 and 299 above and to the provisions specified in Schedule 22 to this Act.
- (4) In its application to sections 100, 110, and 299 above this section applies in relation to a navigation authority as it applies in relation to [<sup>F159</sup>the National Rivers Authority] or other drainage body within the meaning of the [<sup>F161</sup>Land Drainage Act 1991].

#### Textual Amendments

- F158** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(13)(a)(i), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), **58**
- F159** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(13)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F160** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(13)(a)(ii), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F161** Words in s. 339(1)(4) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2, 4(2), **Sch. 1 para. 36(2)**

### 340 Preservation of amendments.

- (1) Notwithstanding the repeal by this Act of the <sup>M26</sup>Highways Act 1959—
  - (a) subsection (10) of section 3 of the <sup>M27</sup>Parish Councils Act 1957 (which was inserted by section 310 of the Highways Act 1959 and defines “road” for the purposes of the said section 3) continues to have effect, but subject to the amendments made to that subsection, in consequence of this Act, by Schedule 24 to this Act;
  - (b) the enactments mentioned in Schedule 22 to the said Act of 1959 continue to have effect with the amendments there made but subject, in the case of such of those enactments as are mentioned in Schedule 24 to this Act, to the amendments made, in consequence of this Act, by the said Schedule 24.
- (2) Notwithstanding the repeal by this Act of the <sup>M28</sup>Highways Act 1971 (referred to below as “the 1971 Act”)—
  - <sup>F162</sup>(a) .....
  - (b) section 3(6) of the <sup>M29</sup>New Forest Act 1964 (which provides for the fencing of a source of danger in the New Forest) continues to have effect with the amendment made by section 34(2) of the 1971 Act;
  - <sup>F163</sup>(c) .....
  - <sup>F164</sup>(d) .....
  - <sup>F165</sup>(e) .....

#### Textual Amendments

- F162** S. 340(2)(a) repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107), s. 146, **Sch. 14**
- F163** S. 340(2)(c) repealed by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, **Sch. 6 Pt. I**
- F164** S. 340(2)(d) repealed by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73, **Sch. 17 Pt. II**
- F165** S. 340(2)(e) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch.9**; S.I. 1992/2984, art. 2(2), **Sch.2**

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#### **Marginal Citations**

- M26** 1959 c. 25.  
**M27** 1957 c. 42.  
**M28** 1971 c. 41.  
**M29** 1964 c. 83.

### **341 Amendment of section 303 of Public Health Act 1875.**

In section 303 of the <sup>M30</sup>Public Health Act 1875 (power of Secretary of State to repeal and alter local Acts by means of provisional orders), the reference to any local Act which relates to the same subject matters as that Act is to be construed as including a reference to any local Act which relates to the same subject matters as the following provisions of this Act, namely, sections 288, 294, 312, 338, 339 and the provisions specified in Schedule 22 to this Act.

#### **Marginal Citations**

- M30** 1875 c. 55.

### <sup>X1</sup>**342 Amendment of section 41 of the Countryside Act 1968.**

In section 41 of the Countryside Act 1968 <sup>M31</sup>—

- (a) in subsection (1), at the end of paragraph (c) insert “or” and after that paragraph insert—

“(d) a trunk road picnic area as respects which functions of the Minister stand delegated to the local authority under section 113(1) of the Highways Act 1980, or are functions of the local authority by virtue of an agreement under section 113(3) of that Act.”;

- (b) after subsection (1) insert—

“(1A) The power of a local authority under subsection (1)(d) above is exercisable only in so far as any conditions attached to the relevant delegation or, as the case may be, included in the relevant agreement do not otherwise provide.”.

#### **Editorial Information**

- X1** The text of s. 342 is in the form in which it was originally enacted; it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

- M31** 1968 c.41.

### **343 <sup>X2</sup>Transitional provisions, amendments and repeals.**

(1) Schedule 23 to this Act, which contains transitional provisions, has effect.

<sup>X3</sup>(2) The enactments specified in Schedule 24 to this Act are, in consequence of this Act, amended as there provided.

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- <sup>x3</sup>(3) The enactments specified in Schedule 25 to this Act are repealed to the extent specified in the third column of that Schedule.

#### Editorial Information

- X2** Unreliable marginal note
- X3** The text of s. 343(2)(3) is in the form in which it was originally enacted; it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 344 Application to Isles of Scilly.

- (1) Subject to the provisions of this section, the provisions of this Act specified in subsection (2) below do not extend to the Isles of Scilly.
- (2) The provisions referred to in subsection (1) above are—
  - (a) sections 25 to 29, 118 to 121, 134, 135, 146, 147, [<sup>F166</sup>147ZA,] 275 and 293; and
  - (b) sections 219 to 225 and 229.
- (3) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide that all or any of the provisions of this Act specified in subsection (2) (a) above are, subject to such modifications as may be specified in the order, to apply in the Isles of Scilly as if those Isles were a separate county.
- (4) The Secretary of State may, on the application of the Council of the Isles of Scilly, by order provide that the provisions of this Act specified in subsection (2)(b) above are to apply in those Isles and, on the making of an order under this subsection, any reference in the said provisions to the street works authority is to be construed as a reference to the Council of those Isles.
- (5) On the making of an order under subsection (4) above the Council of the Isles of Scilly shall take such steps for notifying the public of its having been made as the Secretary of State may direct.
- (6) Section 232 above, in its application in the Isles of Scilly, has effect subject to the modification that any reference therein to the street works authority or the prospective street works authority is to be construed as a reference to the Council of those Isles, and any regulations made under that section are in their application to those Isles to be construed accordingly.
- (7) Sections 9, 97, 98, 270 and 301 of this Act, in their application in relation to the Isles of Scilly, have effect subject to such modifications as the Secretary of State may by order direct.

#### Textual Amendments

- F166** Words in s. 344(2)(a) inserted (1.4.2007 for W. and 1.10.2007 for E.) by 2000 c. 37, s. 69(5); S.I. 2006/3257, art. 3; S.I. 2007/2595, art. 2

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**345 Short title, commencement and extent.**

- (1) This Act may be cited as the Highways Act 1980.
- (2) This Act shall come into force on 1st January 1981.
- (3) This Act (except paragraph 18(c) of Schedule 24) extends to England and Wales only.



**Status:**

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**Changes to legislation:**

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