



Highways Act 1980

1980 CHAPTER 66

PART XIV

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

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—

^{F1}
.....

“Act of 1965” means the ^{M1}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 ^{F2} . . . 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 [^{F3}(other than pedal cycles which are motor vehicles within the meaning of [^{F4}the Road Traffic Act 1988]) with or without a right of way on foot;

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

“drainage authority” means [^{F5}the National Rivers Authority] or an internal drainage board;

[^{F6}“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;]

^{F7}

“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;

[^{F8}“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;

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

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“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;

[^{F9}“GLA road” shall be construed in accordance with section 14D(1) above;]

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.....

“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 ^{M2}Public Health Act 1875 or under section 3 of the ^{M3}Parish Councils Act 1957 or any corresponding local enactment;

“local authority” means the council of a district or London borough or the Common Council [^{F11}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 [^{F12}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;

^{F13}
.....

“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 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

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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;

^{F14}

“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;

“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 ^{F15} . . . , gas, ^{F16} . . . 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 ^{F17} . . . , 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;

[^{F18}“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;

“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;

[^{F19}“road hump” has the meaning provided by section 90F(1);]

“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;

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“special enactment” means any enactment other than a public general enactment;
“special road” means a highway, or a proposed highway, which is a special road in accordance with section 16 above;

“special road authority” has the meaning provided by section 16(4) 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 ^{F21} . . . , ^{F22} . . . , ^{F23} . . . or hydraulic power,

and “statutory undertaking” is to be construed accordingly;

[^{F24}“street” has the same meaning as in Part III of the New Roads and Street Works Act 1991;]

[^{F25}“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;

[^{F26}“traffic calming works”, in relation to a highway, means works affecting the movement of vehicular and other traffic for the purpose of promoting safety or preserving or improving the environment through which the highway runs]

“traffic sign” has the same meaning as in [^{F27}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;

“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 or under any other enactment;

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

[^{F28}“universal service provider” has the same meaning as in the Postal Services Act 2000; and references to the provision of a universal postal service shall be construed in accordance with that Act;]

[^{F29}“water undertakers” means the National Rivers Authority or a water undertaker.]

[^{F30}“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 either “bridleway” or “footpath”, 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.

[^{F31}(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

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- (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.
- [^{F32}(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 ^{F33} . . . 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, the British Waterways Board, [^{F34}London Regional Transport], ^{F35} . . . ^{F36} . . . any wholly-owned subsidiary (within the meaning of the ^{M4}Transport Act 1968) or joint subsidiary (within the meaning of section 51(5) of that Act) of any of those bodies [^{F37}other than London Regional Transport, or any subsidiary (whether wholly-owned or not) of London Regional Transport (within the meaning of the London Regional Transport Act 1984)].
- [^{F38}(4A) Any reference in this Act to apparatus belonging to, or used or maintained by the operator of a telecommunications code system shall have effect as a reference to telecommunication apparatus kept installed for the purposes of that system.]
- (5) In relation to that part of the road constructed by the Minister of Transport along the line described in Schedule 1 to the ^{M5}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 [^{F39}by the Secretary of State for Transport].

Textual Amendments

- F1** Definition repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 6 Pt. 1**
- F2** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F3** Words inserted by [Cycle Tracks Act 1984 \(c. 38, SIF 59\)](#), **s. 1(1)(2)**
- F4** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, **Sch. 3 para. 21(2)**
- F5** 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\(12\)\(a\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**
- F6** 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)**
- F7** Definition repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(3)(4), [Sch. 17 para. 35\(1\)](#), **Sch. 18**
- F8** Definition inserted by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), **s. 2**
- F9** 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**

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- F10** Definition repealed by Gas Act 1986 (c. 44, SIF 44:2), **s. 67(4) Sch. 9 Pt. I**
- F11** 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**.
- F12** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 45(17)**
- F13** Definition repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F14** 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)**
- F15** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F16** 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
- F17** Words in s. 329(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV Group 3**
- F18** 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.**
- F19** Definition inserted by Transport Act 1981 (c. 56, SIF 126), s. 32, **Sch. 10 Pt. I para. 3**
- F20** 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. 1
- F21** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F22** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F23** 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
- F24** 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. I para. 15(2)**; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F25** 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. I para. 15(3)**; S.I. 1992/2984, art. 2(2), **Sch. 2**
- F26** S. 329(1): definition of "traffic calming works" in s. 329 inserted (16.5.1992) by Traffic Calming Act 1992 (c. 30), **ss. 1(3), 3**
- F27** Words substituted by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, **Sch. 13 para. 47**
- F28** 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)**
- F29** 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**
- F30** Definition in s. 329(1) added (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 27(2)(b)** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**.
- F31** S. 329(2A) inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 27(3)** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**.
- F32** S. 329(3A) inserted (1.10.1995) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 27(4)** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/2490, art. 4(1), **Sch. 2**.
- F33** Word expressed to be repealed by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(b), **Sch. 7**
- F34** Words substituted by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 71(3)(a)**, Sch. 6 para. 21(a)
- F35** Words repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. X**
- F36** Word repealed by London Regional Transport Act 1984 (c. 32, SIF 126), s. 71(3)(a), **Sch. 6 para. 21(b)**
- F37** Words added by London Regional Transport Act 1984 (c. 32, SIF 126), **s. 71(3)(a)**, Sch. 6 para. 21(c)
- F38** S. 329(4A) inserted by Telecommunications Act 1984 (c. 12, SIF 96), s. 109, Sch. 4 para. 76(13), **Sch. 5 para. 45**
- F39** Words substituted by S.I. 1981/238, **art. 3(1)**

Marginal Citations

- M1** 1965 c. 56.

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M2	1875 c. 55.
M3	1957 c. 42.
M4	1968 c. 73.
M5	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 [^{F40}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 [^{F40}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.

^{F41}(3)

Textual Amendments

- F40** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 41**
- F41** [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

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an improvement by reason only of the fact that it involves diminution or removal of a footway thereon.

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