

*Status: Point in time view as at 01/02/1991.*

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## SCHEDULES

### SCHEDULE 7

Sections 42, 50, 230.

#### MAINTENANCE OF CERTAIN HIGHWAYS BY DISTRICT COUNCILS

#### PART I

##### REGULATIONS GOVERNING EXERCISE OF POWERS

- 1 Before exercising the relevant powers in relation to any highway in respect of which those powers are exercisable, the council of a district shall give notice of their intention to do so to the county council who are the local highway authority, specifying the highway or highways concerned.

In this Schedule “the relevant powers” means the powers of a [<sup>F1</sup>non-metropolitan] district council under sections 42, 50(2) and 230(7) of this Act.

#### Textual Amendments

**F1** Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 42](#)

- 2 If the county council are of the opinion that any highway specified in a notice under paragraph 1 above does not fall within the relevant powers, they may, at any time within the period of 6 weeks beginning with the date on which they receive the notice, serve a counter-notice on the district council disputing the right of the district council to exercise in relation to the highway concerned any of the relevant powers; and if the dispute is not resolved by the county council and the district council within 6 weeks after the receipt of the counter-notice by the district council the dispute shall be referred to the Minister for his decision.

- 3 (1) The relevant powers with respect to a highway specified in a notice under paragraph 1 above become exercisable—
- (a) where no counter-notice is served in respect of the highway under paragraph 2 above, at the expiry of the period of 6 weeks first specified in that paragraph; and
  - (b) where such a counter-notice is served, when the dispute is resolved in favour of the district council by the councils concerned or, as the case may be, when the Minister’s decision on the dispute in favour of the district council is received by the district council;

but if a dispute resulting from the service of a counter-notice under paragraph 2 above is resolved or decided by the Minister against the district council, the relevant powers are not exercisable by the district council in respect of the highway concerned and no further notice under paragraph 1 above may be given by the district council in respect of that highway unless its status is changed or there is such a change in the character of the road as to give reasonable ground for believing that it has become an urban road.

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- (2) In the event that a highway in respect of which the relevant powers have become exercisable in accordance with sub-paragraph (1) above or paragraph 4(2) below becomes a trunk road or classified road, the relevant powers thereupon cease with respect to that highway.
- 4 (1) Without prejudice to paragraph 3(2) above, the relevant powers cease to be exercisable with respect to any highway—
- (a) on such day as may be agreed between the district council and the county council who are the local highway authority for the highway; or
  - (b) 6 months after the receipt by that county council of a notice from the district council stating the intention of the district council to cease to exercise those powers;
- and any such agreement or notice may relate either to such highway or highways as may be specified in the agreement or notice or to all the highways in respect of which the relevant powers are exercisable at the time the agreement is made, or as the case may be, the notice is served.
- (2) Where the relevant powers have ceased to be exercisable with respect to a highway by virtue of an agreement or notice under sub-paragraph (1) above, those powers shall not, except with the consent of the county council who are the highway authority for that highway, again become exercisable with respect to that highway at any time within the period of 10 years beginning with the day on which the powers cease to be so exercisable; but if, at any time after the expiry of that period or, with the consent of the county council, before the expiry, the district council intend again to exercise those powers with respect to that highway, paragraphs 2 and 3(1) above do not apply and those powers become exercisable at the expiry of the period of 6 weeks beginning with the date on which the county council who are the highway authority receive notice of the district council's intention under paragraph 1 above.
- (3) If, by virtue of paragraph 3(2) or sub-paragraph (1) above, the relevant powers cease to be exercisable with respect to any highway, the cessation does not affect the continued existence, on and after the day on which the powers cease to be so exercisable, of any rights or liabilities of the district council in respect of the highway which are in existence immediately before that day.
- 5 (1) Every district council shall prepare and keep up to date a list of the highways in respect of which the relevant powers are for the time being exercisable by them, and the council shall make the list available for public inspection free of charge at all reasonable hours at the offices of the council.
- (2) A copy of any list of highways prepared by a district council under sub-paragraph (1) above and of all amendments for the time being made thereto shall be furnished by the district council to the county council who are the highway authority for the highways concerned.
- (3) Except in so far as the relevant powers with respect to a highway cease to be exercisable by a district council in accordance with paragraph 3(2) or paragraph 4(1) above, an entry in the list kept under this paragraph is conclusive evidence that the highway specified in the entry is one in respect of which the relevant powers are exercisable by the district council.
- 6 A statement by or on behalf of the Minister that a highway is or is not a classified road is conclusive for the purposes of sections 42 and 230(7) of this Act and of this Schedule.

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- 7 A district council shall indemnify a county council in respect of any claim made against the county council, as highway authority,—
- (a) in respect of a failure to maintain a highway at a time when the relevant powers were exercisable by the district council with respect to the highway, or
  - (b) arising out of any works of maintenance on a highway carried out by the district council in exercise of those powers.

## PART II

### REIMBURSEMENT BY HIGHWAY AUTHORITIES OF CERTAIN EXPENSES OF DISTRICT COUNCILS

- 8 The provisions of this Part of this Schedule apply where a district council are exercising the power under section 42 of this Act in relation to any highways within their district, and references in the following provisions of this Part of this Schedule to a district council and to their maintenance power are to be construed accordingly.
- 9 On or before 15th December in each year the district council shall submit to the county council for their approval a detailed estimate of the cost for the ensuing financial year of the maintenance of every highway in respect of which their maintenance power is exercisable, and on any such estimate being approved by the county council, either with or without modifications, the amount to be paid by the county council under section 42(3) of this Act is, subject to paragraph 10 below, the amount of that estimate, or of that estimate as amended by any supplementary estimate submitted to and approved by the county council, or such less sum as may have been actually expended by the district council on the highways in question during that financial year.
- 10 The county council are not liable to make a payment towards the cost of the maintenance of any highway until they are satisfied, by a report of such one of their officers or such other person as they may appoint for the purpose, that the works of maintenance are being or have been properly executed.
- 11 The district council may at any time, and from time to time, submit to the county council for their approval a detailed supplementary estimate.
- 12 A county council shall not unreasonably withhold approval of an estimate submitted to them under this Part of this Schedule, and any question whether their approval has been unreasonably withheld, or whether any works of maintenance are being or have been properly executed, or as to the liability of a county council to make a payment under section 42(3) of this Act, shall be determined by the Minister.

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