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*Changes to legislation: Highways Act 1980 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1 **E+W**

Sections 10, 14, 16, 18, 106, 108,  
Schedule 23 para. 5.

#### PROCEDURES FOR MAKING OR CONFIRMING CERTAIN ORDERS AND SCHEMES

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

- C1** Functions under paras. 7, 8, 14, 15, 18, 19 and 21 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\(1\)\(b\)](#)

### PART I **E+W**

#### ORDERS

- 1 Where the Minister proposes to make an order under any of the following provisions of this Act, that is to say, section 10, section 18, section 106 or section 108(1), or an order relating to a trunk road<sup>F1</sup> for which he is the highway authority ] under section 14 of this Act, he shall prepare a draft of the order and shall publish in at least one local newspaper circulating in the area in which any highway, or any proposed highway, to which the order relates is situated, and in the London Gazette, a notice—
- stating the general effect of the proposed order;
  - naming a place in the said area where a copy of the draft order and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than 6 weeks from the date of the publication of the notice; and
  - stating that, within the said period, any person may by notice to the Minister object to the making of the order.

##### Textual Amendments

- F1** Words in [Sch. 1 para. 1](#) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 63\(2\)](#); [S.I. 2015/481](#), reg. 2(a)

- 2 Where an order under section 18 or section 108(1) of this Act, or an order relating<sup>F2</sup> a trunk road for which a strategic highways company is the highway authority or to ] to a classified road under section 14 of this Act, is submitted to the Minister by a<sup>F3</sup>... highway authority, that authority shall publish, in the manner specified in paragraph 1 above, the notice there referred to, and that paragraph shall have effect in relation to a notice published by any such authority as if, for the references to the draft order and the making of the order, there were substituted

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references to the order as submitted to the Minister and the confirmation of the order respectively.

#### Textual Amendments

- F2** Words in **Sch. 1 para. 2** inserted (5.3.2015) by **Infrastructure Act 2015 (c. 7)**, s. 57(1), **Sch. 1 para. 63(3)(a)**; S.I. 2015/481, reg. 2(a)
- F3** Word in **Sch. 1 para. 2** omitted (5.3.2015) by virtue of **Infrastructure Act 2015 (c. 7)**, s. 57(1), **Sch. 1 para. 63(3)(b)**; S.I. 2015/481, reg. 2(a)

- 3 Not later than the day on which the said notice is published or, if it is published on 2 or more days, the day on which it is first published, the Minister<sup>F4</sup>, the strategic highways company ] or the local highway authority, as the case may be, shall serve on each person specified in such head or heads of the Table set out at the end of this paragraph as apply in the case of the order in question—
- (a) a copy of the said notice;
  - (b) a copy of the draft order or of the order, as the case may be; and
  - (c) a copy of any map or plan referred to in the draft order or the order relating to a matter which, in the opinion of the Minister<sup>F5</sup>, of the strategic highways company] or of the local highway authority, as the case may be, is likely to affect the said person.

#### Textual Amendments

- F4** Words in **Sch. 1 para. 3** inserted (5.3.2015) by **Infrastructure Act 2015 (c. 7)**, s. 57(1), **Sch. 1 para. 63(4)(a)**; S.I. 2015/481, reg. 2(a)
- F5** Words in **Sch. 1 para. 3** inserted (5.3.2015) by **Infrastructure Act 2015 (c. 7)**, s. 57(1), **Sch. 1 para. 63(4)(b)**; S.I. 2015/481, reg. 2(a)

### TABLE

#### *Persons to be served with copies of the documents specified in paragraph 3 of this Schedule*

- (i) In the case of every order proposed to be made under section 10 or section 106 of this Act, and every order relating to a trunk road proposed to be made under section 14 of this Act—

Every council in whose area any highway or proposed highway to which the proposed order relates is situated.

- (ii) In the case of an order proposed to be made under section 10, 14, 18 or 108(1) of this Act which provides for the construction of a bridge over or tunnel under navigable waters or for the diversion of a navigable watercourse, and in the case of every order proposed to be made under section 106 of this Act—

[<sup>F6</sup>[<sup>F7</sup>The Environment Agency, the Natural Resources Body for Wales] and every navigation authority] concerned with or having jurisdiction over the waters affected or the area comprising those waters or that watercourse. . . <sup>F8</sup>

- (iii) In the case of an order proposed to be made under section 18 of this Act or an order relating to a classified road, proposed to be made under section 14 of this Act, which (in either case) authorises the carrying out of any works—

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Every council in whose area any works authorised by the proposed order are to be carried out.

- (iv) In the case of an order under section 18 of this Act, or an order relating to a classified road under section 14 of this Act, which (in either case) provides for transferring any highway from one highway authority to another—

The highway authorities to and from whom the highway is to be transferred.

- (v) In the case of an order proposed to be made under section 14 or 18 of this Act which authorises the stopping up of any private means of access to any premises—

The owner (within the meaning of section 21 of this Act) and the occupier of those premises.

- (vi) In the case of an order proposed to be made under section 14 or 18 of this Act which authorises the stopping up or diversion of any highway—

The council or, in the case of a parish not having a separate council, the parish meeting, of every parish in which the highway is situated and the council of every community in which the highway is situated.

Any public utility undertakers having apparatus under, in, upon, over, along or across the highway.

#### Textual Amendments

- F6** 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\(14\)\(a\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**
- F7** Words in [Sch. 1 para. 3 table](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 168(2)** (with [Sch. 7](#))
- F8** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**

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

- C2** [Sch. 1 para. 3 Table para. \(i\)](#) modified (22.7.2008) by [Transport for London Act 2008 \(c. i\)](#), ss. 1, **31(2)(b)** (with ss. [31\(3\)](#), [48](#))

#### Textual Amendments

- F6** 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\(14\)\(a\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), **58**
- F7** Words in [Sch. 1 para. 3 table](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 168(2)** (with [Sch. 7](#))
- F8** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**

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

- C2** [Sch. 1 para. 3 Table para. \(i\)](#) modified (22.7.2008) by [Transport for London Act 2008 \(c. i\)](#), ss. 1, **31(2)(b)** (with ss. [31\(3\)](#), [48](#))

- 4 Where the proposed order authorises the stopping up or diversion of a highway, the Minister<sup>F9</sup>, the strategic highways company ] or the local highway authority, as the case may be, shall, not later than the day on which the said notice is published or, if it is published on 2 or more days, the day on which it is first published, cause a copy of it to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order.

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#### Textual Amendments

- F9** Words in [Sch. 1 para. 4](#) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 63\(5\)](#); [S.I. 2015/481](#), reg. 2(a)

- 5 At any time, whether before or after the expiration of the period specified in the notice in pursuance of paragraph (1)(b) above, the Minister<sup>F10</sup>, the strategic highways company] or the local highway authority, as the case may be, by whom the notice was published may, by a subsequent notice published in at least one local newspaper circulating in the area in which any highway, or any proposed highway, to which the proposed order relates is situated, and in the London Gazette, substitute for the period specified in the first notice such longer period as may be specified in the subsequent notice.

#### Textual Amendments

- F10** Words in [Sch. 1 para. 5](#) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 63\(5\)](#); [S.I. 2015/481](#), reg. 2(a)

- 6 Where the period specified in a notice published by the Minister<sup>F11</sup>, a strategic highways company] or a local highway authority under paragraph 1 above is extended by a notice published under paragraph 5 above, paragraph 3 above shall apply as if the notice under paragraph 5 were a notice under paragraph 1, but the foregoing provision shall not be taken as requiring a copy of the proposed order or of any map or plan referred to in that order to be served on a person on whom it was previously served.

#### Textual Amendments

- F11** Words in [Sch. 1 para. 6](#) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 63\(6\)](#); [S.I. 2015/481](#), reg. 2(a)

- 7 (1) If any objection to the proposed order is received by the Minister—
- (a) from any person on whom a copy of the notice is required to be served under paragraph 3 above within the period specified in the notice in pursuance of paragraph (1)(b) above or, if that period has been extended by a subsequent notice under paragraph 5 above, within the period specified in the subsequent notice, or
  - (b) from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be,
- and the objection is not withdrawn, then—
- (i) in the case of an order proposed to be made by the Minister, the Minister and the Secretary of State acting jointly, or
  - (ii) in the case of an order made by a <sup>F12</sup>... highway authority and submitted to the Minister, the Minister,
- shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.
- (2) Except where the objection is made by a person entitled to receive a copy of the notice relating to the order in question by virtue of paragraph 3 above and such one or more of the following heads of the Table set out at the end of that paragraph, that

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is to say, heads (i), (ii), (iii) and (iv), as apply in the case of that order, the Minister and the Secretary of State acting jointly or, as the case may be, the Minister may, if satisfied that in the circumstances of the case the holding of an inquiry under this paragraph is unnecessary, dispense with such an inquiry.

#### Textual Amendments

**F12** Word in [Sch. 1 para. 7\(1\)\(ii\)](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 63\(7\)](#); S.I. 2015/481, reg. 2(a)

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

**C3** [Sch. 1 para. 7](#): 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](#))

- 8 (1) After any objections to the proposed order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry have been considered—
- (a) in the case of an order proposed to be made by the Minister, by the Minister and the Secretary of State acting jointly, or
  - (b) in the case of an order made by a <sup>F13</sup>... highway authority and submitted to the Minister, by the Minister,
- the Minister may make or confirm the order either without modification or subject to such modifications as he thinks fit.
- (2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as the Minister thinks fit) while deferring consideration of the remaining part; and where the Minister makes or confirms part of the order, that part and the remaining part are each to be deemed for the purposes of this Act to be a separate order.
- (3) Where the Minister proposes to exercise the power to make or confirm the order subject to modifications, and the modifications will in his opinion make a substantial change in the order—
- (a) he shall notify any person who appears to him to be likely to be affected by the proposed modifications;
  - (b) he shall give that person an opportunity of making representations to him with respect to the modifications within such reasonable period as he may specify; and
  - (c) before he exercises the power, the Minister or, in the case of an order proposed to be made by the Minister, the Minister and the Secretary of State acting jointly shall consider any representations made to the Minister with respect to the proposed modifications within that period.

#### Textual Amendments

**F13** Word in [Sch. 1 para. 8\(1\)\(b\)](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 63\(7\)](#); S.I. 2015/481, reg. 2(a)

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

- C4** Sch. 1 para. 8: 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**)

- 9 In this Part of this Schedule references to a proposed order or an order proposed to be made include references to an order made by a<sup>F14</sup>... highway authority and submitted to the Minister.

**Textual Amendments**

- F14** Word in [Sch. 1 para. 9](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 63(7)**; S.I. 2015/481, reg. 2(a)

**PART II E+W**

SCHEMES UNDER SECTIONS 16 AND 106(3)

- 10 Where the Minister proposes to make a scheme under section 16 of this Act, or where a scheme under that section or section 106(3) of this Act is submitted to the Minister by a<sup>F15</sup>... highway authority, the Minister or that authority, as the case may be, shall publish in at least one local newspaper circulating in the area in which the special road, or, as the case may be, the site of the bridge or tunnel, to which the scheme relates is situated, and in the London Gazette, a notice—
- (a) stating the general effect of the proposed scheme;
  - (b) naming a place in the said area where a copy of a draft of the scheme or of the scheme as submitted to the Minister, as the case may be, and of any map or plan referred to in it may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than 6 weeks from the date of the publication of the notice; and
  - (c) stating that, within the said period, any person may by notice to the Minister object to the making or confirmation of the scheme.

**Textual Amendments**

- F15** Word in [Sch. 1 para. 10](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 63(7)**; S.I. 2015/481, reg. 2(a)

- 11 Not later than the day on which the said notice is published or, if it is published on 2 or more days, the day on which it is first published, the Minister or the [<sup>F16</sup>other] highway authority, as the case may be, shall serve a copy of it (together with a copy of the draft scheme or of the scheme, as the case may be, and of any map or plan referred to in it)—
- (a) on every council in whose area any part of the route of the special road or, as the case may be, the site of the bridge or tunnel is situated; and
  - (b) where the scheme provides for the construction of a bridge over or tunnel under any navigable waters, [<sup>F17</sup>on the Environment Agency, the Natural Resources Body for Wales and]<sup>F18</sup>[every navigation authority] concerned with or having jurisdiction over the waters affected or the area comprising those waters.



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#### Textual Amendments

- F16** Word in Sch. 1 para. 11 substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 63\(8\)](#); S.I. 2015/481, reg. 2(a)
- F17** Words in Sch. 1 para. 11(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 168\(3\)](#) (with Sch. 7)
- F18** 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\(14\)\(b\), Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#)

- 12 At any time, whether before or after the expiration of the period specified in the notice in pursuance of paragraph 10(b) above, the Minister or, as the case may be, the<sup>F19</sup>other ] highway authority by whom the notice was published may, by a subsequent notice published in at least one local newspaper circulating in the area in which the special road, or, as the case may be, the site of the bridge or tunnel, to which the proposed scheme relates is situated, and in the London Gazette, substitute for the period specified in the first notice such longer period as may be specified in the subsequent notice.

#### Textual Amendments

- F19** Word in [Sch. 1 para. 12](#) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 63\(9\)](#); S.I. 2015/481, reg. 2(a)

- 13 Where the period specified in a notice published by the Minister or <sup>F20</sup>another ] highway authority under paragraph 10 above is extended by a notice published under paragraph 12 above, paragraph 11 above, with the omission of the reference to a copy of the draft scheme or of the scheme and of any map or plan referred to in it, shall apply as if the notice under paragraph 12 were a notice under paragraph 10.

#### Textual Amendments

- F20** Word in [Sch. 1 para. 13](#) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 63\(10\)](#); S.I. 2015/481, reg. 2(a)

- 14 (1) If any objection to the proposed scheme is received by the Minister—
- (a) from any council or authority on whom a copy of the notice is required to be served under paragraph 11 above within the period specified in the notice in pursuance of paragraph 10(b) above or, if that period has been extended by a subsequent notice under paragraph 12 above, within the period specified in the subsequent notice, or
  - (b) from any other person appearing to him to be affected within the period specified in the notice or the subsequent notice, as the case may be,
- and the objection is not withdrawn, then—
- (i) in the case of a scheme proposed to be made by the Minister, the Minister and the Secretary of State acting jointly, or
  - (ii) in the case of a scheme made by a <sup>F21</sup>...highway authority and submitted to the Minister, the Minister,
- shall, subject to sub-paragraph (2) below, cause a local inquiry to be held.

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- (2) Except where the objection is made by any such council or authority as aforesaid, the Minister and the Secretary of State acting jointly or, as the case may be, the Minister may, if satisfied that in the circumstances of the case the holding of an inquiry under this paragraph is unnecessary, dispense with such an inquiry.

#### Textual Amendments

**F21** Word in [Sch. 1 para. 14\(1\)\(ii\)](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 63\(11\)](#); S.I. 2015/481, reg. 2(a)

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

**C5** [Sch. 1 para. 14](#): 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](#))

- 15 (1) After any objections to the proposed scheme which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry have been considered—
- (a) in the case of a scheme proposed to be made by the Minister, by the Minister and the Secretary of State acting jointly, or
  - (b) in the case of a scheme made by a <sup>F22</sup>...highway authority and submitted to the Minister, by the Minister,
- the Minister may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.
- (2) The power under this paragraph to make or confirm the scheme includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as the Minister thinks fit) while deferring consideration of the remaining part; and where the Minister makes or confirms part of the scheme, that part and the remaining part are each to be deemed for the purposes of this Act to be a separate scheme.
- (3) Where the Minister proposes to exercise the power to make or confirm the scheme subject to modifications, and the modifications will in his opinion make a substantial change in the scheme,—
- (a) he shall notify any person who appears to him to be likely to be affected by the proposed modifications;
  - (b) he shall give that person an opportunity of making representation to him with respect to the modifications within such reasonable period as he may specify; and
  - (c) before the Minister exercises the power, the Minister or, in the case of a scheme proposed to be made by the Minister, the Minister and the Secretary of State acting jointly shall consider any representations made to the Minister with respect to the proposed modifications within that period.

#### Textual Amendments

**F22** Word in [Sch. 1 para. 15\(1\)\(b\)](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 63\(11\)](#); S.I. 2015/481, reg. 2(a)



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

- C6 Sch. 1 para. 15: 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](#))

- 16 In this Part of this Schedule “proposed scheme” includes a scheme made by a <sup>F23</sup>... highway authority and submitted to the Minister.

**Textual Amendments**

- F23 Word in [Sch. 1 para. 16](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 63\(11\)](#); S.I. 2015/481, reg. 2(a)

**PART III E+W**

GENERAL

- 17 If, on or after publishing a notice required by Part I or Part II of this Schedule to be published in connection with the making or confirmation of an order or scheme, it appears to the Minister or a [<sup>F24</sup>other ] highway authority desirable to do so, he or they shall take such steps, in addition to those required by the said Part I or Part II to be taken, as will in his or their opinion secure that additional publicity is given in the area affected by the order or scheme to the proposals contained in it.

**Textual Amendments**

- F24 Word in [Sch. 1 para. 17](#) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 63\(12\)](#); S.I. 2015/481, reg. 2(a)

- 18 (1) Any person who objects to the making or confirmation of an order or scheme pursuant to this Schedule shall include in the notice of objection a statement of the grounds of objection.
- (2) If any notice of objection to the making or confirmation of an order or scheme pursuant to this Schedule does not state the grounds of objection the Minister or, in the case of an order or scheme proposed to be made by the Minister, the Minister and the Secretary of State acting jointly may disregard the objection.

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

- C7 Sch. 1 para. 18: 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](#))

- 19 (1) Where objections to the making or confirmation of an order or scheme pursuant to this Schedule are to be the subject of a local inquiry, the Minister or, in the case of an order or scheme proposed to be made by the Minister, the Minister and the Secretary of State acting jointly may, by notice served on the persons making such objections or by the notice announcing the holding of the inquiry, direct that any person who intends at the inquiry to submit—
- (a) that any highway or proposed highway to which the order or scheme in question relates should follow an alternative route, or

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- (b) that, instead of improving, diverting or altering a highway in accordance with the order in question, a new highway should be constructed on a particular route.

shall send to the Minister within such period as may be specified in the notice, being a period not less than 14 days and ending not less than 14 days before the date fixed for the holding of the inquiry, sufficient information about the alternative route or the route of the new highway, as the case may be, to enable it to be identified.

- (2) Where the Minister or the Minister and the Secretary of State acting jointly have given a direction under sub-paragraph (1) above in relation to an inquiry, the person holding the inquiry and the Minister or, as the case may be, those Ministers may disregard so much of any objection as consists of a submission to which the direction applies unless the person making the objection has complied with the direction.

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

**C8** Sch. 1 para. 19: 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**)

- 20 Proceedings required by this Schedule to be taken for the purposes of an order relating to a trunk road under section 14 of this Act or for the purposes of an order relating to a special road under section 18 of this Act may be taken concurrently (so far as practicable) with proceedings required by this Schedule to be taken for the purposes of an order under section 10 of this Act or, as the case may be, for the purposes of a scheme under section 16 of this Act, relating to that road.

- 21 Where—

- (a) proceedings required to be taken for the purposes of an order relating to a trunk road under section 14 of this Act are taken after the making by the Minister of an order relating to that road under section 10 of this Act, or
- (b) proceedings required to be taken for the purposes of an order relating to a special road under section 18 of this Act are taken after the making or confirmation by the Minister of a scheme relating to that road under section 16 of this Act,

the Minister or, in the case of an order proposed to be made by the Minister, the Minister and the Secretary of State acting jointly may disregard any objection to the order under section 14 or 18 which in his or their opinion amounts in substance to an objection to the order under section 10 or, as the case may be, to the scheme under section 16.

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

**C9** Sch. 1 para. 21: 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**)

*Status: Point in time view as at 05/12/2017.*

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## SCHEDULE 2 **E+W**

Sections 10, 14, 16, 18, 106, 108, 124,  
Schedule 23, paras. 4, 5.

### VALIDITY AND DATE OF OPERATION OF CERTAIN SCHEMES AND ORDERS

- 1 (1) Subject to sub-paragraph (2) below, as soon as may be after a scheme or order to which this Schedule applies has been made or confirmed by the Minister, he shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the scheme or order has been made or confirmed, and naming a place where a copy of it may be inspected free of charge at all reasonable hours.
- (2) There is no requirement under sub-paragraph (1) above to publish a notice in the London Gazette of the making or confirmation of an order under section 124 of this Act; and if an order under that section is one that has been confirmed by a local highway authority the notice relating to it required to be published under sub-paragraph (1) above (otherwise than in the London Gazette) shall be published by that authority.
- 2 If a person aggrieved by a scheme or order to which this Schedule applies desires to question the validity of it, or of any provision contained in it, on the ground that it is not within the powers of this Act or on the ground that any requirement of this Act or of regulations made under this Act has not been complied with in relation to the scheme or order, he may, within 6 weeks from the date on which the notice required by paragraph 1 above is first published, make an application for the purpose to the High Court.
- 3 On any such application, the Court—
  - (a) may by interim order suspend the operation of the scheme or order, or of any provision contained in it, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied that the scheme or order, or any provision contained in it, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid, may quash the scheme or order or any provision contained in it, either generally or in so far as it affects any property of the applicant.
- 4 Subject to paragraph 3 above, a scheme or order to which this Schedule applies shall not, either before or after it has been made or confirmed, be questioned in any legal proceedings whatever, and shall become operative on the date on which the notice required by paragraph 1 above is first published, or on such later date, if any, as may be specified in the scheme or order.
- 5 In relation to any scheme or order to which this Schedule applies that is subject to special parliamentary procedure, the foregoing provisions of this Schedule have effect subject to the following modifications:—
  - (a) if the scheme or order is confirmed by Act of Parliament under section 6 of the <sup>M1</sup>Statutory Orders (Special Procedure) Act 1945, paragraphs 2 to 4 do not apply; and
  - (b) in any other case, paragraph 2 has effect as if, for the reference in it to the date on which the notice required by paragraph 1 is first published, there were substituted a reference to the date on which the scheme or order becomes operative under the said Act of 1945, and paragraph 4 has effect as

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if the words from “and shall become operative” to the end of the paragraph were omitted.

**Marginal Citations**

**M1** [1945 c. 18 \(9 & 10 Geo. 6\).](#)

SCHEDULE 3 **E+W**

Section 11.

PROVISIONS OF THIS ACT REFERRED TO IN SECTION 11

PART I **E+W**

*Provisions conferring functions exercisable in relation to trunk roads by the Minister<sup>F25</sup> or a strategic highways company] exclusively*

**Textual Amendments**

**F25** Words in Sch. 3 Pt. I heading inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 64](#); S.I. 2015/481, reg. 2(a)

- 1 *Provisions contained in Part IV.* Section 38(1) and section 57(2).
- 2 *Provisions contained in Part V.* Section 73.
- 3 *Provisions contained in Part IX.* Section 133, section 171(1) and sections 176 and 178.
- 4 *Provisions contained in part XII.* Sections 241 and 271.

PART II **E+W**

*Provisions conferring functions exercisable in relation to trunk roads by the Minister<sup>F26</sup> or a strategic highways company] as well as by other authorities*

**Textual Amendments**

**F26** Words in Sch. 3 Pt. II heading inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 64](#); S.I. 2015/481, reg. 2(a)

- 5 *Provisions contained in Part IX.* Sections 151 and 152, section 154(1), 154(4) so far as relating to a notice under 154(1), and sections 163 and 164.

*Status: Point in time view as at 05/12/2017.*

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### PART III **E+W**

*Provisions conferring functions exercisable in relation to trunk roads by the Minister<sup>F27</sup> or a strategic highways company] and by other authorities with the consent of the Minister<sup>F27</sup> or a strategic highways company]*

#### Textual Amendments

**F27** Words in Sch. 3 Pt. III heading inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 64](#); S.I. 2015/481, reg. 2(a)

- 6 *Provisions contained in Part V. Section 66(2) and section 96(4).*  
7 *Provisions contained in Part IX. Section 185.*

### SCHEDULE 4 **E+W**

Section 17.

#### CLASSES OF TRAFFIC FOR PURPOSES OF SPECIAL ROADS

Class I:

Heavy and light locomotives, motor tractors, heavy motor cars, motor cars and motor cycles whereof the cylinder capacity of the engine is not less than 50 cubic centimetres, and trailers drawn thereby, which comply with general regulations as to construction and use made, or having effect as if made, under <sup>F28</sup>section 41 of the Road Traffic Act 1988] and in the case of which the following conditions are satisfied:—

- (i) that the whole weight of the vehicle is transmitted to the road surface by means of wheels;
- (ii) that all wheels of the vehicle are equipped with pneumatic tyres;
- (iii) that the vehicle is not controlled by a pedestrian;
- (iv) that the vehicle is not a vehicle chargeable with duty under paragraph 2 of Part I of Schedule 3 to the <sup>M2</sup>Vehicles (Excise) Act 1971; and
- (v) in the case of a motor vehicle, that it is so constructed as to be capable of attaining a speed of 25 miles per hour on the level under its own power, when unladen and not drawing a trailer.

#### Textual Amendments

**F28** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, [Sch. 3 para. 21\(3\)\(a\)](#)

#### Marginal Citations

**M2** 1971 c. 10.

#### Textual Amendments

**F28** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, [Sch. 3 para. 21\(3\)\(a\)](#)

*Status: Point in time view as at 05/12/2017.*

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#### **Marginal Citations**

**M2** 1971 c. 10.

Class II;

Motor vehicles and trailers the use of which for or in connection with the conveyance of abnormal indivisible loads is authorised by order made, or having effect as if made, by the Minister under [<sup>F29</sup>section 44(1) of the Road Traffic Act 1988].

Motor vehicles and trailers constructed for naval, military, air force or other defence purposes, the use of which is authorised by order made, or having effect as if made, by the Minister under [<sup>F29</sup>section 44(1) of the Road Traffic Act 1988].

Motor vehicles and trailers, to which any of the following Articles of the <sup>M3</sup>Motor Vehicles (Authorisation of Special Types) General Order 1973 namely, Article 16 (which relates to vehicles for moving excavated material), Article 17 (which relates inter alia to vehicles constructed for use outside the United Kingdom) and Article 21 (which relates to engineering plant) relate and which are authorised to be used by any of those Articles of the said order or by any other [<sup>F30</sup>order made, or having effect as if made, under section 44(1) of the Road Traffic Act 1988], the said motor vehicles being vehicles in respect of which the following condition is satisfied, that is to say, that the vehicle is so constructed as to be capable of attaining a speed of 25 miles per hour on the level under its own power, when unladen and not drawing a trailer.

#### **Textual Amendments**

**F29** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, **Sch. 3 para. 21(3)(b)**

**F30** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, **Sch. 3 para. 21(3)(c)**

#### **Marginal Citations**

**M3** S.I. 1973/1101.

#### **Textual Amendments**

**F29** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, **Sch. 3 para. 21(3)(b)**

**F30** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), s. 4, **Sch. 3 para. 21(3)(c)**

#### **Marginal Citations**

**M3** S.I. 1973/1101.

Class III:

Motor vehicles controlled by pedestrians.

Class IV:

All motor vehicles (other than invalid carriages and motor cycles whereof the cylinder capacity of the engine is less than 50 cubic centimetres) not comprised in Class I, Class II or Class III.



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Class V:

Vehicles drawn by animals.

Class VI:

Vehicles (other than pedal cycles, perambulators, push-chairs and other forms of baby carriages) drawn or propelled by pedestrians.

Class VII:

Pedal cycles.

Class VIII:

Animals ridden, led or driven.

Class IX:

Pedestrians, perambulators, push-chairs and other forms of baby carriages and dogs held on a lead.

Class X:

Motor cycles whereof the cylinder capacity of the engine is less than 50 cubic centimetres.

Class XI:

Invalid carriages.

In this Schedule any expression defined for the purposes of [<sup>F31</sup>the Road Traffic Act 1988] has the same meaning as in that Act and the expression “abnormal indivisible load” has the same meaning as in the <sup>M4</sup>Motor Vehicles (Authorisation of Special Types) General Order 1973.

**Textual Amendments**

**F31** Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 21(3)(d)**

**Marginal Citations**

**M4** S.I. 1973/1101.

**Textual Amendments**

**F31** Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 21(3)(d)**

**Marginal Citations**

**M4** S.I. 1973/1101.

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## SCHEDULE 5 E+W

Section 21.

### MODIFICATIONS OF CERTAIN PROVISIONS OF <sup>F32</sup>THE TOWN AND COUNTRY PLANNING ACT 1990] AS APPLIED BY SECTION 21

#### Textual Amendments

**F32** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4 Sch. 2 para. 45\(19\)\(a\)](#)

## PART I E+W

### MODIFICATIONS IN RELATION TO LAND REFERRED TO IN PARAGRAPH (A) OR (B) OF SECTION 21(2)

- 1 For references in <sup>F33</sup>sections 271, 272, 274, 279(2) to (4), 280 and 282 of the Town and Country Planning Act 1990 (referred to in this Schedule as “the 1990 Act”)] to the acquiring or appropriating authority substitute references to the special road authority.

#### Textual Amendments

**F33** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4 Sch. 2 para. 45\(19\)\(b\)](#)

- <sup>F342</sup> In subsection (2) of section 271 and of section 272 for the words from “any development” to “appropriated” substitute “any works in pursuance of the scheme or order, or as the case may be, for the purpose of ensuring that the highway can be safely used as a special road”].

#### Textual Amendments

**F34** Sch. 5 Pt. 1 para. 2 substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4 Sch. 2 para. 45\(19\)\(c\)](#)

- 3 The references in <sup>F35</sup>subsection (5) of the said section 271 and of the said section 272 and subsections (2) and (3) of the said section 274] to a local authority or statutory undertakers include references to the special road authority, when<sup>F36</sup>a strategic highways company or] a local highway authority.

#### Textual Amendments

**F35** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 45\(19\)\(d\)](#)

**F36** Words in Sch. 5 Pt. 1 para. 3 inserted (5.3.2015) by Infrastructure Act, Sch. 1 para. 65(2)

- 4 In paragraph (b) of <sup>F37</sup>section 273(1) of the 1990 Act] for the words “development to be carried out on the land is” substitute “the works to be executed by the special road authority or, as the case may be, that the effect of the conversion of the highway into a special road, will be”.

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#### Textual Amendments

**F37** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 45\(19\)\(e\)](#)

5 For subsection (2) of the said [<sup>F38</sup>section 273] substitute the following:—

“(2) No notice under this section shall be served later than 21 days after the date of the commencement of the works or as the case may be, the date of the coming into operation of the order by means of which the highway is appropriated by or transferred to the special road authority.”.

#### Textual Amendments

**F38** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 45\(19\)\(f\)](#)

6 For references in subsections (3) and (6) of the said [<sup>F39</sup>section 273] to the authority or the acquiring or appropriating authority substitute references to the special road authority.

#### Textual Amendments

**F39** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 45\(19\)\(f\)](#)

## PART II **E+W**

### MODIFICATIONS IN RELATION TO LAND REFERRED TO IN PARAGRAPH (C) OF SECTION 21(2)

1 For references in [<sup>F40</sup>sections 271, 272, 274, 279(2) to (4), 280 and 282 of the 1990 Act] to the acquiring or appropriating authority substitute references to the Minister, [<sup>F41</sup>the strategic highways company,] the special road authority or the local highway authority, as the case may be, by whom the order in question was made.

#### Textual Amendments

**F40** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 45\(19\)\(g\)](#)

**F41** Words in Sch. 5 Pt. 2 para. 1 inserted (5.3.2015) by Infrastructure Act, Sch. 1 para. 65(3)(a)

[<sup>F42</sup> In subsection (2) of section 271 and of section 272 for the words from “is necessary” to “appropriated” substitute “is made necessary by the works in connection with which the stopping up or diversion of the highways is or was authorised”.]

#### Textual Amendments

**F42** Sch. 5 Pt. II para. 2 substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 45\(19\)\(h\)](#)

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- 3 The references in [<sup>F43</sup>subsection (5) of the said section 271 and of the said section 272 and subsections (2) and (3) of the said section 274] to a local authority or statutory undertakers include references to [<sup>F44</sup>a strategic highways company or ] a local highway authority.

#### Textual Amendments

**F43** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 45\(19\)\(i\)](#)

**F44** Words in Sch. 5 Pt. 2 para. 3 inserted (5.3.2015) by Infrastructure Act, Sch. 1 para. 65(3)(b)

- 4 For subsections (1) and (2) of [<sup>F45</sup>section 273 of the 1990 Act] substitute the following:—

“(1) Subject to the provisions of this section, where the stopping up or diversion of a highway is or was authorised by an order under section 14 or section 18 of the Highways Act 1980, and—

- (a) there is on, under or over the land over which that highway subsists or subsisted any apparatus vested in or belonging to statutory undertakers; and
- (b) the undertakers claim that the works in connection with which the stopping up or diversion of the highway is or was authorised are such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of their apparatus,

the undertakers may serve on the Minister, [<sup>F46</sup>the strategic highways company, ] the special road authority or the local highway authority, as the case may be, by whom the order was made a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.

- (2) No notice under this section shall be served later than twenty-one days after the later of the following dates, that is to say, the date of the coming into operation of the order in question and the date of the commencement of the works in connection with which the stopping up or diversion of the highway is or was authorised.”.

#### Textual Amendments

**F45** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 45\(19\)\(j\)](#)

**F46** Words in Sch. 5 Pt. 2 para. 4 inserted (5.3.2015) by Infrastructure Act, Sch. 1 para. 65(3)(c)

- 5 For references in subsections (3) and (6) of [<sup>F47</sup>the said section 273] to the authority or to the acquiring or appropriating authority substitute references to the Minister, [<sup>F48</sup>the strategic highways company,] the special road authority or the local highway authority as the case may be, by whom the order in question was made.

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### Textual Amendments

- F47** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 45\(19\)\(k\)](#)
- F48** Words in Sch. 5 Pt. 2 para. 5 inserted (5.3.2015) by Infrastructure Act, Sch. 1 para. 65(3)(d)

## SCHEDULE 6 **E+W**

Sections 26, 118, 119.

### PROVISIONS AS TO MAKING, CONFIRMATION, VALIDITY AND DATE OF OPERATION OF CERTAIN ORDERS RELATING TO FOOTPATHS <sup>[F49]</sup>, BRIDLEWAYS AND RESTRICTED BYWAYS]

### Textual Amendments

- F49** Words in Sch. 6 heading 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)

### Modifications etc. (not altering text)

- C10** [Sch. 6](#) extended (with modifications) (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\)](#), [Sch. 9 para. 11\(d\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#)).
- C11** [Sch. 6](#) 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

## PART I **E+W**

### PROCEDURE FOR MAKING AND CONFIRMING CERTAIN ORDERS RELATING TO FOOTPATHS <sup>[F50]</sup>, BRIDLEWAYS AND RESTRICTED BYWAYS]

### Textual Amendments

- F50** Words in Sch. 6 Pt I heading 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)

### Modifications etc. (not altering text)

- C12** [Sch. 6 Pt. I](#) (paras. 1–3) amended 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\(11\)\(III\)](#), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\)](#), [58](#)

- 1 (1) Before a public path creation order, a public path extinguishment order <sup>[F51]</sup>, a rail crossing extinguishment order, <sup>[F52]</sup>a special extinguishment order] a public path diversion order <sup>[F53]</sup>, a rail crossing diversion order, a special diversion order or an SSSI diversion order]] is submitted to the Secretary of State for confirmation or confirmed as an unopposed order, the authority by whom the order was made shall give notice in the prescribed form—

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- (a) stating the general effect of the order and that it has been made and is about to be submitted for confirmation or to be confirmed as an unopposed order,
  - (b) naming a place in the area in which the land to which the order relates is situated where a copy of the order and of the map referred to therein may be inspected free of charge [<sup>F54</sup>and copies thereof may be obtained at a reasonable charge] at all reasonable hours, and
  - (c) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the order may be made.
- (2) Before the Secretary of State makes a public path creation order, a public path extinguishment order [<sup>F51</sup>, a rail crossing extinguishment order, [<sup>F52</sup>a special extinguishment order] a public path diversion order [<sup>F53</sup>, a rail crossing diversion order, a special diversion order or an SSSI diversion order]], he shall prepare a draft of the order and shall give notice—
- (a) stating that he proposes to make the order and the general effect of it,
  - (b) naming a place in the area in which the land to which the draft order relates is situated where a copy of the draft order and of the map referred to in it may be inspected free of charge [<sup>F54</sup>and copies thereof may be obtained at a reasonable charge] at all reasonable hours, and
  - (c) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the draft order may be made.
- <sup>F55</sup>(3) The notices to be given under sub-paragraph (1) or (2) above shall be given—
- (a) by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated;
  - (b) by serving a like notice on—
    - (i) every owner, occupier and lessee (except tenants for a month or any period less than a month and statutory tenants within the meaning of the Rent (Agriculture) Act 1976 or the Rent Act 1977 [<sup>F56</sup>and licensees under an assured agricultural occupancy within the meaning of Part I of the Housing Act 1988]) of any of that land;
    - (ii) every council, the council of every parish or community and the parish meeting of every parish not having a separate parish council, being a council, parish or community whose area includes any of that land;
    - (iii) every person on whom notice is required to be served in pursuance of sub-paragraph (3A) or (3B) below; and
    - (iv) such other persons as may be prescribed in relation to the area in which that land is situated or as the authority or, as the case may be, the Secretary of State may consider appropriate; and
  - (c) by causing a copy of the notice to be displayed in a prominent position—
    - (i) at the ends of so much of any footpath [<sup>F57</sup>, bridleway or restricted byway] as is created, stopped up or diverted by the order;
    - (ii) at council offices in the locality of the land to which the order relates; and
    - (iii) at such other places as the authority or, as the case may be, the Secretary of State may consider appropriate.]



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- [<sup>F58</sup>(3A) Any person may, on payment of such reasonable charge as the authority may consider appropriate, require an authority to give him notice of all such public path creation orders, public path extinguishment orders [<sup>F59</sup>, rail crossing extinguishment orders, [<sup>F60</sup>special extinguishment orders] public path diversion orders [<sup>F61</sup>, rail crossing diversion orders, special diversion orders and SSSI diversion orders]] as are made by the authority during a specified period, are of a specified description and relate to land comprised in a specified area; and in this sub-paragraph “specified” means specified in the requirement.
- (3B) Any person may, on payment of such reasonable charge as the Secretary of State may consider appropriate, require the Secretary of State to give him notice of all such draft public path creation orders, draft public path extinguishment orders [<sup>F62</sup>, draft rail crossing extinguishment orders, [<sup>F63</sup>draft special extinguishment orders] draft public path diversion orders [<sup>F64</sup>, draft rail crossing diversion orders, draft special diversion orders and draft SSSI diversion orders]] as are prepared by the Secretary of State during a specified period, are of a specified description and relate to land comprised in a specified area; and in this sub-paragraph “specified” means specified in the requirement.
- (3C) The Secretary of State may, in any particular case, direct that it shall not be necessary to comply with sub-paragraph (3)(b)(i) above; but if he so directs in the case of any land, then in addition to publication the notice shall be addressed to “The owners and any occupiers” of the land (describing it) and a copy or copies of the notice shall be affixed to some conspicuous object or objects on the land.]
- (4) Where under this paragraph a notice is required to be served on an owner of land and the land belongs to an ecclesiastical benefice [<sup>F65</sup>of the Church of England], a like notice shall be served on the [<sup>F66</sup>Diocesan Board of Finance for the diocese in which the land is situated].
- [<sup>F67</sup>(4A) Sub-paragraph (3)(b) and (c) and, where applicable, sub-paragraphs (3C) and (4) above shall be complied with not less than 28 days before the expiration of the time specified in the notice.
- (4B) A notice required to be served by sub-paragraph (3)(b)(i), (ii) or (iv) above shall be accompanied by a copy of the order.
- (4C) A notice required to be displayed by sub-paragraph (3)(c)(i) above at the ends of so much of any way as is affected by the order shall be accompanied by a plan showing the general effect of the order so far as it relates to that way.
- (4D) In sub-paragraph (3)(c)(ii) above “council offices” means offices or buildings acquired or provided by a council or by the council of a parish or community or the parish meeting of a parish not having a separate parish council.]

#### Textual Amendments

- F51** Words in [Sch. 6 Pt. I para. 1\(1\)\(2\)](#) substituted (22.12.1992 for certain purposes and otherwise 31.1.1993) by [Transport and Works Act 1992 \(c. 42\)](#), s. 47, [Sch. 2 para. 10\(2\)\(a\)](#); S.I. 1992/3144, arts. 2, 3, [Sch.](#)
- F52** Words in [Sch. 6 para. 1\(1\)\(2\)](#) inserted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as 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. 23\(2\)\(a\)](#); S.I. 2003/272, [art. 2\(a\)\(p\)](#); S.I. 2005/1314, [art. 3\(d\)\(viii\)\(bb\)](#); S.I. 2007/1493, [art. 2](#)

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- F53** Words in Sch. 6 para. 1(1)(2) substituted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as 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. 23(2)(b); S.I. 2003/272, **art. 2(a)(p)**; S.I. 2005/1314, **art. 3(d)(viii)(bb)**; S.I. 2007/1493, **art. 2**
- F54** Words inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73, Sch. 16 paras. 6(1), **10(2)**
- F55** Sch. 6 Pt. I para. 3 substituted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73, Sch. 16 paras. 6(2), **10(2)**
- F56** Words inserted by Housing Act 1988 (c. 50, SIF 75:1), s. 140(1), **Sch. 17 para. 30**
- F57** Words in Sch. 6 para. 1(3)(c)(i) 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)
- F58** Sch. 6 Pt. I para. 1(3A)–(3C) inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 63, Sch. 16 paras. 6(3), **10(2)**
- F59** Words in Sch. 6 Pt. I para. 1(3A) substituted (22.12.1992 for certain purposes and otherwise 31.1.1993) by Transport and Works Act 1992 (c. 42), s. 47, **Sch. 2 para. 10(2)(b)**; S.I. 1992/3144, arts. 2, 3, **Sch.**
- F60** Words in Sch. 6 para. 1(3A) inserted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as 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. 23(3)(a); S.I. 2003/272, **art. 2(a)(p)**; S.I. 2005/1314, **art. 3(d)(viii)(cc)**; S.I. 2007/1493, **art. 2**
- F61** Words in Sch. 6 para. 1(3A) substituted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as 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. 23(3)(b); S.I. 2003/272, **art. 2(a)(p)**; S.I. 2005/1314, **art. 3(d)(viii)(cc)**; S.I. 2007/1493, **art. 2**
- F62** Words in Sch. 6 Pt. I para. 1(3B) substituted (22.12.1992 for certain purposes and otherwise 31.1.1993) by Transport and Works Act 1992 (c. 42), s. 47, **Sch. 2 para. 10(2)(c)**; S.I. 1992/3144, arts. 2, 3, **Sch.**
- F63** Words in Sch. 6 para. 1(3B) inserted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as not yet 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. 23(4)(a); S.I. 2003/272, **art. 2(a)(p)**; S.I. 2005/1314, **art. 3(d)(viii)(dd)**; S.I. 2007/1493, **art. 2**
- F64** Words in Sch. 6 para. 1(3B) substituted (12.2.2003 for E. for specified purposes and 21.5.2007) in so far as 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. 23(4)(b); S.I. 2003/272, **art. 2(a)(p)**; S.I. 2005/1314, **art. 3(d)(viii)(dd)**; S.I. 2007/1493, **art. 2**
- F65** Words in Sch. 6 para. 1(4) inserted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 14, **Sch. 5 para. 22(2)**; {Instrument} dated 11.9.2006 signed by the Archbishops of Canterbury and York
- F66** Words in Sch. 6 para. 1(4) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 14, **Sch. 5 para. 22(2)**; {Instrument} dated 11.9.2006 signed by the Archbishops of Canterbury and York
- F67** Sch. 6 Pt. I para. 1(4A)–(4D) inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73, Sch. 16 paras. 6(4), **10(2)**

- 2 (1) If no representations or objections are duly made, or if any so made are withdrawn, then—
- (a) the Secretary of State may, if he thinks fit, confirm or make the order, as the case may be, with or without modifications;
  - (b) the authority by whom the order was made (where not the Secretary of State) may, instead of submitting the order to the Secretary of State, themselves confirm the order (but without any modification).
- (2) If any representation or objection duly made is not withdrawn, the Secretary of State shall, before confirming or making the order, as the case may be, if the objection

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is made by a local authority cause a local inquiry to be held, and in any other case either—

- (a) cause a local inquiry to be held, or
- (b) afford to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose,

and, after considering the report of the person appointed to hold the inquiry or to hear representations or objections, may, subject as provided below, confirm or make the order, as the case may be, with or without modifications.

In the case of a public path creation order [<sup>F68</sup>, a public path diversion order, a special diversion order or an SSSI diversion order] if objection is made by statutory undertakers on the ground that the order provides for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order is subject to special parliamentary procedure.

- (3) Notwithstanding anything in the foregoing provisions of this paragraph, the Secretary of State shall not confirm or make an order so as to affect land not affected by the order as submitted to him or the draft order prepared by him, as the case may be, except after—

- (a) giving such notice as appears to him requisite of his proposal so to modify the order, specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which, and the manner in which, representations or objections with respect to the proposal may be made,
- (b) holding a local inquiry or affording to any person by whom any representation or objection has been duly made and not withdrawn an opportunity of being heard by a person appointed by him for the purpose, and
- (c) considering the report of the person appointed to hold the inquiry or to hear representations or objections, as the case may be,

and, in the case of a public path creation order [<sup>F68</sup>, a public path diversion order, a special diversion order or an SSSI diversion order] if objection is made by statutory undertakers on the ground that the order as modified would provide for the creation of a public right of way over land covered by works used for the purposes of their undertaking or the curtilage of such land, and the objection is not withdrawn, the order is subject to special parliamentary procedure.

#### Textual Amendments

**F68** Words in [Sch. 6 para. 2\(2\)\(3\)](#) substituted (12.2.2003 for E. for specified purposes and 21.5.2005 in so far as 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. 23\(5\)\(b\)](#); [S.I. 2003/272](#), [art. 2\(a\)\(p\)](#); [S.I. 2005/1314](#), [art. 3\(d\)\(viii\)\(ee\)](#); [S.I. 2007/1493](#), [art. 2](#)

PROSPECTIVE

[<sup>F69</sup>2Z~~A~~1) Where a public path extinguishment order, a special extinguishment order, a public path diversion order or a special diversion order is made by an authority other than the Secretary of State on an application under section 118ZA, 118C, 119ZA or 119C of this Act, that authority shall, as soon as reasonably practicable after the expiry of the time for representations, determine—

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- (a) whether, in the case of an unopposed order, to confirm it under paragraph 2(1)(b) above, or
  - (b) whether to submit the order to the Secretary of State.
- (2) The authority making a determination required by sub-paragraph (1) above shall, as soon as practicable after making it, give to the applicant notice in writing of their determination and the reasons for it and give a copy of the notice to such other persons as may be prescribed.
- (3) Where—
- (a) an authority other than the Secretary of State have made a public path extinguishment order, a special extinguishment order, a public path diversion order or a special diversion order on an application under section 118ZA, 118C, 119ZA or 119C of this Act, and
  - (b) at the end of the period of two months beginning with the expiry of the time for representations, that authority have not determined—
    - (i) whether, in the case of an unopposed order, to confirm it under paragraph 2(1)(b) above, or
    - (ii) whether to submit the order to the Secretary of State,
 the Secretary of State may, at the request of the person on whose application the order was made, by direction require the authority to determine that question before the end of such period as may be specified in the direction.
- (4) In this paragraph “the time for representations” means the time specified by the authority in accordance with paragraph 1(1)(c) above.]

#### Textual Amendments

**F69** Sch. 6 para. 2ZA inserted (*prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 23(6)

#### PROSPECTIVE

- [<sup>F70</sup>2ZB Where, in relation to any public path extinguishment order, special extinguishment order, public path diversion order or special diversion order which was made by an authority other than the Secretary of State on an application under section 118ZA, 118C, 119ZA or 119C of this Act, no representations or objections are duly made or any representations or objections so made are withdrawn, that authority may not submit the order to the Secretary of State for confirmation with any modification of the map contained in the order.]

#### Textual Amendments

**F70** Sch. 6 para. 2ZB inserted (*prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 23(6)

[<sup>F71</sup>2A(1) [<sup>F72</sup>The following decisions-

- (a) a decision of the Secretary of State under paragraph 2 above as respects an order made by an authority other than the Secretary of State including any related decision under section 120(5) of this Act, and

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- (b) a decision of the Secretary of State under section 121E(1)(c) of this Act, including any related decision under section 120(5) of this Act,

shall], except in [<sup>F73</sup>the case of a rail crossing extinguishment order, the case of a rail crossing diversion order] and such classes of case as may be for the time being prescribed or as may be specified in directions given by the Secretary of State, be made by a person appointed by the Secretary of State for the purpose instead of by the Secretary of State; and a decision made by a person so appointed shall be treated as a decision of the Secretary of State.

- (2) The Secretary of State may, if he thinks fit, direct that a decision which, by virtue of sub-paragraph (1) above and apart from this sub-paragraph, falls to be made by a person appointed by the Secretary of State shall instead be made by the Secretary of State; and a direction under this sub-paragraph shall state the reasons for which it is given and shall be served on the person, if any, so appointed, the authority and any person by whom a representation or objection has been duly made and not withdrawn.
- (3) Where the Secretary of State has appointed a person to make a decision under paragraph 2 above the Secretary of State may, at any time before the making of the decision, appoint another person to make it instead of the person first appointed to make it.
- (4) Where by virtue of sub-paragraph (2) or (3) above a particular decision falls to be made by the Secretary of State or any other person instead of the person first appointed to make it, anything done by or in relation to the latter shall be treated as having been done by or in relation to the former.
- (5) Provision may be made by regulations of the Secretary of State for the giving of publicity to any directions given by the Secretary of State under this paragraph.]

#### Textual Amendments

- F71** Sch. 6 Pt. I para. 2A inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73, Sch. 16 paras. 7, 10(2)
- F72** Words in Sch. 6 para. 2A substituted (12.2.2003 and 21.5.2007 for E. for specified purposes, 15.7.2005 for W. for specified purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 23(7); S.I. 2003/272, art. 2(a)(p); S.I. 2005/1314, art. 3(d)(viii)(ff); S.I. 2007/1493, art. 2
- F73** Words in Sch. 6 para. 2A(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. 10(3); S.I. 1992/3144, arts. 2, 3, Sch.

[<sup>F74</sup>2B (1) Subject to sub-paragraph (2), subsections (2) to (5) of section 250 of the <sup>M5</sup>Local Government Act 1972 (giving of evidence at, and defraying of costs of, inquiries) apply to a hearing which the Secretary of State causes to be held under paragraph 2 above [<sup>F75</sup>in England] as they apply (by virtue of section 302(1) of this Act) to a local inquiry which he causes to be held under this Act.

- (2) In its application to a hearing or local inquiry held under paragraph 2 above by a person appointed under paragraph 2A(1) above, subsection (5) of section 250 of that Act shall have effect as if the reference to the Minister causing the inquiry to be held were a reference to the person so appointed or the Secretary of State.
- (3) Section 322A of the <sup>M6</sup>Town and Country Planning Act 1990 (orders as to costs where no hearing or inquiry takes place) applies in relation to a hearing or inquiry under



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paragraph 2 above<sup>[F76]</sup> in England] as it applies in relation to a hearing or local inquiry for the purposes referred to in that section.]

[<sup>F77</sup>(4) Section 322C of the Town and Country Planning Act 1990 (costs: Wales) applies in relation to a hearing or inquiry under sub-paragraph (2) above in Wales as it applies in relation to a hearing or inquiry mentioned in that section.]

#### Textual Amendments

- F74** Sch. 6 para. 2B inserted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as not already in force, 15.7.2005 for W. for specified purposes, 11.5.2006 for W. in so far as not already in force and otherwise prosp.) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 23(8); S.I. 2003/272, **art. 2(a)(p)**; S.I. 2005/1314, **art. 3(d)(viii)(gg)**; S.I. 2006/1279, **art. 2(n)**; S.I. 2007/1493, **art. 2**
- F75** Words in Sch. 6 para. 2B(1) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 5 para. 3(a)**; S.I. 2016/52, art. 4(a) (with art. 17)
- F76** Words in Sch. 6 para. 2B(3) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 5 para. 3(b)**; S.I. 2016/52, art. 4(a) (with art. 17)
- F77** Sch. 6 para. 2B(4) inserted (6.9.2015 for specified purposes, 1.3.2016 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), s. 58(2)(b)(4)(b), **Sch. 5 para. 3(c)**; S.I. 2016/52, art. 4(a) (with art. 17)

#### Marginal Citations

- M5** 1972 c. 70.  
**M6** 1990 c. 8.

- 3 (1) The Secretary of State may, subject to the provisions of this Part of this Schedule, by regulations make such provision as to the procedure on the making, submission and confirmation of orders to which this Schedule applies as appears to him to be expedient.
- (2) Provision may be made by regulations of the Secretary of State for enabling proceedings preliminary to the confirmation of a public path extinguishment order [<sup>F78</sup>, a rail crossing extinguishment order or a special extinguishment order] to be taken concurrently with proceedings preliminary to the confirmation of a public path creation order [<sup>F79</sup>, a public path diversion order [<sup>F80</sup>, a rail crossing diversion order, a special diversion order or an SSSI diversion order]].
- (3) In this Part of this Schedule—
- (a) “local authority” means—
- <sup>F81</sup> [ a billing authority or a precepting authority, as defined in section 69 <sup>F82</sup>(i) of the Local Government Finance Act 1992;
- <sup>F83</sup>(ia) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;]]
- (ii) a levying body within the meaning of section 74 of [<sup>F84</sup>the Local Government Finance Act 1988]; and
- (iii) a body as regards which section 75 of that Act applies]
- and includes any drainage authority and any joint board or joint committee if all the constituent authorities are such local authorities as aforesaid;



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(b) “prescribed” means prescribed by regulations made by the Secretary of State;

and for the purposes of this Schedule the Civil Aviation Authority [<sup>F85</sup>, 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)] and [<sup>F86</sup> a universal service provider in connection with the provision of a universal postal service] are to be deemed to be statutory undertakers and their undertakings statutory undertakings.

[<sup>F87</sup>(3ZA) For the purposes of sub-paragraph (3) 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.]

[<sup>F88</sup>(3A) For the purposes of sub-paragraph (3) 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.]

#### Textual Amendments

- F78** Words in Sch. 6 Pt. I para. 3(2) substituted (12.2.2003 for E. for specified purposes and 21.5.2007 in so far as 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. 23(9)(a); S.I. 2003/272, art. 2(a)(p); S.I. 2005/1314, art. 3(d)(viii)(hh); S.I. 2007/1493, art. 2
- F79** Words in Sch. 6 para. 3(2) substituted (22.12.1992 for certain purposes and otherwise 31.1.1993) by Transport and Works Act 1992 (c. 42), s. 47, Sch. 2 para. 10(4)(b); S.I. 1992/3144, art. 3, Sch.
- F80** Words in Sch. 6 Pt. I para. 3(2) substituted (12.2.2003 for E. for specified purposes, 15.7.2005 for W. for specified purposes and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 23(9)(b); S.I. 2003/272, art. 2(a)(p); S.I. 2005/1314, art. 3(d)(viii)(hh)
- F81** Sch. 6 Pt. I para. 3(3)(i)–(iii) substituted for words by S.I. 1990/776, art. 8, Sch. 3 para. 21
- F82** Sch. 6 Pt. I para. 3(3)(a)(i)(ia) substituted (2.11.1992) for para. 3(3)(a)(i) by Local Government Finance Act 1992 (c. 14), s. 117(1), Sch. 13 para. 50 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 2
- F83** Sch. 6 para. 3(3)(a)(ia) substituted (1.10.2004 for E. and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 53(1), Sch. 1 para. 50(2); S.I. 2004/2304, art. 2(2) (subject to art. 3); S.I. 2004/2917, art. 2
- F84** Words in Sch. 6 para. 3(3)(a)(ii) substituted (1.10.2004 for E. and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 53(1), Sch. 1 para. 50(3); S.I. 2004/2304, art. 2(2) (subject to art. 3); S.I. 2004/2917, art. 2
- F85** Words in Sch. 6 Pt. I para. 3(3) inserted (21.12.2001) by S.I. 2001/4050, art. 2, Sch. Pt. II para. 4(d)(i)
- F86** Words in Sch. 6 Pt. I para. 3(3) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), Sch. 1 para. 49(11)(a)
- F87** Sch. 6 Pt. I para. 3(3ZA) inserted (21.12.2001) by S.I. 2001/4050, art. 2, Sch. Pt. II para. 4(d)(ii)
- F88** Sch. 6 Pt. I para. 3(3A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), Sch. 1 para. 49(11)(b)

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

- C13** Sch. 6 Pt. I para. 3(3) extended by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 73, Sch. 3 para. 5
- C14** Sch. 6 Pt. I para. 3(3): 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 Sch. 6 para. 3(3) cease to have effect

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## PART II E+W

### VALIDITY AND DATE OF OPERATION OF CERTAIN ORDERS RELATING TO FOOTPATHS <sup>F89</sup>, BRIDLEWAYS AND RESTRICTED BYWAYS]

#### Textual Amendments

**F89** Words in Sch. 6 Pt II heading 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)

<sup>F904</sup> (1) As soon as may be after an order to which this Schedule applies has been confirmed or made by the Secretary of State or confirmed as an unopposed order, the authority by whom the order was made or, in the case of an order made by the Secretary of State, the Secretary of State, shall publish, in the manner required in relation to the class of order in question by paragraph 1(3) above, a notice in the prescribed form describing the general effect of the order, stating that it has been confirmed or made, and naming a place where a copy of it as confirmed or made may be inspected free of charge <sup>F91</sup> and copies thereof may be obtained at a reasonable charge] at all reasonable hours, and—

- [
  - <sup>F92</sup>(a) serve a like notice on any persons on whom notices were required to be served under paragraph 1(3)(b), (3C) or (4) above; and
  - (b) cause like notices to be displayed in the like manner as the notices caused to be displayed under paragraph 1(3)(c) above;]

but no such notice or copy need be served on a person unless he has sent to the authority or the Secretary of State (according as the notice or copy would require to be served by an authority or by the Secretary of State) a request in that behalf specifying an address for service.

[ A notice required to be served by sub-paragraph (1)(a) above, on—

- <sup>F93</sup>(2) (a) a person on whom notice was required to be served by paragraph 1(3)(b)(i) or (ii) above; or
- (b) in the case of an order which has been confirmed or made with modifications, a person on whom notice was required to be served by paragraph 1(3)(b)(iv) above,

shall be accompanied by a copy of the order as confirmed or made.

(3) As soon as may be after a decision not to confirm an order to which this Schedule applies, the authority by whom the order was made shall give notice of the decision by serving a copy of it on any persons on whom notices were required to be served under paragraph 1(3)(b), (3C) or (4) above.]]

#### Textual Amendments

**F90** Sch. 6 Pt. I para. 4 renumbered as para. 4(1) by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), Sch. 16 paras. 8(2), **10(2)**

**F91** Words inserted as provided by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), Sch. 16 paras. 8(1), **10(2)**

**F92** Sch. 6 Pt. I para. 4(1)(a)(b) substituted as provided by [Wildlife and Countryside Act 1981 \(c. 69, SIF 4:5\)](#), Sch. 16 paras. 8(1), **10(2)**

*Status: Point in time view as at 05/12/2017.*

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**F93** Sch. 6 Pt. I para. 4(2)(3) inserted as provided by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), Sch. 16 paras. 8(2), **10(2)**

- [<sup>F94</sup>4A As soon as may be after an order to which this Schedule applies has come into operation otherwise than—
- (a) on the date on which it was confirmed or made by the Secretary of State or confirmed as an unopposed order; or
  - (b) at the expiration of a specified period beginning with that date, the authority by whom the order was made or, in the case of an order made by the Secretary of State, the Secretary of State shall give notice of its coming into operation by publication in at least one local newspaper circulating in the area in which the land to which the order relates is situated.]

#### Textual Amendments

**F94** Sch. 6 Pt. I para. 4A inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), Sch. 16 paras. 9, **10(2)**

- 5 Schedule 2 of this Act (except paragraph 1 thereof) applies in relation to an order to which this Schedule applies as it applies in relation to a scheme or order to which that Schedule applies, but with the following modifications:—
- (a) for references to a scheme or order to which that Schedule applies substitute references to an order to which this Schedule applies;
  - (b) for the references in paragraphs 2, 4 and 5 thereof to the date on which the notice required by paragraph 1 thereof is first published substitute references to the date on which the notice required by paragraph 4 above is first published; and
  - (c) paragraph 4 of that Schedule has effect as if the words “or on such later date, if any, as may be specified in the scheme or order” were omitted.
- 6 In this Part of this Schedule “prescribed” means prescribed by regulations made by the Secretary of State.

## SCHEDULE 7 **E+W**

Sections 42, 50, 230.

### MAINTENANCE OF CERTAIN HIGHWAYS BY DISTRICT COUNCILS

#### PART I **E+W**

##### 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>F95</sup>non-metropolitan] district council under sections 42, 50(2) and 230(7) of this Act.

*Status: Point in time view as at 05/12/2017.*

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### Textual Amendments

**F95** 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.
- (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

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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.
- 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 **E+W**

### 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

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- 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.

## SCHEDULE 8 E+W

Sections 67, 287.

### CONSENTS REQUIRED FOR EXECUTION OF CERTAIN WORKS IN STREETS

- 1 In this Schedule “the authority” means the highway authority or local authority (within the meaning of section 67 or section 287 of this Act) having power to carry out the works to which this Schedule applies.
- 2 The authority shall not carry out any works to which this Schedule applies in any such situation or position as is described in the first column of the following Table except with the consent of the person described in relation thereto in the second column of that Table.

#### TABLE

In any street which is a highway for which there is a highway authority other than the authority carrying out the works.	The highway authority.
In any street belonging to and repairable by any railway, dock, harbour, canal, inland navigation or passenger road transport undertakers and forming the approach to any station, dock, wharf or depot of those undertakers.	The undertakers.
On any bridge not vested in the authority carrying out the works or on the approaches to any such bridge.	The authority or other person in whom the bridge is vested.
On any bridge carrying a street over any railway, canal or inland navigation, or on the approaches to any such bridge,	The railway, canal or inland navigation undertakers concerned.



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or under any bridge carrying a railway,  
canal or inland navigation over a street.

In the case of works under section 67 of this Act, in a position obstructing or interfering with any existing access to any land or premises abutting upon a street. The owner and the occupier of the land or premises.

- 3 A consent required by this Schedule in respect of any works shall not unreasonably be withheld but may be given subject to any reasonable conditions, including a condition that the authority shall remove the works either at any time or at or after the expiration of a period if reasonably required so to do by the person giving the consent.
- 4 Where the consent of the Minister is required under this Schedule, any dispute between the Minister whose consent is required and the authority as to whether the Minister's consent is unreasonably withheld or is given subject to reasonable conditions, or whether the removal of anything to the provision of which the consent relates in accordance with any condition of the consent is reasonably required shall be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers.

SCHEDULE 9 **E+W**

Sections 73, 74.

IMPROVEMENT LINES AND BUILDING LINES

- 1 Before a line is prescribed by the Minister he shall consult the councils of the county and district, or in Greater London the local authority, in whose area is situated the street or highway in relation to which the line is to be prescribed.
- 2 Before a line is prescribed by a county council, as highway authority, they shall consult the council of the district in which is situated the street or highway in relation to which the line is to be prescribed.
- [<sup>F96</sup>2A Paragraph 2 above does not apply in relation to a street or highway in Wales.]

**Textual Amendments**

**F96** Sch. 9 para. 2A inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para.28** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.1**.

3 ..... **F97**

**Textual Amendments**

**F97** Sch. 9 para. 3 repealed by **Local Government Act 1985** (c. 51, SIF 81:1), s. 102, **Sch. 17**

- 4 A line which a highway authority propose to prescribe shall be shown on a plan to be signed, if the authority are a council, by the proper officer of the council.
- 5 The plan shall be deposited at the offices of the authority or, if the Minister is the authority, at such place as he may direct, and may be inspected by any person free



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- of charge at all reasonable hours during a period of one month from the day on which it is so deposited.
- 6 As soon as the plan has been so deposited the authority shall give notice of the proposal to prescribe the line and of the times and place at which the plan may be inspected, and of the effect of section 73 of this Act or, as the case may require, section 74 of this Act and of paragraph 7 below to every owner, lessee and occupier of land affected.
- 7 The authority shall consider any objection to the proposed line made within 6 weeks from the date on which the notices aforesaid were given and may then prescribe the line.
- 8 Not later than 6 weeks after the date on which the authority prescribe the line they shall prepare a plan, duly sealed and authenticated, on which the line shall be shown and shall give notice of the prescribing of the line and of the time and place at which the said plan may be inspected to every owner, lessee and occupier of land affected.
- 9 If the authority revoke the line, they shall—
- (a) give notice of the revocation to every owner, lessee or occupier of land affected and to<sup>F98</sup>the Chief Land Registrar]; and
  - (b) indicate on the plan prepared in accordance with paragraph 8 above the extent to which the line has been revoked.

#### Textual Amendments

**F98** Words in [Sch. 9 para. 9\(a\)](#) substituted (12.4.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(5)(e), [Sch. 5 para. 35](#) (with [Sch. 5 Pt. 4](#))

- 10 Where a local highway authority prescribe a line or revoke a line or any part thereof they shall do so by resolution.

## SCHEDULE 10 E+W

Sections 82, 86.

### PROCEDURE FOR DETERMINATION BY HIGHWAY AUTHORITY OF CERTAIN QUESTIONS ARISING IN CONNECTION WITH PROVISION OF CATTLE-GRID OR BY-PASS

- 1 (1) Before determining, under section 82 or 86 of this Act, the question—
- (a) whether it is expedient to place any part of a cattle-grid in, or provide a by-pass on, any such land not forming part of a highway and not belonging to the highway authority therefor as is mentioned in section 82(4), or
  - (b) whether it is expedient to provide a by-pass along any part of a highway, or
  - (c) whether the purpose for which a right to install gates is exercisable will be adequately achieved by the provision of a cattle-grid,
- a highway authority shall comply with the requirements specified in sub-paragraph (2) below.
- (2) The requirements referred to in sub-paragraph (1) above are as follows, namely, that the authority shall—
- (a) publish in 2 successive weeks in one or more local newspapers circulating in the area where the cattle-grid is to be, or has been, provided a notice—
    - (i) stating generally the question for determination,

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- (ii) naming a place within the said area where a copy may be inspected free of charge at all reasonable hours of such plans or other descriptive matter as appear to the highway authority to be requisite for enabling the nature of the question to be understood, and
  - (iii) specifying the time (which shall not be less than 28 days from the date of the first publication of the notice) within which and the manner in which representations may be made to the highway authority, and
- (b) display a like notice in a prominent position at the place where the cattle-grid is to be or has been provided.
- 2 If no representation is duly made under paragraph 1 above, or if every representation so made is withdrawn, the highway authority may proceed to determine the question.
- 3 (1) Where a representation is duly made as aforesaid and not withdrawn, the following provisions have effect.
- (2) Where the highway authority is not the Minister, the authority shall forward the representation to the Minister, together with their observations thereon and their proposals, in the light of the representations, for determining the question.
- (3) The Minister shall consider any representations received by him (and, where the highway authority is not the Minister, the authority's observations and proposals forwarded to him as aforesaid) and shall either cause a local inquiry to be held or afford to any person by whom a representation has been duly made and not withdrawn and, where the highway authority is not the Minister, to that authority, an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
- (4) After the Minister has considered the report of the person who held the inquiry under sub-paragraph (3) above, or the person appointed under that sub-paragraph, as the case may be,—
- (a) the Minister may, where he is the highway authority, proceed to determine the question;
  - (b) where he is not the highway authority, the authority may determine the question in the affirmative if the Minister consents, but not otherwise, and subject to compliance with any conditions subject to which his consent is given.
- (5) Notwithstanding anything in sub-paragraph (3) above, except where a representation is made by a highway authority other than the Minister, the Minister may, if satisfied that in the special circumstances of the case the holding of a local inquiry or the affording to the person making such representation as aforesaid of an opportunity to be heard by a person appointed by the Minister is unnecessary, proceed without compliance in this respect with the provisions of the said sub-paragraph (3).
- (6) As soon as may be after the determination of the question, a notice of the determination shall be sent by the Minister to any person by whom a representation has been made under the foregoing provisions of this Schedule.
- 4 For the purpose of displaying a notice as required by paragraph 1 above, a highway authority may, on the highway or on adjoining land (whether or not belonging to the authority), erect and maintain posts or boards or affix a notice to any building

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or structure; but the powers conferred by this paragraph shall not be exercised on land off the highway which is occupied, except with the consent of the occupier.

- 5 In relation to the exercise by a council of functions of the Minister as highway authority delegated to the council under section 89 of this Act, the foregoing provisions of this Schedule apply as if the council, and not the Minister, were the highway authority.

## SCHEDULE 11 E+W

Section 93.

### PROVISIONS AS TO ORDERS UNDER SECTION 93 OF THIS ACT

#### *Limitations on matters to be dealt with by orders*

- 1 The Minister shall not by an order under section 93 of this Act (hereafter in this Schedule referred to as “an order”) direct that a swing bridge crossing a canal is to be operated otherwise than by the owners of the canal unless he is satisfied, after considering any representations made to him by the owners of the canal, that the facilities for traffic on the canal will not be prejudiced thereby.
- 2 The Minister shall not by an order with respect to a swing bridge modify any statutory provisions relating to precedence of traffic.
- 3 The Minister shall not by an order with respect to a bridge crossing a railway or a canal modify any statutory provisions relating to the headway of the bridge or the width of the canal without the consent of the owners of the railway or canal.
- 4 An order made with respect to—
- (a) a bridge owned by railway undertakers which carries a highway over a railway of the the undertakers, or carries both a highway and such a railway, or
  - (b) a bridge owned by dock undertakers or harbour undertakers, or
  - (c) a bridge, other than one falling within sub-paragraph (a) above, owned by <sup>F99</sup>Canal & River Trust] and forming part of so much of the undertaking of <sup>F100</sup>Canal & River Trust] as corresponds to the undertaking of the Weaver Navigation Trustees prior to the vesting of that undertaking in the British Transport Commission <sup>F101</sup>... under the <sup>M7</sup>Transport Act 1947,
- shall not, without the consent of the owners of the bridge, either—
- (i) require works for the reconstruction or improvement of the bridge to be carried out otherwise than by the owners, or
  - (ii) direct the bridge to be maintained otherwise than by the owners, or
  - (iii) transfer the property in the bridge to a highway authority, or
  - (iv) in the case of a swing bridge, direct the bridge to be operated otherwise than by the owners.

#### **Textual Amendments**

**F99** Words in Sch. 11 para. 4(c) 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(6)(a)** (with arts. 4-6)

**F100** Words in Sch. 11 para. 4(c) 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(6)(b)** (with arts. 4-6)

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**F101** Words in Sch. 11 para. 4(c) omitted (2.7.2012) by virtue of The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659), art. 1(2), Sch. 3 para. 6(6)(c) (with arts. 4-6)

#### Marginal Citations

**M7** 1947 c. 49.

- 5 Nothing in an order made with respect to—
- (a) a bridge owned by railway undertakers and crossing a railway of the undertakers, or
  - (b) a bridge owned by canal undertakers and crossing a canal of the undertakers, or
  - (c) a bridge owned by dock undertakers, or by harbour undertakers, crossing a railway, lock, passage or other work of the undertakers,
- shall, without the consent of the owners of the bridge, require the bridge to be altered or reconstructed in such a manner as to necessitate an alteration in the level, or reduction in the width, of the railway, canal, lock, passage or work, or to reduce the headway of the bridge as existing at the date of the order.
- 6 An order requiring the reconstruction of a bridge crossing a canal, or of the approaches to such a bridge, shall, unless the owners of the bridge agree to the contrary, direct the bridge, the highway carried by the bridge, and the approaches to the bridge to be maintained by a highway authority.

#### *Procedure for making orders*

- 7 (1) An order to which this paragraph applies shall be prepared in draft and made by the Minister in accordance with this paragraph and paragraphs 8 to 10 below.
- (2) The order shall describe by reference to a map the land on which the works to which the order relates are proposed to be executed or constructed.
- (3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.
- (4) This paragraph applies to an order which requires or authorises the owners of a bridge or a highway authority to execute or construct any works.
- 8 Before making an order to which paragraph 7 above applies the Minister shall in 2 successive weeks publish in one or more local newspapers circulating in the area in which the proposed works are to be executed or constructed a notice—
- (a) stating the general effect of the proposed order,
  - (b) naming a place in the said area where a copy of the draft order, the map referred to in it, and plans and sections of the proposed works, may be inspected free of charge at all reasonable hours, and
  - (c) specifying the time (which shall not be less than 21 days from the date of the first publication of the notice) within which and the manner in which objections to the draft order may be made,
- and shall serve on all statutory undertakers appearing to him to be affected by the proposed works a notice stating the general effect of the order and that it is proposed to be made, and specifying the time (which shall not be less than 21 days from the date of service of the notice) within which and the manner in which objections to the draft order may be made.

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- 9 (1) If no objection is duly made by any person who will be affected by the proposed works, or if all objections so made are withdrawn, the Minister, on being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order with or without modifications.
- (2) If an objection duly made as aforesaid is not withdrawn, the Minister shall, before making the order, either cause a local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose and, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may make the order either with or without modifications.
- (3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the Minister shall afford to the <sup>F102</sup>... highway authority, or to the owners of a bridge, by whom the proposed works are to be executed or constructed, and to any other person to whom it appears to him expedient to afford it, an opportunity of being heard on the same occasion.
- (4) Notwithstanding anything in sub-paragraphs (2) and (3) above, the Minister may require any person who has made an objection to state in writing the grounds of it.

#### **Textual Amendments**

**F102** Word in *Sch. 11 para. 9(3)* omitted (5.3.2015) by virtue of *Infrastructure Act 2015 (c. 7), s. 57(1), Sch. 1 para. 66(2); S.I. 2015/481, reg. 2(a)*

- 10 As soon as may be after the order has been made the Minister shall publish in one or more local newspapers circulating in the area in which the proposed works are to be executed or constructed a notice describing the proposed works, stating that the order has been made and naming the place where a copy of the order and of the map referred to therein, and a copy of plans and sections of the proposed works, may be inspected free of charge at all reasonable hours, and shall serve a like notice and a copy of the order on any statutory undertakers on whom a notice was required to be served under paragraph 8 above.
- 11 Subject to paragraphs 7 to 10 above, the Minister of Transport may make regulations for prescribing the procedure to be followed in connection with the making of orders.

#### *Power to postpone commencement of orders*

- 12 The Minister may postpone the date of the coming into operation of an order in a case where it appears to him that, owing to the number or nature of the orders and applications affecting the same highway authority or affecting bridges belonging to the same owners, the making of an order which would be immediately operative would work hardship to that authority or to those owners.

#### *Provisions as to public utility undertakers*

- 13 (1) Before making an order for the reconstruction or improvement of a bridge, the Minister shall take into consideration the desirability of the provision of special facilities or accommodation for carrying across the bridge the mains, [<sup>F103</sup>sewers,] pipes, cables or wires of public utility undertakers; but in a case where the provision

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of facilities or accommodation greater than those available in the bridge before reconstruction or improvement would increase the cost of the reconstruction or improvement, he shall have regard to the amount of any contribution towards the cost of the reconstruction or improvement which any public utility undertakers may be willing to make.

- (2) In this paragraph, and in paragraph 14 below, “public utility undertakers” includes persons authorised by any enactment to carry on an undertaking for the operation of a light railway, a tramway, or trolley vehicles (that is to say, mechanically propelled vehicles adapted for use upon highways without rails and moved by power transmitted thereto from some external source).

#### Textual Amendments

**F103** Word inserted 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(15), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

- 14 (1) Where an order provides for the transfer to a highway authority—
- (a) of the property in a bridge, or in the highway carried by a bridge, or in the approaches to a bridge, or
  - (b) of the responsibility for the maintenance of a bridge, or of any such highway or approaches, or
  - (c) of rights or obligations attaching to a bridge or to any such highway or approaches,
- any statutory provisions in force in relation thereto for the protection or benefit of any public utility undertakers shall, except so far as may be otherwise expressly provided by the order for giving effect to an agreement made between the parties concerned, remain in force notwithstanding the transfer.
- (2) In relation to property, responsibilities, rights or obligations transferred by an order which provides as aforesaid, any such statutory provisions shall apply to the highway authority, and to the exercise by them of any powers under the order, in like manner as they applied, before the transfer, to the owners of the bridge, highway or approaches, and to the exercise of powers by the owners thereof.

#### *Apportionment of expenses*

- 15 (1) Subject to sub-paragraph (2) below, where an order has been made with respect to a bridge <sup>F104</sup>...—
- (a) requiring the reconstruction or improvement of the bridge, or of the highway carried by the bridge, or of the approaches to the bridge, or
  - (b) relating to the maintenance of the bridge, or of any such highway or approaches, or
  - (c) relating to the operation of the bridge, being a swing bridge,
- the expense of such reconstruction, improvement, maintenance or operation shall be defrayed either by the owners of the bridge or by one or more of the highway authorities entitled to make application with respect thereto by virtue of section 95 of this Act, or partly by the owners of the bridge and partly by one or more of those highway authorities, as, in default of agreement, may be determined by arbitration.
- (2) Sub-paragraph (1) above is subject to the following, namely that, unless otherwise agreed,—



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- (a) where the bridge is a bridge crossing a railway of railway undertakers, or a canal of canal undertakers, or a railway, lock, passage or other work of dock undertakers or of harbour undertakers, any additional expense incurred by the owners of that railway, canal, lock, passage or work by reason of any alteration thereof due to the provisions of the order (other than provisions applied for by the undertakers for the improvement of their undertaking) shall be defrayed by one or more of the highway authorities;
- (b) where the bridge is a swing bridge, any additional expense incurred by the owners in relation to the operation of the bridge due to the provisions of the order (other than provisions applied for by the owners for the improvement of their undertaking) shall be defrayed by one or more of the highway authorities; and
- (c) except so far as any additional expense is due to works executed at the instance of the owners of the bridge for the improvement of their undertaking, the owners' share of the expense of the reconstruction, improvement, maintenance or operation shall be an amount equivalent to what would have been the amount of the owners' liability if no such order had been made.

**Textual Amendments**  
**F104** Words in [Sch. 11 para. 15\(1\)](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 66\(3\)](#); S.I. 2015/481, reg. 2(a)

16 Where the reconstruction or improvement of a bridge crossing—

- (a) a railway of railway undertakers, or
- (b) a canal of canal undertakers, or
- (c) a railway, lock, passage or other work of dock undertakers or of harbour undertakers,

effected in pursuance of an order made otherwise than upon the application of the owners of the bridge, has caused the width between the parapets of the bridge, or the width of the approaches to it, to be increased, any additional expense thereafter incurred in consequence of the increase by the owners of that railway, canal, lock, passage or work in connection with the widening or alteration thereof under the bridge or the approaches to it shall be defrayed by one or more of the highway authorities referred to in paragraph 15 above, and any question whether any such additional expense has been so incurred or as to the amount thereof shall, in default of agreement, be determined by arbitration.

F105 17 .....

**Textual Amendments**  
**F105** [Sch. 11 para. 17](#) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 66\(4\)](#); S.I. 2015/481, reg. 2(a)

18 Where it is determined by agreement or an award that the whole or part of the expenses of reconstruction, improvement, maintenance or operation is to be borne by two or more highway authorities, the expenses or part thereof shall be apportioned between them in such manner as, in default of agreement, may be determined by arbitration.



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- 19 Where it is determined by agreement or an award that the owners of a bridge are to contribute to the expense of a highway authority, the contribution shall, at the option of the owners of the bridge, be paid—
- (a) as a lump sum, or
  - (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between the owners and the authority or, in default of agreement, as may be determined by arbitration, or
  - (c) by perpetual annual payments of such amount as may be so agreed or determined.

#### *Arbitration*

- 20 Where a question is by any provision of this Schedule, or of an order, to be determined by arbitration, the arbitrator shall be a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

## SCHEDULE 12 **E+W**

Sections 116, 256.

### PROVISIONS AS TO ORDERS UNDER SECTION 116 AND CONVEYANCES UNDER SECTION 256

#### **PART I **E+W****

##### NOTICES TO BE GIVEN BY APPLICANT FOR ORDER UNDER SECTION 116

- 1 At least 28 days before the day on which an application for an order under section 116 of this Act is made in relation to a highway the applicant authority shall give notice of their intention to apply for the order, specifying the time and place at which the application is to be made and the terms of the order applied for (embodying a plan showing what will be the effect thereof)—
- (a) to the owners and occupiers of all lands adjoining the highway;
  - (b) to any statutory undertakers having apparatus under, in, upon, over, along or across the highway;
  - (c) if the highway is a classified road, to the Minister;
  - (d) if the highway is a classified [<sup>F106</sup>road in a non-metropolitan district, to the district council [<sup>F107</sup>if the highway is a classified road in a Welsh county or county borough and the council of that county or county borough is not the highway authority, to the council of that county or county borough], and if the highway is a classified road] in, or partly in, a parish or community which has a separate parish council or community council, to the parish or community council, as the case may require or, in the case of a parish which does not have a separate parish council, to the chairman of the parish meeting.

#### **Textual Amendments**

**F106** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 43](#)

*Status: Point in time view as at 05/12/2017.*

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**F107** Words in Sch. 12 para. 1(d) inserted (1.4.1996) by 1994 c. 19, s. 22(1), Sch. 7 Pt. I para.29 (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, Sch.1.

2 Not later than 28 days before the day on which the application is made the applicant authority shall cause a copy of the said notice to be displayed in a prominent position at the ends of the highway.

3 At least 28 days before the day on which the application is made the applicant authority shall publish in the London Gazette and in at least one local newspaper circulating in the area in which the highway is situated a notice containing the particulars specified in paragraph 1 above, except that there may be substituted for the plan a statement of a place in the said area where the plan may be inspected free of charge at all reasonable hours.

## PART II E+W

### APPARATUS OF STATUTORY UNDERTAKERS

4 Where this Part of this Schedule applies in relation to a highway, the statutory undertakers whose apparatus is under, in, upon, over, along or across the highway have the same powers and rights in respect of that apparatus, subject to the provisions of this Schedule, as if the order authorising the highway to be stopped up or diverted had not been made or, as the case may be, as if the conveyance of land pursuant to section 256 of this Act had not been made.

5 Where a highway is stopped up or diverted in pursuance of an order under section 116 or land is conveyed pursuant to section 256, the statutory undertakers whose apparatus is under, in, upon, over, along or across the highway may, and, if reasonably requested so to do by the authority on whose application the order was made, or who conveyed the land, as the case may be, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as they may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

Any works executed under this paragraph (including the provision of apparatus thereunder) are hereafter in this Part of this Schedule referred to as “undertakers’ works”.

6 Subject to the following provisions of this Part of this Schedule, the authority on whose application an order under section 116 stopping up or diverting a highway was made or, as the case may be, the authority who conveyed the land pursuant to section 256, shall pay to any statutory undertakers an amount equal to the cost reasonably incurred by them in or in connection with—

- (a) the execution of undertakers’ works required in consequence of the stopping up or diversion of that highway or, as the case may be, the conveyance of the land, and
- (b) the doing of any other work or thing rendered necessary by the execution of undertakers’ works.

7 If in the course of the execution of undertakers’ works under paragraph 5 above—

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- (a) apparatus of better type, of greater dimensions or of greater capacity is placed in substitution for existing apparatus of worse type, of smaller dimensions or of smaller capacity, or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type, dimensions or capacity or the placing of apparatus at that depth, as the case may be, is not agreed by the authority concerned, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the undertakers' works exceeding that which would have been involved if the apparatus placed had been of the existing type, dimensions or capacity, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the undertakers by virtue of paragraph 6 above shall be reduced by the amount of that excess.

8 For the purposes of paragraph 7 above—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

9 An amount which apart from this paragraph would be payable to undertakers in respect of works of their by virtue of paragraph 6 above (and having regard, where relevant, to paragraph 7 above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

10 Any question arising under this Part of this Schedule shall, in default of agreement between the parties concerned, be determined by arbitration.

### [<sup>F108</sup> PART III E+W

#### INTERPRETATION

##### Textual Amendments

**F108** Sch. 12 Pt. III (para. 11) inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989](#) (c. 22, SIF 107:1), s. 13(1), [Sch. 4 para. 3\(14\)](#)

11 In this Schedule “statutory undertakers” includes operators of driver information systems.]

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## [<sup>F109</sup>SCHEDULE 12ZA E +W

### DELEGATION OF FUNCTION OF MAKING DETERMINATION

#### Textual Amendments

**F109** Sch. 12ZA inserted (12.2.2003 and 21.5.2007 for E. for certain purposes, 31.5.2005 for W. and otherwise *prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I. para. 24; S.I. 2003/272, art. 2(a)(q); S.I. 2005/1314, art. 2(b)(vii); S.I. 2007/1493, art. 2

#### *Interpretation*

- 1 In this Schedule—
- “appointed person” means a person appointed under section 121(5B) of this Act;
  - “appropriate Minister” has the same meaning as in section 121(5) of this Act;
  - “appointment”, in the case of any appointed person, means appointment under section 121(5B) of this Act.

#### *Appointments*

- 2 An appointment under section 121(5B) of this Act must be in writing and—
- (a) may relate to a particular question specified in the appointment or to questions of a description so specified,
  - (b) may provide for any function to which it relates to be exercisable by the appointed person either unconditionally or subject to the fulfilment of such conditions as may be specified in the appointment, and
  - (c) may, by notice in writing given to the appointed person, be revoked at any time by the appropriate Minister in respect of any question which has not been determined by the appointed person before that time.

#### *Powers of appointed person*

- 3 Subject to the provisions of this Schedule, an appointed person shall, in relation to the determination of any question to which his appointment relates, have the same powers and duties as the appropriate Minister, other than—
- (a) any function of holding an inquiry or other hearing or of causing an inquiry or other hearing to be held; or
  - (b) any function of appointing a person for the purpose—
    - (i) of enabling persons to appear before and be heard by the person so appointed; or
    - (ii) of referring any question or matter to that person.

#### *Holding of inquiries and other hearings by appointed persons*

- 4 (1) If either of the following persons—
- (a) the statutory undertakers to which the question relates, and

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- (b) in the case of an order to be made on an application under section 118ZA, 118C, 119ZA or 119C of this Act, the person who made the application, express a wish to appear before and be heard by the appointed person, the appointed person shall give them an opportunity of appearing and being heard.
- (2) Whether or not sub-paragraph (1) above applies, the appointed person—
  - (a) may hold an inquiry or other hearing in connection with the determination of the question, and
  - (b) shall, if the appropriate Minister so directs, hold an inquiry in connection with that determination.
- (3) Where an appointed person holds an inquiry or other hearing by virtue of this Schedule, an assessor may be appointed by the appropriate Minister to sit with the appointed person at the inquiry or hearing and advise him on any matters arising, notwithstanding that the appointed person is to determine the question.
- (4) Subject to paragraph 7 below, the costs of an inquiry or other hearing held under this Schedule shall be defrayed by the appropriate Minister.

*Revocation of appointments and making of new appointments*

- 5 (1) Where under paragraph 2(c) above the appointment of the appointed person is revoked in respect of any question, the appropriate Minister shall, unless he proposes to determine the question himself, appoint another person under section 121(5B) of this Act to determine the question instead.
- (2) Where such a new appointment is made, the consideration of the question, or any hearing in connection with it, shall be begun afresh.
- (3) Nothing in sub-paragraph (2) above shall require any person to be given an opportunity of making fresh representations or modifying or withdrawing any representations already made.

*Certain acts and omissions of appointed person to be treated as those of appropriate Minister*

- 6 (1) Anything done or omitted to be done by an appointed person in, or in connection with, the exercise or purported exercise of any function to which the appointment relates shall be treated for all purposes as done or omitted to be done by the appropriate Minister.
- (2) Sub-paragraph (1) above does not apply—
  - (a) for the purposes of so much of any contract made between the appropriate Minister and the appointed person as relates to the exercise of the function, or
  - (b) for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done as mentioned in that sub-paragraph.

*Local inquiries and hearings: evidence and costs*

- 7 Subsections (2) to (5) of section 250 of the <sup>M8</sup>Local Government Act 1972 (local inquiries: evidence and costs) shall apply to local inquiries or other hearings held under this Schedule by an appointed person as they apply to inquiries caused to be held under that section by a Minister, but as if—

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- (a) in subsection (2) (evidence) the reference to the person appointed to hold the inquiry were a reference to the appointed person,
- (b) in subsection (4) (recovery of costs of holding inquiry) references to the Minister causing the inquiry to be held were references to the appropriate Minister, and
- (c) in subsection (5) (orders as to the costs of the parties) the reference to the Minister causing the inquiry to be held were a reference to the appointed person or the appropriate Minister.]

#### Marginal Citations

**M8** 1972 c. 70.

## [<sup>F110</sup>SCHEDULE 12A E+W

### FURTHER POWERS OF HIGHWAY AUTHORITIES AND COUNCILS IN RELATION TO INTERFERENCE WITH HIGHWAYS

#### Textual Amendments

**F110** Sch. 12A inserted by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), s. 4

#### *Interpretation*

- 1 (1) For the purposes of this Schedule the “minimum width” and “maximum width” of a highway shall be determined in accordance with sub-paragraphs (2) and (3) below.
- (2) In any case where the width of the highway is proved, that width is both the “minimum width” and the “maximum width”.
- (3) In any other case—
- (a) the “minimum width” is—
    - (i) as respects a footpath which is not a field-edge path, 1 metre,
    - (ii) as respects a footpath which is a field-edge path, 1.5 metres,
    - (iii) as respects a bridleway which is not a field-edge path, 2 metres, or
    - (iv) as respects any other highway, 3 metres; and
  - (b) the “maximum width” is—
    - (i) as respects a footpath, 1.8 metres,
    - (ii) as respects a bridleway, 3 metres, or
    - (iii) as respects any other highway, 5 metres.

#### *Competent authorities*

- 2 For the purposes of this Schedule each of the following shall be a competent authority in relation to a highway—
- (a) the highway authority; and

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- (b) in the case of a highway maintained by a district council under section 42 or 50 of this Act, that council.

*Power to carry out works*

- 3 (1) Where the surface of—
- (a) a footpath,
  - (b) a bridleway, or
  - (c) any other highway which consists of or comprises a carriageway other than a made-up carriageway,
- has been so disturbed as to render it inconvenient for the exercise of the public right of way, a competent authority may make good the surface to an extent not less than the minimum width nor greater than the maximum width.
- (2) Where the surface of a footpath or bridleway was disturbed under the right conferred by section 134(1) of this Act, the power conferred by sub-paragraph (1) above shall not become exercisable until the expiration of the period which is the relevant period for the purposes of section 134 or an extension of that period granted under subsection (8) of that section.
- (3) Where the surface of a footpath [<sup>F111</sup>, bridleway or restricted byway] was disturbed under an order made by virtue of section 135 of this Act, the power conferred by sub-paragraph (1) above shall not become exercisable until the expiration of the period which is the authorisation period for the purposes of section 135.

**Textual Amendments**

**F111** Words in Sch. 12A para. 3(3) 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)

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

**C15** Sch. 12A para. 3(3) 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

- 4 (1) Where the occupier of any land fails to carry on the duty imposed on him by section 134(3)(b) or 137A(1) of this Act in relation to a highway, a competent authority may carry out such works as may be necessary or expedient for the purpose of rectifying the default.
- (2) Sub-paragraph (1) above does not authorise the carrying out of works to an extent greater than the maximum width of the highway.
- (3) Where the surface of a footpath or bridleway was disturbed under the right conferred by section 134(1) of this Act, the power conferred by sub-paragraph (1) above shall not become exercisable until the expiration of the period which is the relevant period for the purposes of section 134, or an extension of that period granted under subsection (8) of that section.



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- 5 If the applicant fails to comply with a condition imposed under section 135(3)(b) or (4)(a) or (b) of this Act, a competent authority may carry out such works as may be necessary or expedient for the purpose of rectifying the default.
- 6 Paragraphs 7 to 9 below have effect in relation to the carrying out by a competent authority of work under paragraphs 3 to 5 above in relation to a highway which passes over any land (“the relevant land”).

#### *Entry on land*

- 7 Subject to paragraph 8 below, any person duly authorised in writing by the authority may enter on the relevant land, or any other land the authority reasonably believe to be in the same occupation, for any purpose connected with the carrying out of the work; and may take with him on to the land such vehicles, machinery and other equipment as may be requisite.
- 8 (1) Except in the case of entry, solely for the purpose of obtaining information, on land other than a building or structure, before entering on any land the authority shall give the occupier not less than twenty-four hours’ notice of their intention to do so; and the notice shall—
- (a) identify the highway to which it relates; and
  - (b) specify the work to be carried out and the equipment to be used for that purpose; and
  - (c) identify the line or lines of passage over the land in question, if any, that may need to be used for access to the site of the work; and
  - (d) state the date and time when the power to enter on the land becomes exercisable.
- (2) Without prejudice to section 322 (service of notices etc.) of this Act, if after reasonable enquiry the authority are satisfied that it is not practicable to ascertain the name and address of the occupier, a notice under this paragraph may be given by addressing it to him as “The Occupier” of the land (describing it) and affixing copies of the notice to some conspicuous object—
- (a) at each end of so much of the highway as is referred to in the notice; and
  - (b) at such other points in the vicinity of that highway as the authority may consider suitable; and
  - (c) if appropriate, at a point adjacent to a highway comprising a made-up carriageway from which access is required for equipment.
- (3) A notice shall not be given under this paragraph before the power referred to in paragraph 3, 4 or 5 above has become exercisable.

#### *Financial*

- 9 (1) Subject to sub-paragraph (2) below, a competent authority may recover the amount of any expenses reasonably incurred by the authority in, or in connection with, the carrying out of the work—
- (a) in a case falling within paragraph 3(1) above, from the occupier of the relevant land or the person who disturbed the surface of the highway; and
  - (b) in any other case, from the occupier of the relevant land.
- (2) A person—

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- (a) is not liable under paragraph (a) of sub-paragraph (1) above if he shows that he had any lawful authority or excuse for disturbing the surface of the highway; and
- (b) is not liable under that paragraph as an occupier of land if he shows that the surface of the highway was not disturbed by him or with his consent.]

## SCHEDULE 13 E+W

Sections 152, 153, 212, 237, 305.

### DEDUCTIONS FROM RENTS

- 1 An occupier of premises by whom any sum in relation to which this Schedule applies is paid under this Act shall be entitled to deduct from the rent payable by him in respect of the premises—
  - (a) if he holds the premises at a rent not less than the rack rent, an amount equal to three-quarters of the said sum, or
  - (b) if he holds the premises at a rent less than the rack rent, such proportion of an amount equal to three-quarters of the said sum as the rent at which he holds the premises bears to the rack rent.
- 2 Where a deduction from rent payable to a landlord is made under this Schedule, and the landlord himself holds the premises under a lease for a term of which less than 20 years is unexpired, the landlord is entitled to deduct from any rent payable by him under the lease such proportion of the amount deducted from the rent payable to him as the rent so payable by him bears to the rent payable to him, and so on in succession with respect to every landlord holding the premises for a term of which less than 20 years remains unexpired and who is both receiving and liable to pay rent in respect thereof.
- 3 Nothing in paragraph 2 above entitles a person to deduct from the rent payable by him more than the whole amount deducted from the rent payable to him.

## SCHEDULE 14 E+W

Section 184.

### PROVISIONS WITH RESPECT TO NOTICES UNDER SECTION 184

- 1 A person on whom a notice under section 184(1) or (3) of this Act is served may within 28 days from the date of his being served therewith object to the notice on any of the following grounds which are appropriate in the circumstances of the particular case:—
  - (a) that the notice is not justified by the terms of section 184(1) or (3);
  - (b) that there has been some defect or error in, or in connection with, the notice;
  - (c) that the proposed works are unreasonable in character or extent, or are unnecessary;
  - (d) that the conditions imposed by the notice are unreasonable;
  - (e) that some other person having an interest in the premises also habitually takes or permits to be taken a mechanically propelled vehicle across the footway or verge and should be required to defray part of the expenses of executing the proposed works;

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- (f) that the authority are not entitled to serve the notice by reason of section 184(2);
  - (g) that a person carrying out or proposing to carry out such a development as is referred to in section 184(3) offers to execute the works himself.
- 2 An objection under paragraph 1 above shall be made by notice to the highway authority, and the notice shall state the grounds of objection.
- 3 Where objection is made to a notice given by a local highway authority under section 184(1) or (3), that authority shall send a copy of the notice and of the notice of objection to the Minister.
- 4 If objection is made to such a notice and the objection is not withdrawn the notice does not become effective until it has been confirmed by the Minister, and the Minister after considering the objection may confirm the notice without modification or subject to such modifications as he thinks fit.
- 5 Subject to paragraph 4 above, such a notice becomes effective at the expiration of the period during which the person served therewith may object to it.

## SCHEDULE 15 E+W

Section 204.

### APPLICATION OF ADVANCE PAYMENTS CODE

- 1 Where the advance payments code does not apply in a parish or community or any part of a parish or community, the council of the county [<sup>F112</sup>or metropolitan district] in which the parish or community is situated may, subject to the provisions of this Schedule, by resolution adopt that code for the parish or community or, as the case may be, for that part at a meeting of which not less than one month's notice has been duly given to all the members of the council specifying the intention to propose the resolution.

#### **Textual Amendments**

**F112** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 19](#)

- 2 The resolution shall come into operation at such time, not being less than one month from the date of the first publication of an advertisement under paragraph 3(a) below, as the council may by the resolution fix, and upon its coming into operation the advance payments code shall apply in the parish or community, or part of the parish or community specified in the resolution.
- 3 When it has been passed, the resolution shall be published—
- (a) by advertisement in at least one local newspaper circulating in the parish or community concerned or, as the case may be, the part of the parish or community concerned, and
  - (b) by notice thereof fixed to the principal doors of every church and chapel in the parish or community concerned or, as the case may be, the part of the parish or community concerned, in the place to which notices are usually fixed, and
  - (c) otherwise in such manner as the council think sufficient for giving notice thereof to all persons interested,

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- and a copy of the resolution shall be sent to the Minister.
- 4 A copy of the advertisement of the resolution published under paragraph 3(a) above is sufficient evidence of the passing of the resolution unless the contrary is shown, and, on the expiration of 3 months from the date of the first publication of that advertisement, an objection to the resolution on the ground—
- (a) that notice to propose it was not duly given, or
  - (b) that the resolution was not sufficiently published,
- is of no effect.
- 5 For the purposes of this Schedule a notice is to be deemed to have been duly given to a member of a council if—
- (a) it is given in the mode in which notices to attend meetings of the council are usually given, or
  - (b) where there is no such mode, it is signed by the proper officer of the council and delivered to the member or left at his usual or last known place of abode in England or Wales, or sent by post in a prepaid registered letter, or letter sent by the recorded delivery service, addressed to the member at his usual or last-known place of abode in England or Wales.

SCHEDULE 16 **E+W**

Section 205, 210.

**PARTICULARS TO BE STATED IN SPECIFICATIONS, NOTICES,  
ETC., UNDER THE PRIVATE STREET WORKS CODE **E+W****

- 1 The specification shall describe generally the works and things to be done, and, in the case of structural works, shall specify so far as may be practicable the foundation, form, material and dimensions thereof.
- 2 The plans and sections shall show the constructional character of the works, the connections (if any) with existing streets, sewers or other works, and the lines and levels of the works, subject to such limits of deviation (if any) as may be indicated on the plans and sections respectively.
- 3 The estimate shall show the particulars of the probable cost of the whole works, including any additional charge in respect of surveys, superintendence and notices.
- 4 The provisional apportionment shall state the amounts charged on the respective premises and the names of the respective owners, or reputed owners, and shall also state whether the apportionment is made according to the frontage of the respective premises or not, and the measurements of the frontages, and the other considerations (if any) on which the apportionment is based.
- 5 The notice under section 205 of this Act shall contain the following particulars:—
- (a) a statement that the street works authority have resolved to execute street works in the private street in question;
  - (b) the address of the offices of the authority at which a copy of the resolution of approval, and the approved documents or copies of them certified by the proper officer, may be inspected, and the times at which, and the period during which, they may be inspected; and
  - (c) a statement that an owner of premises liable to be charged with any part of the expenses of executing the street works may object to the proposal

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to execute the works, giving the period during which such objection may be made.

- 6 The notice under section 210 of this Act shall contain the following particulars:—
- (a) a statement that the street works authority propose to amend the estimate so as to increase the amount of it, specifying the former amount and the amount to which it is to be increased;
  - (b) the address of the offices of the authority at which a document certified by the proper officer giving details of the proposed amendment and of the proposed consequential amendment of the provisional apportionment may be inspected, and the times at which, and the period during which, it may be inspected; and
  - (c) a statement that an owner of premises liable to be charged with any part of the expenses of executing the street works may object to the proposed amendments, giving the period during which such objection may be made.

## SCHEDULE 17 E+W

### PURPOSES FOR WHICH ADDITIONAL LAND MAY BE TAKEN IN ADVANCE OF REQUIREMENTS

<i>Provision authorising acquisition</i>	<i>Initial stage</i>	<i>Subsequent stage</i>
Section 239(1)	The construction of a highway.	The improvement of that highway.
Section 239(2)(a)	The carrying out of works authorised by an order relating to a trunk road under section 14 of this Act.	The improvement or alteration of a highway or proposed highway to which the order relates.
Section 239(2)(b)	The provision of a maintenance compound for a trunk road.	The extension of the maintenance compound.
Section 239(3)	The improvement of a highway.	The further improvement of that highway.
Section 239(4)(a)	The improvement of a highway included in the route of a special road.	The further improvement of the highway.
Section 239(4)(b)	The purposes of an order made in relation to a special road under section 18 of this Act.	The improvement or alteration of a highway or proposed highway to which the order relates.
Section 239(4)(c)	The provision of a service area or maintenance compound for a special road.	The extension of the service area or maintenance compound.
Section 240(1)	The carrying out of works authorised by an order	The improvement or alteration of a highway or

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	relating to a classified road under section 14 of this Act.	proposed highway to which the order relates.
Section 240(3)	The provision of a trunk road picnic area.	The extension of the trunk road picnic area.
Section 240(5)	The provision of a lorry area.	The extension of the lorry area.

SCHEDULE 18 **E+W**

Section 249.

DISTANCE LIMITS FROM HIGHWAY APPLICABLE TO COMPULSORY ACQUISITION

**PART I E+W**

*Table of limits*

	<b>Acquisition provision</b>	<b>Distance limit</b>
1.	Section 239(1) or 239(3)	220 yards from the middle of the highway or proposed highway.
2.	Section 239(2)(a) or 239(4) (a) or (b)	220 yards from the middle of the trunk road or of the special road, as the case may be, or, where the land is required for the improvement, alteration or construction of any other highway, from the middle of that other highway or proposed highway.
3.	Section 239(2)(b) or 239(4) (c)	880 yards from the middle of the trunk road or special road, as the case may be.
4.	Section 240(1) so far as it relates to works authorised by an order relating to a classified road under section 14 of this Act.	220 yards from the middle of the classified road to which the order relates or, where the land is required for the improvement, alteration or construction of any other highway, from the middle of that other highway or proposed highway.
5.	Section 240(1) so far as it relates to works authorised by section 129 of this Act.	880 yards from the middle of the highway or proposed highway from which new

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		means of access to premises are to be provided.
6.	Section 240(3)(a)	880 yards from the middle of the trunk road in connection with which a trunk road picnic area is to be provided.
7.	Section 240(3)(b) or 240(4)	220 yards from the middle of the highway or proposed highway on land adjoining, or in the vicinity of which, public sanitary conveniences are to be provided.
8.	Section 240(5)	880 yards from the middle of the highway or proposed highway on land adjoining, or in the vicinity of which, a lorry area is to be provided.

**PART II E+W**

*Further provision with respect to the limits under Part I*

- 1 In the entries numbered 2 and 4 in Part I of this Schedule the distance limit specified in column 2 shall, in relation to land required for the provision of new means of access to premises from a highway or proposed highway, have effect with the substitution for the distance there mentioned of a distance of 880 yards from the middle of that highway or proposed highway.
- 2 Where the boundaries of any highway will be altered in consequence of any improvement proposed to be made under this Act in relation to the highway, then, for the purposes of Part I of this Schedule the middle of that highway shall be the middle of it as proposed to be improved.

**SCHEDULE 19 E+W**

Section 250.

**COMPULSORY ACQUISITION OF RIGHTS: MODIFICATION OF 1946 AND 1965 ACTS**

**PART I E+W**

1—4. .... <sup>F113</sup>

**Textual Amendments**

**F113** Sch. 19 Pt. I (paras. 1–4) repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 6 Pt. I**



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## PART II **E+W**

### ADAPTATION OF 1965 ACT, PART I

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

- C16** Sch. 19 Pt. II (paras. 5–11) modified by Dartford–Thurrock Crossing Act 1988 (c. 20 SIF 59), ss. 2, 19, Sch. 2 Pt. II para. 2(3)(a)
- C17** Sch. 19 Pt. II applied (with modifications) (13.2.1992) by Severn Bridges Act 1992 (c. 3), s. 2, Sch. 2 Pt. II para. 1(3)(a), and (5.11.1993) by 1993 c. 42, s. 5, Sch. 4 para. 1(2)(3)(a)

5 In relation to a compulsory acquisition of a right by virtue of section 250 of this Act, the Act of 1965 applies with the modifications made by paragraphs 6 to 11 below.

6 For section 7 of the Act (measure of compensation) substitute the following:—

“7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

[<sup>F1147</sup> Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

#### “SCHEDULE 2A **E+W**

### COUNTER-NOTICE REQUIRING PURCHASE OF LAND

#### *Introduction*

- 1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 In this Schedule “house” includes any park or garden belonging to a house.

#### *Counter-notice requiring purchase of land*

- 3 A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

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*Response to counter-notice*

- 5 On receiving a counter-notice the acquiring authority must decide whether to—
- (a) withdraw the notice to treat,
  - (b) accept the counter-notice, or
  - (c) refer the counter-notice to the Upper Tribunal.
- 6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.
- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

*Determination by Upper Tribunal*

- 10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—
- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
  - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 11 In making its determination, the Upper Tribunal must take into account—
- (a) the effect of the acquisition of the right,
  - (b) the proposed use of the right, and
  - (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

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- (2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”]

#### Textual Amendments

**F114** Sch. 19 para. 7 substituted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 17 paras. 6, 7; S.I. 2017/75, reg. 3\(g\)](#) (with reg. 5)

- 8 The following provisions of the Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—
- section 9(4) (refusal by owners to convey);
  - Schedule 1, paragraph 10(3) (owners under incapacity);
  - Schedule 2, paragraph 2(3) (absent and untraced owners); and
  - Schedule 4, paragraphs 2(3) and 7(2) (common land),
- are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.
- 9 Section 11 of the Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on <sup>F115</sup>enforcement officer's or sheriff's warrant] in the event of obstruction) are modified correspondingly.

#### Textual Amendments

**F115** Words in Sch. 19 para. 9 substituted (1.4.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 139, 148, Sch. 22 para. 3; S.I. 2007/2709, art. 5](#)

- 10 Section 20 of the Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.
- 11 Section 22 of the Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

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SCHEDULE 20 **E+W**

Sections 257, 258.

ACQUISITION OF LAND OR RIGHTS: RELATED SCHEMES AND ORDERS

<b><i>Purposes for which acquisition of land or rights is required</i></b>	<b><i>Related schemes and orders</i></b>
Purposes connected with a trunk road, not being a special road.	An order under section 10 of this Act relating to the trunk road.  An order under section 14 of this Act relating to the trunk road.
Purposes connected with a special road.	A scheme under section 16 of this Act relating to the special road.  An order under section 18 of this Act relating to the special road.
The construction, in pursuance of an order under section 106(1) of this Act, as part of a trunk road of a bridge over or a tunnel under navigable waters.	The order under the said section 106(1).
The construction, in pursuance of a scheme under section 106(3) of this Act, as part of a highway or proposed highway of a bridge over or a tunnel under navigable waters.	The scheme under the said section 106(3).
Purposes connected with a classified road, not being a special road.	An order under section 14 of this Act relating to the classified road.
The provision of a new means of access to any premises from a highway or proposed highway.	An order under section 124 of this Act stopping up a means of access to those premises from that or any other highway.
The diversion, in pursuance of an order under section 108(1) of this Act, of a navigable watercourse.	The order under the said section 108(1).

SCHEDULE 21 **E+W**

Section 265.

TRANSITIONAL MATTERS ARISING WHERE A HIGHWAY BECOMES A TRUNK ROAD OR A TRUNK ROAD CEASES TO BE A TRUNK ROAD

- 1 All orders and regulations made, all directions, consents and notices given, and all building lines and improvement lines prescribed, with respect to a highway which becomes a trunk road, either by the former highway authority for the purposes of their functions with respect to that highway or by a council under any enactment to which section 265 of this Act applies, if they were in force immediately before the highway became a trunk road, have effect with respect thereto as if made, given or prescribed by the Minister<sup>[F116]</sup> or a strategic highways company, whichever is highway authority for the trunk road]; but nothing in this paragraph is to be taken as transferring to the Minister<sup>[F117]</sup> or the company ] any liability not transferred to<sup>[F118:it]</sup> by or under the said section 265.

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#### Textual Amendments

- F116** Words in Sch. 21 para. 1 inserted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), Sch. 1 para. 67(2)(a); S.I. 2015/481, reg. 2(a)
- F117** Words in Sch. 21 para. 1 inserted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), Sch. 1 para. 67(2)(b); S.I. 2015/481, reg. 2(a)
- F118** Word in Sch. 21 para. 1 substituted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), Sch. 1 para. 67(2)(c); S.I. 2015/481, reg. 2(a)

- 2 Any order, byelaw, regulation or other instrument made by a council with respect to a highway which becomes a trunk road, which would, if it had been made after the highway became a trunk road, have required the consent or approval of the Minister, may be revoked or varied by an order made by the Minister in like manner and subject to the like conditions as the original instrument, so, however, that no appeal lies to the Crown Court or to a magistrates' court against any order made by the Minister under this paragraph.
- 3 All contracts, deeds, bonds or agreements entered into or made by the former highway authority for a highway which becomes a trunk road, or by a council for the purposes of functions in relation to the highway under any enactment to which section 265 of this Act applies, and subsisting on the day on which the highway became a trunk road, have effect, in so far as they relate to the property and liabilities transferred to the Minister<sup>F119</sup> or a strategic highways company] in respect of that highway, with the substitution of the Minister<sup>F120</sup> or the company] for the authority or council and may be enforced by or against the Minister<sup>F120</sup> or the company] accordingly.

#### Textual Amendments

- F119** Words in Sch. 21 para. 3 inserted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), Sch. 1 para. 67(3)(a); S.I. 2015/481, reg. 2(a)
- F120** Words in Sch. 21 para. 3 inserted (5.3.2015) by Infrastructure Act 2015 (c. 7), s. 57(1), Sch. 1 para. 67(3)(b); S.I. 2015/481, reg. 2(a)

- 4 Where any such contract as aforesaid provides for the execution of works or the rendering of services by a person other than the authority or council in connection with the construction, maintenance or improvement of, or other dealing with, the highway, then—
- (a) if the works or services have been completed before the day on which the highway becomes a trunk road but the price or payment, or any part thereof, has not accrued due before that day, the Minister<sup>F121</sup> or a strategic highways company] may recover from the authority or council the price or payment, or part thereof, as the case may be; and
- (b) if the works or services have not been completed before the said day, the value of any works executed, or services rendered, before that day, shall be ascertained, regard being had to the terms of the contract, and the Minister<sup>F121</sup> or a strategic highways company] may recover from the authority or council the amount of the said value less any sum paid by the authority or council in pursuance of the contract, and if the authority or council have paid in pursuance of the contract a sum greater than the

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amount of the said value, the Minister<sup>F121</sup> or a strategic highways company] shall repay the excess to the authority or council.

**Textual Amendments**

**F121** Words in Sch. 21 para. 4 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 67(4)**; S.I. 2015/481, reg. 2(a)

5 Where, before the day on which a highway becomes a trunk road, the former highway authority or any council having functions in relation to the highway under any enactment to which section 265 of this Act applies have been themselves executing works in connection with the construction, maintenance or improvement of, or other dealing with, the highway, but have not completed the works before that day, the Minister shall, if required to do so by the authority or council, purchase all unused materials necessarily acquired by the authority or council for the purpose of the works and hire from the authority or council all plant so acquired which is still necessary for the purpose of the works.

6 In calculating—

(a) the amount of any sum to be recovered or paid by the Minister<sup>F122</sup> or a strategic highways company] under paragraph 4 above, or

(b) the price of the materials to be purchased, or the hire of plant to be hired, by the Minister<sup>F123</sup> or the company] under paragraph 5 above,

account shall be taken of any grant paid or payable by the Minister<sup>F123</sup> or the company] to the authority or council for the purpose of the works or services.

**Textual Amendments**

**F122** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 67(5)(a)**; S.I. 2015/481, reg. 2(a)

**F123** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 67(5)(b)**; S.I. 2015/481, reg. 2(a)

7 If any dispute arises under paragraph 4, 5 or 6 above as to the materials to be purchased, or the plant to be hired, by the Minister<sup>F122</sup> or a strategic highways company] from any authority or council, or as to the sums to be paid by any authority or council to the Minister<sup>F123</sup> or the company], or by the Minister<sup>F123</sup> or the company] to any authority or council, it shall be determined by arbitration.

**Textual Amendments**

**F122** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 67(5)(a)**; S.I. 2015/481, reg. 2(a)

**F123** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 67(5)(b)**; S.I. 2015/481, reg. 2(a)

8 All proceedings, legal or other, begun before the day on which a highway becomes a trunk road and relating to any property or liabilities transferred to the Minister<sup>F122</sup> or a strategic highways company] in respect of that highway, may be carried on with the substitution of the Minister<sup>F123</sup> or the company] as party to the proceedings, in lieu of the authority or council from whom the property or liabilities was or were

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transferred, and any such proceedings may be amended in such manner as may be necessary for that purpose.

**Textual Amendments**

**F122** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 67\(5\)\(a\)](#); S.I. 2015/481, reg. 2(a)

**F123** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 67\(5\)\(b\)](#); S.I. 2015/481, reg. 2(a)

9 The provisions of this Schedule, except paragraph 2, apply in a case where a trunk road ceases to be a trunk road in like manner as they apply where a highway becomes a trunk road, with the substitution, for the references to the former highway authority and to a council, of references to the Minister<sup>F122</sup> or a strategic highways company], and, for references to the Minister<sup>F123</sup> or the company], of references to the council who become the highway authority for the road or, as far as relates to functions under any enactment to which section 265 of this Act applies and to property and liabilities vested in or incurred by the Minister<sup>F123</sup> or the company] for the purposes of those functions, to the council who are to exercise those functions in relation to the road.

**Textual Amendments**

**F122** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 67\(5\)\(a\)](#); S.I. 2015/481, reg. 2(a)

**F123** Words in Sch. 21 paras. 6-9 inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 67\(5\)\(b\)](#); S.I. 2015/481, reg. 2(a)

SCHEDULE 22 **E+W**

Sections 288, 294, 312, 338, 339, 341.

PROVISIONS OF THIS ACT TO WHICH SECTIONS 288,  
294, 312, 338, 339 AND 341 OF THIS ACT APPLY

- 1 *Provisions contained in Part IV*  
Section 36(6) and (7) and section 38.
- 2 *Provisions contained in Part V*  
Section 66(2) to (8), sections 73 and 77 and section 96(4) and (5).
- 3 *Provisions contained in Part IX*  
Sections 133, and 151 to 153, section 154(1), and 154(4) so far as relating to a notice under 154(1), sections 163 and 165, sections 171 to 174, 176, 178 and 179, section 180 other than subsection (2) and subsection (4) so far as relating to subsection (2), and section 185.

<sup>F124</sup>4 .....



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### Textual Amendments

**F124** Sch. 22 para. 4 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)); 1991/2067, art.3

5 *Provisions contained in Part XI*

The private street works code, sections 226 and 228, section 230(1) to (6), and sections 231, 233, 236 and 237.

6 *Provisions contained in Part XII*

Section 239(6) and section 241.

7 *Provisions contained in Part XIV*

Sections 286, 295, 297, 303, 304, and 305.

PROSPECTIVE

[<sup>F125</sup>SCHEDULE  
22A **E+W**

Section 314A

FIXED PENALTY OFFENCES UNDER PART 9

### Textual Amendments

**F125** Sch. 22A inserted (prosp.) by Traffic Management Act 2004 (c. 18), ss. 64(3), 99, Sch. 5 (with s. 38)

<i>Offence</i>	<i>Brief description</i>
An offence under section 139(3)	Deposit of builder's skip on highway without permission of highway authority.
An offence under section 139(4)	Failure of owner of skip to ensure skip properly lit and marked and removed as soon as practicable once filled or to ensure conditions of permission complied with.
An offence created by regulations made under section 140A, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.140A (charge for occupation of the highway by builder's skip for unreasonable period).
An offence created by regulations made under section 140B, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.140B (charge determined by reference to duration of occupation of the highway by builder's skip).
An offence under section 169(5)	Offences relating to the erection or retention of scaffolding etc. which obstructs the highway.

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An offence under section 170(1)	Mixing or depositing mortar etc. on highway.
An offence under section 171(6)	Offences relating to the deposit of materials on highway or the making of temporary excavations in it.
An offence created by regulations made under section 171A, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.171A (charge for occupation of the highway by scaffolding etc. for unreasonable period).
An offence created by regulations made under section 171B, consisting of a failure to give a notice	Failure to give a notice required by regulations under s.171B (charge determined by reference to duration of occupation of the highway by scaffolding etc.).]

PROSPECTIVE

[<sup>F126</sup>SCHEDULE  
22B E+W

Section 314A

FIXED PENALTIES FOR CERTAIN OFFENCES UNDER PART 9

**Textual Amendments**

**F126** Sch. 22B inserted (prosp.) by Traffic Management Act 2004 (c. 18), ss. 64(3), 99, Sch. 6 (with s. 38)

*Power to give fixed penalty notices*

- 1 (1) An authorised officer of a highway authority may, if he has reason to believe that a person is committing or has committed a fixed penalty offence, give him a fixed penalty notice in relation to that offence.
- (2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.

*Power to give fixed penalty notices*

- 2 A fixed penalty notice for an offence may not be given after such time relating to the offence as the Secretary of State may by regulations prescribe.

*Contents of fixed penalty notice*

- 3 (1) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.
- (2) A fixed penalty notice must also state—

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- (a) the amount of the penalty and the period within which it may be paid;
  - (b) the discounted amount and the period within which it may be paid;
  - (c) the person to whom and the address at which payment may be made;
  - (d) the method or methods by which payment may be made;
  - (e) the person to whom and the address at which any representations relating to the notice may be addressed;
  - (f) the consequences of not making any payment within the period for payment.
- (3) The person specified under sub-paragraph (2)(c) must be the highway authority or a person acting on their behalf.

*The amount of the penalty and the period for payment*

- 4
- (1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.
  - (2) The period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given.
  - (3) The highway authority may extend the period for paying the penalty in any particular case if they consider it appropriate to do so.

*The discounted amount*

- 5
- (1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of 15 days beginning with the day on which the notice is given.
  - (2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.
  - (3) If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.
  - (4) In sub-paragraph (3) “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in the locality in which the highway in question is situated.

*Effect of notice and payment of penalty*

- 6
- (1) This paragraph applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.
  - (2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.
  - (3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the highway authority after that time.
  - (4) Payment of the discounted amount only counts for the purposes of sub-paragraph (3) if it is made before the end of the period for payment of the discounted amount.
  - (5) In proceedings for the offence a certificate which—

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- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the highway authority; and
  - (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,
- is evidence of the facts stated.

*Power to withdraw notices*

- 7
- (1) If the highway authority consider that a fixed penalty notice which has been given ought not to have been given, they may give to the person on whom it was given a notice withdrawing the fixed penalty notice.
  - (2) Where a notice under sub-paragraph (1) is given—
    - (a) the authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice; and
    - (b) no proceedings may be commenced or continued against that person for the offence in question.
  - (3) The highway authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

*General and supplementary*

- 8
- (1) In this Schedule “prescribed” means prescribed in regulations made by the Secretary of State.
  - (2) The Secretary of State may, with the consent of the Treasury, make regulations about—
    - (a) the application by highway authorities of fixed penalties paid under this Schedule;
    - (b) the keeping of accounts, and the preparation and publication of statements of account, relating to penalties paid under this Schedule.
  - (3) The Secretary of State may by regulations—
    - (a) prescribe circumstances in which fixed penalty notices may not be given;
    - (b) modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there;
    - (c) prescribe the method or methods by which penalties may be paid.
  - (4) Regulations under this Schedule may—
    - (a) make different provision (including provision prescribing the amount of the penalty or the discounted amount) for different purposes or areas;
    - (b) make consequential or transitional provision.

*General and supplementary*

- 9
- Section 323(1)(b) (reckoning of periods of 8 days or less) does not apply for the purposes of this Schedule.]

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Section 343(1).

## TRANSITIONAL PROVISIONS

**Subordinate Legislation Made****P1** [Sch. 23](#): for earlier exercises of power under Sch. 23, see Index to Government Orders*Delegation of functions*

- 1 Section 6(1). . . <sup>F127</sup> of this Act shall have effect in relation to land acquired by a Minister in connection with a trunk road. . . <sup>F127</sup> under subsection (5) or (6) of section 214 of the <sup>M9</sup>Highways Act 1959 (or. . . <sup>F127</sup> under so much of section 13 of the <sup>M10</sup>Restriction of Ribbon Development Act 1935 as is re-enacted in those subsections) as [<sup>F128</sup>it has] in relation to land so acquired under section 246 of this Act (or, by virtue of paragraph 17 below, under section 22 of the <sup>M11</sup>Land Compensation Act 1973).

**Textual Amendments****F127** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)**F128** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 44](#)**Marginal Citations****M9** 1959 c. 25.**M10** 1935 c. 47.**M11** 1973 c. 26.*Trunk roads and related roads*

- 2 Section 11(1) of this Act applies to a highway which at the commencement of this Act is a trunk road as it applies to a highway which becomes a trunk road after the said commencement.
- 3 (1) The provisions of this Act (except section 19) and of paragraph 5 of Schedule 5 to the <sup>M12</sup>Town and Country Planning Act 1971 apply in relation to the trunk roads described in sub-paragraph (2) below, which are trunk roads by virtue of orders made under section 1 of the <sup>M13</sup>Trunk Roads Act 1946, as if they were special roads provided by the Minister in pursuance of schemes made under section 16 of this Act for the use of traffic of the classes specified in the third column of the table in sub-paragraph (2) below.
- (2) The trunk roads referred to in sub-paragraph (1) above are the trunk roads for which provision was made by the orders specified in the first column of the following table (referred to below as “the original orders”), as those roads are now constituted, having regard to any orders or schemes varying the original orders:

Original order	Description of Road	Class of Traffic (as described in Schedule 4)
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S.R. & O. 1947, No. 2248.	Stevenage By-Pass, part of A1(M) motorway.	Classes I and II.
S.R. & O. 1947, No. 1562.	Severn Bridge and adjoining sections of M4 motorway.	For main carriageways: Classes I and II. For cycle track on Severn Bridge: Classes VII, X and XI. For footway on Severn Bridge: Class IX.
S.I. 1948, No. 924.	Haysgate to Crick, part of M4 motorway.	Classes I and II.
S.I. 1948, No. 62.	Newport By-Pass, part of M4 motorway.	Classes I and II.
S.I. 1949, No. 2360.	Twyning to Lydiate Ash, part of M5 motorway.	Classes I and II.
S.I. 1949, No. 2459.	Port Talbot By-Pass, part of M4 motorway.	Classes I and II.

- (3) Without prejudice to the generality of sub-paragraph (1) above, the power (under section 14 of the <sup>M14</sup>Interpretation Act 1978) to revoke or amend schemes under section 16 of this Act includes power to revoke or amend any of the original orders and to amend the provisions of the third column of the table in sub-paragraph (2) above.

#### Marginal Citations

- M12** 1971 c. 78.  
**M13** 1946 c. 30.  
**M14** 1978 c. 30.

- 4 (1) Any order under section 1(3) of the <sup>M15</sup>Trunk Roads Act 1936 (power to provide that a road superseding part of a trunk road should itself become a trunk road) continued in force by paragraph 29 of Schedule 24 to the <sup>M16</sup>Highways Act 1959, and still in force (whether or not varied under that paragraph) immediately before the commencement of this Act, continues in force and may be varied or revoked by a subsequent order made in the like manner and subject to the like provisions.
- (2) Schedule 2 to this Act has effect as to the validity and date of operation of an order made under this paragraph.
- (3) If an order under the said section 1(3) continued in force by sub-paragraph (1) above provides that on a date specified therein a route described therein is to become a trunk road and the order is revoked or varied by an order under this paragraph at any time before the route is opened for the purposes of through traffic, the revoking or varying order is not to be deemed for the purposes of section 2 of this Act to be an order directing that a trunk road is to cease to be a trunk road.

#### Marginal Citations

- M15** 1936 c. 5 (1 Edw. & 1 Geo. 6).

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**M16** 1959 c. 25.

- 5 (1) Any order under section 4 of the <sup>M17</sup>Trunk Roads Act 1946 (certain powers relating to side roads connected with trunk roads) continued in force by paragraph 30 of Schedule 24 to the Highways Act 1959 and still in force (whether or not varied under that paragraph) immediately before the commencement of this Act, continues in force and the provisions of subsections (1) to (3) of the said section 4 continue to apply to them as if that section had not been repealed.
- (2) Subject to sub-paragraph (3) below, an order under the said section 4 continued in force by sub-paragraph (1) above may be varied or revoked by a subsequent order made in the like manner and subject to the like provisions.
- (3) Parts I and III of Schedule 1 to this Act have effect as to the making of an order under this paragraph as they have effect as to the making of an order in relation to a trunk road under section 14 of this Act; and Schedule 2 to this Act has effect as to the validity and date of operation of an order under this paragraph.
- (4) Section 265 of this Act applies in relation to a highway for which any council become the highway authority by virtue of an order under the said section 4 or this paragraph as if it had previously been a trunk road.

**Marginal Citations**

**M17** 1946 c. 30.

*Special roads*

- 6 (1) In schemes under section 11 of the <sup>M18</sup>Highways Act 1959 made before 30th June 1961 references to traffic in Class VII set out in Schedule 4 to that Act are to be construed as including references to traffic in Classes X and XI set out in Schedule 4 to this Act.
- (2) Sub-paragraph (1) above is without prejudice to the operation of sections 17(2)(a) and 23(3) of the <sup>M19</sup>Interpretation Act 1978 as respects the construction of references generally in such schemes as are referred to in that sub-paragraph, and without prejudice to the powers under section 14 of that Act and section 17(3) of this Act to amend such schemes and to amend Schedule 4 to this Act.

**Marginal Citations**

**M18** 1959 c. 25.

**M19** 1978 c. 30.

*Vehicle crossings*

- 7 (1) If a person knowingly uses a grass verge or a footway as a crossing as mentioned in subsection (1) of section 155 of the <sup>M20</sup>Highways Act 1959 (carriage crossings across grass verges or kerbed footways) in contravention of any condition imposed under paragraph (c) of the said subsection (1) and in force immediately before the commencement of this Act, or knowingly permits it to be so used, he is



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(notwithstanding the repeal of the said section 155 by the <sup>M21</sup>Highways Act 1971) guilty of an offence and liable to a fine not exceeding £20.

- (2) As respects any expenses recoverable by a council under subsection (3) of the said section 155 and outstanding at the commencement of this Act, section 305 of this Act has effect as though they were incurred under a provision of this Act to which that section applies.

#### Marginal Citations

**M20** 1959 c. 25.

**M21** 1971 c. 41.

#### *Maintenance of highways*

- 8 Any question of liability for non-repair of a highway in respect of damage resulting from an event which occurred before 3rd August 1964 shall be determined in accordance with the former rule of law (abrogated by section 1 of the <sup>M22</sup>Highways (Miscellaneous Provisions) Act 1961) which exempted the inhabitants at large and any other persons as their successors from liability for non-repair of highways; and section 58 of this Act does not apply in relation to any such damage.

#### Marginal Citations

**M22** 1961 c. 63.

#### *Cattle-grids etc.*

- 9 (1) Without prejudice to the application of this Act to any cattle-grid, works or by-pass provided, or deemed to have been provided, under the Highways Act 1959, subparagraphs (2) and (3) below have effect as respects—
- (a) any cattle-grid provided for a highway which consists of or comprises a carriageway,
  - (b) any gate or other works on such a highway for use in connection with such a cattle-grid,
  - (c) any by-pass for use in connection with such a cattle-grid, and
  - (d) any gate or other works for the proper control of traffic passing over such a by-pass,
- being a cattle-grid, works or by-pass provided before 28th July 1950, where application is made to the Minister for his approval thereof by the highway authority for the highway.
- (2) If, where such an application is made—
- (a) the Minister approves the cattle-grid, works or by-pass unconditionally, or
  - (b) he gives his approval subject to conditions as to the carrying out of works, the conclusion of an agreement under section 88 of this Act or any other matter, and those conditions have been complied with,
- then, as from the giving of the Minister's approval unconditionally or, as the case may be, compliance with all conditions subject to which he gives his approval, the

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cattle-grid, works or by-pass are to be deemed to have been provided under this Act by the highway authority for whom the application for approval was made.

- (3) Where the Minister gives his approval of the cattle-grid, works or by-pass subject to conditions, the highway authority by whom the application for approval was made may carry out any work, or do any other thing, which is requisite for complying with the conditions; and in particular (but without prejudice to the foregoing provisions of this sub-paragraph) sections 85, 87 and 243 of this Act apply in relation to the exercise of the powers conferred by the foregoing provisions of this sub-paragraph as they apply in relation to the corresponding powers conferred by this Act.

#### *New streets*

F129 10 .....

#### **Textual Amendments**

**F129** [Sch. 23 para. 10](#) 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)); 1991/2067, art.3

F130 11 .....

#### **Textual Amendments**

**F130** [Sch. 23 para. 11](#) 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)); 1991/2067, art.3

#### *Private Street Works Code*

- 12 (1) Sub-paragraph (2) below has effect where—
- (a) before 1st January 1960 street works were executed under any of the relevant street works enactments with respect to part only of a private street, being a part consisting of the whole or part of a footway on one side only of the street, and those works were executed only by, or at the expense only of, the owners or occupiers of the premises fronting the footway or part of the footway, as the case may be; and
  - (b) the street works authority resolve under section 205(1) of this Act to execute street works with respect to any part of the street constituting or comprising the whole or a part of the footway on the side of the street other than that in which street works were executed as mentioned in paragraph (a) above.

In this paragraph “the relevant street works enactments” means section 150 of the <sup>M23</sup>Public Health Act 1875, the <sup>M24</sup>Private Street Works Act 1892 and any local Act making provision corresponding to the provisions of that section or of the said Act of 1892.

- (2) In the circumstances mentioned in sub-paragraph (1) above, the expenses incurred by the authority in executing the works mentioned in sub-paragraph (1)(b) above with respect to the footway or part of the footway there mentioned shall (notwithstanding anything in section 205(1) or (2) of this Act but subject to the other provisions of the private street works code) be apportioned only between the premises fronting that footway or part, as the case may be, and references in Part XI of this Act to the

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premises liable to be charged with the expenses of street works under the private street works code are to be construed in accordance with this sub-paragraph.

- (3) References in this paragraph to a footway include references to any roadside waste, and to any channel by the side of a footway.

#### Marginal Citations

**M23** 1875 c. 55.

**M24** 1892 c. 57.

- 13 (1) <sup>M25</sup>Subject to sub-paragraph (3) below, where a highway in existence on 16th December 1949 (the date of the coming into force of the National Parks and Access to the Countryside Act 1949, referred to below as “the 1949 Act”)—

- (a) was immediately before 1st January 1960 a highway repairable by the inhabitants at large by virtue only of section 47(1) of the 1949 Act (which extended to all public paths the then rule of law whereby a highway was repairable by the inhabitants at large), and
- (b) would, if the said section 47 had not been enacted, be a private street for the purposes of the private street works code,

the fact that the highway is a highway maintainable at the public expense by virtue of section 36(1) of this Act shall not prevent its being treated for the purposes of the private street works code as a private street.

This sub-paragraph does not apply to a highway in Greater London other than the outer London boroughs.

- (2) <sup>M26</sup>Subject to sub-paragraph (3) below, where a highway in existence on 3rd August 1968 (the date of the coming into force of the Countryside Act 1968) would, if paragraph 9(2)(a) of Schedule 3 to that Act (which provides that as from the date of publication of the definitive map and statement in a review carried out by an authority under Part III of that Schedule certain ways shown on the map are to be highways maintainable at the public expense) had not been enacted, be a private street, the fact that the highway is a highway so maintainable by virtue of the said paragraph 9(2) shall not prevent its being treated for the purposes of the private street works code as a private street.
- (3) Where the street works authority exercise the powers exercisable by them by virtue of sub-paragraph (1) or (2) above in relation to a highway or part of it, the sub-paragraph in question shall not thereafter apply to that highway or to that part, as the case may be, so as to enable the authority to exercise those powers in relation to it on any subsequent occasion.

Likewise, where before the commencement of this Act the street works authority exercised the powers exercisable by them by virtue of—

- (a) paragraph 24 of Schedule 24 to the <sup>M27</sup>Highways Act 1959 (from which sub-paragraph (1) above is derived) or section 50 of the 1949 Act (from which the said paragraph 24 was derived), or
- (b) section 76(1) of the <sup>M28</sup>Highways Act 1971 (from which sub-paragraph (2) above is derived),

in relation to a highway or part of it, sub-paragraph (1) or, as the case may be, (2) above shall not apply to that highway or part, as the case may be, so as to enable

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the authority to exercise the powers exercisable by virtue of sub-paragraph (1) or (2) above in relation to it.

#### Marginal Citations

- M25** 1949 c. 97.  
**M26** 1968 c. 41.  
**M27** 1959 c. 25.  
**M28** 1971 c. 41.

#### *Acquisition of land*

- 14 (1) Notwithstanding anything in section 1(2) of the Act of 1946 or in paragraph 9 of Schedule 1 to that Act, neither—
- (a) an order authorising a highway authority to acquire a right compulsorily as mentioned in section 242(3) of this Act, nor
  - (b) an order made as mentioned in section 254(1) of this Act, or so made and confirmed,

is, where notice of the making or preparation in draft of the order was first published before the 6th April 1976, subject to special parliamentary procedure by reason only of its authorising the acquisition of any such right as is mentioned in the said section 242(3) or, as the case may be, the said section 254(1).

- (2) Sub-paragraph (1) above is without prejudice to the operation of section 120 of the <sup>M29</sup>Local Government, Planning and Land Act 1980 (which re-enacts with modifications section 41 of the <sup>M30</sup>Community Land Act 1975) in relation to any such order as is mentioned in that sub-paragraph where notice of the making or preparation in draft of the order was or is first published on or after 6th April 1976.

#### Marginal Citations

- M29** 1980 c. 65.  
**M30** 1975 c. 77.

#### *National Freight Corporation*

- 15 ..... <sup>F131</sup>

#### Textual Amendments

- F131** Sch. 23 paras. 15, 24 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. X

#### *Continuing offences*

- 16 Where an offence for the continuance of which a penalty was provided has been committed under any enactment repealed by this Act proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the like manner as if the offence had been committed under the corresponding provision of this Act.

*Status: Point in time view as at 05/12/2017.*

*Changes to legislation: Highways Act 1980 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### General

17 Any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of, or by reference to any provision of this Act includes, except where the context otherwise requires, a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to the corresponding enactment repealed by this Act.

18 Without prejudice to paragraph 17 above, any reference in this Act (whether express or implied) to a thing done by a highway authority or other authority under a provision of this Act includes, except where the context otherwise requires, a reference to the corresponding thing done, or having effect as if done, by a predecessor authority under the corresponding enactment repealed by this Act.

In this paragraph “predecessor authority” means—

- (a) in relation to the Secretary of State, the Minister of Transport or other Minister exercising the relevant function before the transfer of the function to the Secretary of State;
- (b) in relation to the Minister of Transport, the Secretary of State or other Minister exercising the relevant function before the transfer of the function to the Minister of Transport;
- (c) in relation to a council, the authority exercising the relevant function before the function vested in the council under the <sup>M31</sup>Local Government Act 1972 or, as the case may be, the <sup>M32</sup>London Government Act 1963.

#### Marginal Citations

**M31** 1972 c. 70.

**M32** 1963 c. 33.

19 Without prejudice to paragraph 17 or 18 above, any power which was exercisable by a highway authority or other authority immediately before the commencement of this Act, under an enactment repealed by this Act, by reference (whether express or implied) to anything done before the said commencement may be exercised by that authority under the corresponding provision of this Act.

20 Where a period of time specified in any enactment repealed by this Act is current at the commencement of this Act, this Act has effect as if the corresponding provision of this Act had been in force when that period began to run.

<sup>F132</sup>21 .....

#### Textual Amendments

**F132** Sch. 23 para. 21 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

22 Any enactment or other document of any kind referring to a highway repairable by the inhabitants at large or a highway maintainable by the inhabitants at large is to be construed as referring to a highway which for the purposes of this Act is a highway maintainable at the public expense.

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**Changes to legislation:** *Highways Act 1980 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 23 Any enactment or other document of any kind referring to a surveyor of highways or a highway board is to be construed as referring to a highway authority.

*References to Magistrates' Courts Act 1980*

- 24 ..... F133

**Textual Amendments**

F133 Sch. 23 paras. 15, 24 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), Sch. 1 Pt. X

<sup>X1</sup>SCHEDULE 24 U.K.

Section 343(2).

CONSEQUENTIAL AMENDMENTS

**Editorial Information**

X1 The text of Schedule 24 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Military Lands Act 1892*

- 1 In the <sup>M33</sup>Military Lands Act 1892—
- (a) in section 13, for “the Highways Act 1959” substitute “ the Highways Act 1980 ”, for “section one hundred and eight” substitute (in both places) “ section 116 ” and for “section two hundred and seventy-five of the said Act of 1959” substitute “ section 317 of the said Act of 1980 ” ;
- (b) in section 16(2), for “the Highways Act 1959” substitute “ the Highways Act 1980 ”.

**Marginal Citations**

M33 1892 c. 43.

*Settled Land Act 1925*

- 2 In section 56(3) of the <sup>M34</sup>Settled Land Act 1925, for “the Highways Act 1959” substitute (in paragraph (a) and paragraph (b)) “ the Highways Act 1980 ”.

**Marginal Citations**

M34 1925 c. 18.

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*Universities and College Estates Act 1925*

- 3 In section 16(3) of the <sup>M35</sup>Universities and College Estates Act 1925, for “the Highways Act 1959” substitute (in paragraph (a) and paragraph (b)) “the Highways Act 1980”.

**Marginal Citations**

**M35** 1925 c. 24.

F134<sup>4</sup> .....

**Textual Amendments**

**F134** Sch. 24 para. 4 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3, 4(2), **Sch. 3 Pt I** (with Sch. 2 paras. 10, 14(1), 15)

*Public Utilities Street Works Act 1950*

F135<sup>5</sup> .....

**Textual Amendments**

**F135** Sch. 24 para. 5 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**

6 ..... **F136**

**Textual Amendments**

**F136** Sch. 24 para. 6 repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. II**

*Parish Councils Act 1957*

- 7 In section 3(10) of the <sup>M36</sup>Parish Councils Act 1957—
- (a) for “the Highways Act 1959” substitute “the Highways Act 1980” ;
  - (b) for “section eleven of the said Act of 1959” substitute “section 16 of the said Act of 1980”.

**Marginal Citations**

**M36** 1957 c. 42.

*Land Compensation Act 1961*

- 8 In section 8(7) of the <sup>M37</sup>Land Compensation Act 1961 for paragraph (c) substitute—



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“(c) section 261(1) of the Highways Act 1980 (or its predecessor, section 222(6) of the Highways Act 1959) ;”.

**Marginal Citations**  
M37 1961 c. 33.

9 ..... F137

**Textual Amendments**  
F137 Sch. 24 para. 9 repealed by Litter Act 1983 (c. 35, SIF 100:3), s. 12(3), Sch. 2

*Pipelines Act 1962*

- 10 In the <sup>M38</sup>Pipelines Act 1962—
- (a) in section 15(10), in the definition of “special road”, after “Highways Act 1959”, insert “or section 16 of the Highways Act 1980”, for “section nineteen of” substitute “ paragraph 3 of Schedule 23 to ”, and for “section eleven thereof” substitute “ section 16 thereof ” ;
  - (b) in section 18(1) for “section one hundred and thirty-seven of the Highways Act 1959” substitute “ section 157 of the Highways Act 1980 (or its predecessor, section 137 of the Highways Act 1959) ”, and for “section eighteen of the Road Traffic and Roads Improvement Act 1960” substitute “ section 158 of the Highways Act 1980 (or its predecessor section 18 of the Road Traffic and Roads Improvement Act 1960) ” ;
  - (c) in section 66(1), in the definition of “carriageway” for “subsection (1) of section two hundred and ninety-five of the Highways Act 1959” substitute “ section 329(1) of the Highways Act 1980 ”.

**Marginal Citations**  
M38 1962 c. 58.

*London Government Act 1963*

- 11 In Schedule 9 to the <sup>M39</sup>London Government Act 1963, in Part II, in paragraph 5, omit the words from “ and ” to the end.

**Marginal Citations**  
M39 1963 c. 33.

*Licensing Act 1964*

12 ..... F138

*Status: Point in time view as at 05/12/2017.*

*Changes to legislation: Highways Act 1980 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F138** Sch. 24 para. 12 repealed (24.11.2005) by Licensing Act 2003 (c. 17), ss. 199, 201(2), Sch. 7 (with ss. 2(3), 15(2), 195); S.I. 2005/3056, art. 2(2) (with saving in art. 4)

*New Forest Act 1964*

- 13 In section 3 of the <sup>M40</sup>New Forest Act 1964—
- (a) in subsection (2), subsection (3) and subsection (4), for “the Highways Act 1959” substitute “ the Highways Act 1980 ” ;
  - (b) in subsection (6), for “section 144 of the Highways Act 1959” substitute “ section 165 of the Highways Act 1980 ”.

**Marginal Citations**

**M40** 1964 c. 83.

*Severn Bridge Tolls Act 1965*

<sup>F139</sup>14 .....

**Textual Amendments**

**F139** Sch. 24 para. 14 repealed (26.4.1992) by Severn Bridges Act 1992 (c. 3), s. 40, Sch.5; S.I. 1992/578, art.2

15 ..... <sup>F140</sup>

**Textual Amendments**

**F140** Sch. 24 para. 15 repealed by New Towns Act 1981 (c. 64, SIF 123:3), Sch. 13

16 ..... <sup>F141</sup>

**Textual Amendments**

**F141** Sch. 24 para. 16 repealed by Road Traffic Regulation Act 1984 (c. 27, SIF 107:1), s. 146, Sch. 14

*Countryside Act 1968*

- 17 In the <sup>M41</sup>Countryside Act 1968—
- (a) in section 27(6), for the words from the beginning to “traffic sign)” substitute “ Section 131(2) of the Highways Act 1980 (destruction or defacement of a traffic sign) ” ;
  - (b) in section 49(2), in the definition of “bridleway” and “footpath”, for “section 295(1) of the Highways Act 1959” substitute “ section 329(1) of the Highways Act 1980 ”.

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- (c) in Schedule 3, in Part I, in paragraph 2(d) of the entry relating to the Acquisition of Land (Authorisation Procedure) Act 1946, for “Schedule 7 to the Highways Act 1959, as amended below,” substitute “ Schedule 6 to the Highways Act 1980 ”.

**Marginal Citations**  
**M41** 1968 c. 41.

*Transport Act 1968*

- 18 In the <sup>M42</sup>Transport Act 1968—
- (a) in section 119(1), for “section 229 of the Highways Act 1959” substitute “ section 266 of the Highways Act 1980 ”, for “section 230 of the said Act of 1959” substitute “ section 267 of the said Act of 1980 ”, for “section 58(2) of the said Act of 1959” substitute “ section 55(2) of the said Act of 1980 ” and for “section 229(3) or 230(2) of the said Act of 1959” substitute “ section 266(5) or 267(2) of the said Act of 1980 ” ;
  - (b) in section 121(6), for “the Highways Act 1959” substitute “ the Highways Act 1980 ” and for “paragraph (iii) of the proviso to” substitute “ sub-paragraph (2)(c) of ” ;
  - (c) in section 121(7), for “the Highways Act 1959” substitute “ the Highways Act 1980 ” and for “paragraph (iii) of the proviso to” substitute “ sub-paragraph (2)(c) of ” ,
  - (d) in section 159(1), in paragraph (a) of the definition of “highway authority”, for “the Highways Act 1959” substitute “ the Highways Act 1980 ”.

**Marginal Citations**  
**M42** 1968 c. 73

*Chronically Sick and Disabled Persons Act 1970*

- 19 In section 20(2) of the <sup>M43</sup>Chronically Sick and Disabled Persons Act 1970, in the definition of “footway”, for “the Highways Act 1959” substitute “ the Highways Act 1980 ”.

**Marginal Citations**  
**M43** 1970 c. 44.

20 ..... **F142**

**Textual Amendments**  
**F142** Sch. 24 para. 20 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3

21 ..... **F143**

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**Textual Amendments**

**F143** Sch. 24 para. 21 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, Sch. 4 paras. 1, 2

22 ..... **F144**

**Textual Amendments**

**F144** Sch. 24 para. 22 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3

23 In the Land Compensation Act 1973—

- (a) in section 19(1), in the definition of “highway”, for “section 295(1) of the Highways Act 1959” substitute “ section 329(1) of the Highways Act 1980 ” ;
- (b) in section 44(2), for “paragraph 7 of Schedule 6 to the Highways Act 1971” substitute “ paragraph 6 of Schedule 19 to the Highways Act 1980 ” ;
- (c) in section 58(2)(a), for “paragraph 8 of Schedule 6 to the Highways Act 1971” substitute “ paragraph 7 of Schedule 19 to the Highways Act 1980 ” ;
- (d) ..... **F145**
- (i) in section 87, omit subsection (3).

**Textual Amendments**

**F145** Sch. 24 para. 23(d)–(h) repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3

*Control of Pollution Act 1974*

24 In the Control of Pollution Act 1974—

- (a) in section 22(4), in the definitions of “highway”, “special road” and “trunk road” for “the Highways Act 1959” substitute, in each case, “the Highways Act 1980”;
- (b) ..... **F146**

**Textual Amendments**

**F146** Sch. 24 para. 24(b) 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

*Road Traffic Act 1974*

25 In section 17 of the <sup>M44</sup>Road Traffic Act 1974—

- (a) in subsection (1) for “the Highways Act 1959” substitute “ the Highways Act 1980 ” ;

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(b) in subsection (4) for “section 279 of the Highways Act 1959” substitute “ section 302 of the Highways Act 1980 ”.

**Marginal Citations**  
M44 1974 c. 50

*Local Land Charges Act 1975*

26 In section 1(1)(a) of the Local Land Charges Act 1975 omit “the Highways Act 1959” and for “the Highways Act 1971” substitute “ the Highways Act 1980 (or any Act repealed by that Act) ”.

*Local Government (Miscellaneous Provisions) Act 1976*

- 27 In the Local Government (Miscellaneous Provisions) Act 1976—
- (a) in section 13(4), for “section 47 of the Highways Act 1971” substitute “ section 250 of the Highways Act 1980 ” ;
  - (b) in section 15(9), for “section 64(1) of the Highways Act 1971” substitute “ section 289(1) of the Highways Act 1980 ” ;
  - (c) in section 44(1)—
    - (i) in the definition of “highway” for “the Highways Act 1959” substitute “ the Highways Act 1980 ” ;
    - (ii) in the definition of “statutory undertakers” for “the Highways Act 1959, the Post Office,” substitute “ the Highways Act 1980, the Post Office and ” ; and omit the words from “and, except” to “highways)” ;
  - (d) in section 44(2), for “section 282 of the Highways Act 1959” substitute “ section 322 of the Highways Act 1980 ” and for the words from “any provision of sections 1 to 7” onwards substitute “ section 7 of this Act as if that section were a provision of that Act ”.

*Development of Rural Wales Act 1976*

F14728 .....

**Textual Amendments**  
F147 Sch. 24 para. 28 repealed (1.10.1998) by 1998 c. 38, s. 152, Sch. 18 Pt. IV (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, art. 4.

*Rent Act 1977*

29 In both section 34(1)(a) and section 50(1)(a) of the Rent Act 1977, for the words from “(certain” onwards substitute “ or section 205 of the Highways Act 1980 (execution of street works under private street works code), or ”.

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*Refuse Disposal (Amenity) Act 1978*

30 In section 3(3) of the <sup>M45</sup>Refuse Disposal (Amenity) Act 1978 for “the Highways Act 1959” substitute “ the Highways Act 1980 ”.

**Marginal Citations**

**M45** 1978 c. 3.

<sup>X2</sup>SCHEDULE 25 **E+W**

Section 343(3).

REPEALS

**Editorial Information**

**X2** The text of Schedule 25 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.

<b>Chapter</b>	<b>Short Title</b>	<b>Extent of Repeal</b>
7 & 8 Eliz. 2. c. 25.	Highways Act 1959.	The whole Act.
7 & 8 Eliz. 2. c. 53.	Town and Country Planning Act 1959.	Sections 48 and 49.
8 & 9 Eliz. 2. c. 63.	Road Traffic and Roads Improvement Act 1960.	Sections 18 to 20. Section 23(1)
9 & 10 Eliz. 2. c. 24.	Private Street Works Act 1961.	The whole Act.
9 & 10 Eliz. 2. c. 63.	Highways (Miscellaneous Provisions) Act 1961.	The whole Act.
9 & 10 Eliz. 2. c. 64.	Public Health Act 1961.	Sections 43 and 44. Sections 46 to 50. In Schedule 1, in Part III, the entries relating to the Highways Act 1959.
10 & 11 Eliz. 2. c. 46.	Transport Act 1962.	In Schedule 2, in Part I, the entries relating to the Highways Act 1959.
10 & 11 Eliz. 2. c. 58.	Pipelines Act 1962.	Section 19.
1963 c. 33.	London Government Act 1963.	Section 14(1) to (4). Sections 16 to 18. In Schedule 5, in Part II, paragraphs 6 to 8. Schedule 6. In Schedule 9, in Part II, in paragraph 5, the words from “and” to the end. In Schedule 11, in Part I, paragraph 37.

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1965 c. 24.	Severn Bridge Tolls Act 1965.	In section 22(2) the words “(whether before or after the passing of this Act)”.
1965 c. 30.	Highways (Amendment) Act 1965.	The whole Act.
1965 c. 56.	Compulsory Purchase Act 1965.	In Schedule 6, the entry relating to the Highways Act 1959.
1965 c. 59.	New Towns Act 1965.	Section 48(3).
1966 c. 42.	Local Government Act 1966.	Part III
1967 c. 76.	Road Traffic Regulation Act 1967.	In Schedule 6, the entry relating to section 14(2) of the London Government Act 1963.
1967 c. 80.	Criminal Justice Act 1967.	In Schedule 3, the entries relating to the Highways Act 1959.
1968 c. 13.	National Loans Act 1968.	In section 6(1), the words “section 198(2) of the Highways Act 1959”.
1968 c. 41.	Countryside Act 1968.	Sections 28 and 29. Section 47(5). In Schedule 3, in Part I, the entries relating to the Highways Act 1959.
1968 c. 72.	Town and Country Planning Act 1968.	In Schedule 9, paragraph 9.
1968 c. 73.	Transport Act 1968.	Section 130(6)(e). In section 139(1), in paragraph (a), the words “section 215(2)(c) of the Highways Act 1959 or”, in paragraph (b), the words “section 180, 188 or 189 of the Town and Country Planning Act 1971 or” and “215(2)(c) or” and in paragraph (c) the words “section 193 of the said Act of 1971 or” and “section 196 of the said Act of 1971 or, as the case may be,” and “215(2)(c) or”. In section 139(2), in the definition of “relevant planning permission”, the



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		words “section 15 or 16 of the Land Compensation Act 1961 or”, in the definition of “service area development” the words “the said section 215(2)(c) or”, and (in the concluding part of the subsection) the words “1961 or” and “as respects England and Wales, as in the said Act of 1961 and,”.
		Section 140.
		In Schedule 16, paragraph 7(2)(f).
1969 c. 35.	Transport (London) Act 1969.	Sections 29 and 31.
		Section 34(1).
1969 c. 48.	Post Office Act 1969.	In Schedule 4, paragraphs 65 and 69 and paragraph 93(1) (xv).
1971 c. 23.	Courts Act 1971.	In Schedule 8, in Part II, paragraph 36.
		In Schedule 9, in Parts I and II, the entries relating to the Highways Act 1959.
1971 c. 41.	Highways Act 1971.	The whole Act.
1971 c. 75.	Civil Aviation Act 1971.	In Schedule 5, paragraph 5(m) and (ee).
1971 c. 78.	Town and Country Planning Act 1971.	In section 16, paragraph (c).
		In Schedule 23, in Part II, the entries relating to the Highways Act 1959, the Highways Act 1971 and section 139(1) of the Transport Act 1968.
1972 c. 60.	Gas Act 1972.	In Schedule 4, in paragraph 1(6) the words “section 15 of the Highways Act 1959 and”.
1972 c. 70.	Local Government Act 1972.	Section 187(1)(2)(3)(b) and (4) to (8).
		Section 188.
		Schedule 20.

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		In Schedule 21, Part I and, in Part II, paragraphs 99 and 100.
1973 c. 26.	Land Compensation Act 1973.	Section 20(10).
		Sections 22 to 25.
		Section 74(1)(a).
		Section 78(5).
		Section 87(3).
1973 c. 37.	Water Act 1973.	In Schedule 8, paragraphs 70 and 71.
1974 c. 7.	Local Government Act 1974.	In section 6(8) the words “the Highways Act 1959 and”.
		Section 40.
		In Schedule 1, in Part II, in paragraph 6, paragraph (a) and the words “paragraph (a),”.
		In Schedule 6, entry number 12.
		In Schedule 7, paragraph 2.
1975 c. 76.	Local Land Charges Act 1975.	In Schedule 1, the entries relating to the Highways Act 1959 and the Highways Act 1971.
1976 c. 57.	Local Government (Miscellaneous Provisions) Act 1976.	Sections 1 to 6.
		In section 44(1) in the definition of “statutory undertakers” the words from “and except” to “highways”.
		In Schedule 2, the entries relating to the Highways Act 1959 and the Highways (Miscellaneous Provisions) Act 1961.
1976 c. 70.	Land Drainage Act 1976.	In Schedule 7, paragraphs 2 and 7.
1977 c. 45.	Criminal Law Act 1977.	In Schedule 6, the entry relating to the Highways Act 1959.

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1980 c. 43.	Magistrates' Courts Act 1980.	In Schedule 7, paragraph 29.
1980 c. 65.	Local Government, Planning and Land Act 1980.	In Schedule 7, paragraphs 1(2), 2(1), (2)(b), (3) and (4), 3(1), (3) and 5.

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