



# Pipe-lines Act 1962

## 1962 CHAPTER 58

### *Pipe-lines in Streets*

#### **15 Power to place pipe-lines in streets**

- (1) Subject to the provisions of this section, any person may place a pipe-line in a street with the consent of the appropriate authority for that street, and for that purpose and the purpose of works of the following kinds, that is to say.—
  - (a) inspecting, maintaining, adjusting, repairing, altering or renewing a pipe-line placed in a street in pursuance of this subsection ;
  - (b) changing the position of a pipe-line so placed or removing it,may open and break up the street and may remove or use earth or other materials in the street.
- (2) Where it is proposed that, in exercise in relation to a street of the power conferred by the foregoing subsection, a pipe-line shall be placed along a line crossing the street, the appropriate authority for that street shall not withhold their consent under this section unless there are special reasons for doing so.
- (3) Where it is proposed that, in exercise in relation to a street of the power conferred by subsection (1) of this section, a pipe-line shall be placed otherwise than along a line crossing the street, the consent of the appropriate authority for the street shall not be unreasonably withheld, and, for the purposes of this subsection, the withholding of consent shall be treated as reasonable if the owner of the pipe-line fails to show that there is no reasonably practicable alternative to the placing of the pipe-line in accordance with the proposals.
- (4) The consent under this section of an appropriate authority may be given subject to reasonable conditions, including, without prejudice to the generality of the foregoing words, any one or more of the following conditions, that is to say.—
  - (a) a condition requiring payments to be made to that authority in respect of the placing of the pipe-line in the street and of its being kept there ;
  - (b) where the street is a protected street—

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- (i) if it is reasonably practicable for the placing of the pipe-line to be carried out by a method which does not involve the opening or breaking up of the street, a condition that the placing of the pipe-line shall be carried out by such a method ;
- (ii) if it is reasonably practicable for any such works as are mentioned in paragraph (a) or (b) of subsection (1) of this section to be carried out by such a method as aforesaid, a condition that any such works shall be carried out by such a method ;
- (c) where the street is a highway, not being a protected street, and constitutes or comprises a carriageway and it is proposed that the pipe-line shall be placed along a line crossing (the street, if it is reasonably practicable for any such works as are mentioned in paragraph (a) of subsection (1) of this section to be carried out by a method which does not involve the opening or breaking up of the carriageway, a condition that any such works shall be carried out by such a method ;
- (d) where the street is a highway, not being a protected street, and constitutes or comprises a carriageway and it is proposed that the pipe-line shall be placed otherwise than along a line crossing the street—
  - (i) if it is reasonably practicable for the placing of the pipe-line to be carried out by a method which does not involve the opening or breaking up of the carriageway, a condition that the placing of the pipeline shall be carried out by such a method ;
  - (ii) if it is reasonably practicable for any such works as are mentioned in paragraph (a) or (b) of subsection (1) of this section to be carried out by such a method as last aforesaid, a condition that any such works shall be carried out by such a method ;

and, for the purposes of paragraph (b) of this subsection, the placing of a pipe-line or the carrying out of works by a method which does not involve the opening or breaking up of a street shall be taken to be reasonably practicable unless the owner of the pipe-line shows that such is not the case.

- (5) The consent of an authority under this section shall not be required for the placing of a pipe-line by way of renewal of an existing pipe-line.
- (6) Any dispute between the appropriate authority for a street and a person proposing to place a pipe-line in the street in respect of—
  - (a) the withholding of a consent under this section to the placing of the pipe-line in the street otherwise than along a line crossing the street; or
  - (b) the imposition of a condition under this section on the placing of the pipe-line in the street otherwise than as aforesaid,

shall be determined by the Minister and the Minister of Transport acting jointly, and the determination of the said Ministers shall not be impugned on the ground that either of them is himself a party to the dispute.

- (7) Any dispute between the appropriate authority for a street and a person proposing to place a pipe-line in the street in respect of—
  - (a) the withholding of a consent under this section to the placing of the pipe-line in the street along a line crossing the street; or
  - (b) the imposition of a condition under this section on the placing of the pipe-line in the street along a line crossing the street,

shall be determined by arbitration and, where the Minister of Transport is the appropriate authority, 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.

- (8) Where a street is carried by or goes under a bridge, subsection (1) of this section shall not authorise the placing of a pipe-line in, under, over, across, along or upon the bridge except in accordance with an agreement to which the authority, body or person in whom the bridge is vested is a party.
- (9) For the purposes of this section a pipe-line shall be treated as placed along a line crossing a street if it is so placed that at either side of the street an angle, on a horizontal plane, of not more than forty-five degrees is formed between the line of the pipe-line inside the street and a line joining the point at which the line of the pipe-line crosses the side of the street with the point nearest to that point on the opposite side of the street.
- (10) In this section the following expressions have the meanings hereby assigned to them respectively.—
- " appropriate authority ", in relation to a street, means—
    - (a) where the street is a maintainable highway, the highway authority;
    - (b) where the street is prospectively a maintainable highway, the appropriate local authority and the street managers;
    - (c) where the street is not a maintainable highway and is not prospectively a maintainable highway, the street managers;
  - " appropriate local authority ", " highway authority ", " maintainable highway ", " street ", " street authority ", and " street managers " have the same meanings as in the Public Utilities Street Works Act, 1950, and any reference to a street which is prospectively a maintainable highway shall be construed in accordance with the provisions of that Act;
  - " protected street " means a street being a special road, a trunk road or a road classified by the Minister of Transport under the Ministry of Transport Act, 1919, in Class I or Class II;
  - " special road " means a road provided or to be provided in pursuance of a scheme under section one of the Special Roads Act, 1949, or section eleven of the Highways Act, 1959, or to which, by virtue of section nineteen of the last-mentioned Act, that Act applies as if it were a road provided in pursuance of a scheme under section eleven thereof.
- (11) In the application of this section to Scotland—
- (a) references to a street which is a highway shall be construed as references to a street over which there is a public right of way ;
  - (b) the expression " carriageway " means a way (other than a cycle track) over which the public have a right of way for the passage of vehicles ;
  - (c) the reference in subsection (6) to the Minister of Transport shall be construed as a reference to the Secretary of State ;
  - (d) in subsection (7), for the words from "shall be determined " to the end of the subsection there shall be substituted the words " shall be referred to the arbitration of a single arbiter appointed by agreement between the parties concerned or, in default of agreement, by the sheriff ; and in any such arbitration the arbiter may, and, if so directed by the Court of Session, shall, state a case for the decision of that court on any question of law arising in the arbitration. ";

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- (e) the reference in subsection (10) to the Minister of Transport shall be construed as including a reference to the Secretary of State.