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Highways Act 1980

1980 CHAPTER 66

PART IX

LAWFUL AND UNLAWFUL INTERFERENCE WITH HIGHWAYS AND STREETS

Damage to highways, streets etc.

131 Penalty for damaging highway etc.

- (1) If a person, without lawful authority or excuse—
 - (a) makes a ditch or excavation in a highway which consists of or comprises a carriageway, or
 - (b) removes any soil or turf from any part of a highway, except for the purpose of improving the highway and with the consent of the highway authority for the highway, or
 - (c) deposits anything whatsoever on a highway so as to damage the highway, or
 - (d) lights any fire, or discharges any firearm or firework, within 50 feet from the centre of a highway which consists of or comprises a carriageway, and in consequence thereof the highway is damaged,he is guilty of an offence.
- (2) If a person without lawful authority or excuse pulls down or obliterates a traffic sign placed on or over a highway, or a milestone or direction post (not being a traffic sign) so placed, he is guilty of an offence; but it is a defence in any proceedings under this subsection to show that the traffic sign, milestone or post was not lawfully so placed.
- (3) A person guilty of an offence under this section is liable to a fine not exceeding [^{F1}level 3 on the standard scale].

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Textual Amendments

- F1** Words in s. 131(3) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35, 37, 38, 46** (with s. 47)

[^{F2}131A Disturbance of surface of certain highways.

- (1) A person who, without lawful authority or excuse, so disturbs 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,
- as to render it inconvenient for the exercise of the public right of way is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (2) Proceedings for an offence under this section shall be brought only by the highway authority or the council of the non-metropolitan district, parish or community in which the offence is committed; and, without prejudice to section 130 (protection of public rights) above, it is the duty of the highway authority to ensure that where desirable in the public interest such proceedings are brought.]

Textual Amendments

- F2** S. 131A inserted by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), **s. 1(2)**

132 Unauthorised marks on highways.

- (1) A person who, without either the consent of the highway authority for the highway in question or an authorisation given by or under an enactment or a reasonable excuse, paints or otherwise inscribes or affixes any picture, letter, sign or other mark upon the surface of a highway or upon any tree, structure or works on or in a highway is guilty of an offence and liable to a fine not exceeding [^{F3}level 4 on the standard scale].
- (2) The highway authority for a highway may, without prejudice to their powers apart from this subsection and whether or not proceedings in respect of the matter have been taken in pursuance of subsection (1) above, remove any picture, letter, sign or other mark which has, without either the consent of the authority or an authorisation given by or under an enactment, been painted or otherwise inscribed or affixed upon the surface of the highway or upon any tree, structure or works on or in the highway.

Textual Amendments

- F3** Words in s. 132(1) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35, 37, 38, 46** (with s. 47)

133 Damage to footways of streets by excavations.

If the footway of a street that is a highway maintainable at the public expense is damaged by or in consequence of any excavation or other work on land adjoining the

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street, the highway authority for the highway may make good the damage and recover the expenses reasonably incurred by them in so doing from the owner of the land in question or the person causing or responsible for the damage.

[^{F4}134 Ploughing etc. of footpath or bridleway.

(1) Where in the case of any footpath or bridleway (other than a field-edge path) which passes over a field or enclosure consisting of agricultural land, or land which is being brought into use for agriculture—

- (a) the occupier of the field or enclosure desires in accordance with the rules of good husbandry to plough, or otherwise disturb the surface of, all or part of the land comprised in the field or enclosure, and
- (b) it is not reasonably convenient in ploughing, or otherwise disturbing the surface of, the land to avoid disturbing the surface of the path or way so as to render it inconvenient for the exercise of the public right of way,

the public right of way shall be subject to the condition that the occupier has the right so to plough or otherwise disturb the surface of the path or way.

(2) Subsection (1) above does not apply in relation to any excavation or any engineering operation.

(3) Where the occupier has disturbed the surface of a footpath or bridleway under the right conferred by subsection (1) above he shall within the relevant period, or within an extension of that period granted under subsection (8) below,—

- (a) so make good the surface of the path or way to not less than its minimum width as to make it reasonably convenient for the exercise of the right of way; and
- (b) so indicate the line of the path or way on the ground to not less than its minimum width that it is apparent to members of the public wishing to use it.

(4) If the occupier fails to comply with the duty imposed by subsection (3) above he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

^{F5}(5)

(6) Without prejudice to section 130 (protection of public rights) above, it is the duty of the highway authority to enforce the provisions of this section.

(7) For the purposes of this section “the relevant period”,—

- (a) where the disturbance of the surface of the path or way is the first disturbance for the purposes of the sowing of a particular agricultural crop, means fourteen days beginning with the day on which the surface of the path or way was first disturbed for those purposes; or
- (b) in any other case, means twenty-four hours beginning with the time when it was disturbed.

(8) On an application made to the highway authority before the disturbance or during the relevant period, the authority may grant an extension of that period for an additional period not exceeding twenty-eight days.

(9) In this section “minimum width”, in relation to a highway, has the same meaning as in Schedule 12A to this Act.]

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Textual Amendments

- F4** S. 134 substituted by Rights of Way Act 1990 (c. 24, SIF 59), ss. 1(3), 6(3)
- F5** S. 134(5) repealed (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, ss. 70(2), 102, Sch. 16 Pt. II; S.I. 2001/114, art. 2(2)(d)(i)(I); S.I. 2001/1410, art. 2(e)(i)(o) (subject to transitional provisions in art. 3)

[^{F7}135 Authorisation of other works disturbing footpath [^{F6}, bridleway or restricted byway].

- (1) Where the occupier of any agricultural land, or land which is being brought into use for agriculture, desires to carry out in relation to that land an excavation or engineering operation, and the excavation or operation—
- (a) is reasonably necessary for the purposes of agriculture, but
 - (b) will so disturb the surface of a footpath [^{F8}, bridleway or restricted byway] which passes over that land as to render it inconvenient for the exercise of the public right of way,

he may apply to the highway authority for an order that the public right of way shall be subject to the condition that he has the right to disturb the surface by that excavation or operation during such period, not exceeding three months, as is specified in the order (“the authorisation period”).

- (2) The highway authority shall make an order under subsection (1) above if they are satisfied either—
- (a) that it is practicable temporarily to divert the path or way in a manner reasonably convenient to users; or
 - (b) that it is practicable to take adequate steps to ensure that the path or way remains sufficiently convenient, having regard to the need for the excavation or operation, for temporary use while it is being carried out.
- (3) An order made by a highway authority under subsection (1) above—
- (a) may provide for the temporary diversion of the path or way during the authorisation period, but shall not divert it on to land not occupied by the applicant unless written consent to the making of the order has been given to the occupier of that land, and by any other person whose consent is needed to obtain access to it;
 - (b) may include such conditions as the authority reasonably think fit for the provision, either by the applicant or by the authority at the expense of the applicant, of facilities for the convenient use of any such diversion, including signposts and other notices, stiles, bridges, and gates;
 - (c) shall not affect the line of a footpath [^{F8}, bridleway or restricted byway] on land not occupied by the applicant;

and the authority shall cause notices of any such diversion, together with a plan showing the effect of the diversion and the line of the alternative route provided, to be prominently displayed throughout the authorisation period at each end of the diversion.

- (4) An order made by a highway authority under subsection (1) above may include such conditions as the authority reasonably think fit—
- (a) for the protection and convenience during the authorisation period of users of the path or way;

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- (b) for making good the surface of the path or way to not more than its minimum width before the expiration of the authorisation period;
 - (c) for the recovery from the applicant of expenses incurred by the authority in connection with the order.
- (5) An order under this section shall not authorise any interference with the apparatus or works of any statutory undertakers.
- (6) If the applicant fails to comply with a condition imposed under subsection (3)(b) or (4)(a) or (b) above he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (7) Proceedings for an offence under this section in relation to a footpath [^{F8}, bridleway or restricted byway] shall be brought only by the highway authority or (with the consent of the highway authority) the council of the non-metropolitan district, parish or community in which the offence is committed.
- (8) Without prejudice to section 130 (protection of public rights) above, it is the duty of the highway authority to enforce the provisions of this section.
- (9) In this section “minimum width”, in relation to a highway, has the same meaning as in Schedule 12A to this Act.]

Textual Amendments

- F6** Words in s. 135 sidenote substituted (2.5.2006 for E. and 11.5.2006 for W.) by [The Restricted Byways \(Application and Consequential Amendment of Provisions\) Regulations 2006 \(S.I. 2006/1177\)](#), regs. 1(2)(4), 2, **Sch. Pt. 1**; S.I. 2006/1172, **art. 2(a)-(d)** (with art. 3); S.I. 2006/1279, **art. 2(a)-(d)** (with art. 3)
- F7** S. 135 substituted by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), **ss. 1(4), 6(3)**
- F8** Words in s. 135(1)(b)(3)(c)(7) 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. 1**; 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)

- C1** S. 135 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. 1**; S.I. 2006/1172, art. 2; S.I. 2006/1279, art. 2

PROSPECTIVE

[^{F9}135A Temporary diversion for dangerous works.

- (1) Where works of a prescribed description are likely to cause danger to users of a footpath or bridleway which passes over any land, the occupier of the land may, subject to the provisions of this section, temporarily divert—
- (a) so much of the footpath or bridleway as passes over that land, and
 - (b) so far as is requisite for effecting that diversion, so much of the footpath or bridleway as passes over other land occupied by him.
- (2) A person may not under this section divert any part of a footpath or bridleway if—

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- (a) the period or periods for which that part has been diverted under this section, and
- (b) the period or periods for which any other part of the same footpath or bridleway passing over land occupied by him has been diverted under this section,

amount in aggregate to more than fourteen days in any one calendar year.

- (3) Where a person diverts a footpath or bridleway under this section—
- (a) he shall do so in a manner which is reasonably convenient for the exercise of the public right of way, and
 - (b) where the diversion is by means of a temporary footpath or bridleway, he shall so indicate the line of the temporary footpath or bridleway on the ground to not less than the minimum width that it is apparent to members of the public wishing to use it.
- (4) This section does not authorise a person—
- (a) to divert a footpath or bridleway on to land not occupied by him without the consent of the occupier of that land and of any other person whose consent is needed to obtain access to it,
 - (b) to divert a footpath onto a highway other than a footpath or bridleway, or
 - (c) to divert a bridleway onto a highway other than a bridleway.
- (5) The person by whom a footpath or bridleway is diverted under this section shall—
- (a) at least fourteen days before the commencement of the diversion, give notice of the diversion in accordance with subsection (6) below,
 - (b) at least seven days before the commencement of the diversion, publish notice of the diversion in a local newspaper circulating in the area in which the footpath or bridleway is situated, and
 - (c) display such notices as may be prescribed at such places, in such manner and at such times before or during the diversion as may be prescribed.
- (6) Notice under subsection (5)(a) above shall be given—
- (a) to the highway authority for the footpath or bridleway,
 - (b) if the footpath or bridleway is on or contiguous with access land in England, to [^{F10}Natural England], and
 - (c) if the footpath or bridleway is on or contiguous with access land in Wales, to [^{F11}the Natural Resources Body for Wales].
- (7) A notice under subsection (5)(a), (b) or (c) above shall be in such form and contain such information as may be prescribed.
- (8) If a person—
- (a) in a notice which purports to comply with the requirements of subsection (5) (a) or (b) above, makes a statement which he knows to be false in a material particular,
 - (b) by a notice displayed on or near a footpath or bridleway, falsely purports to be authorised under this section to divert the footpath or bridleway, or
 - (c) in diverting a footpath or bridleway under this section, fails to comply with subsection (3) above,

he shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

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(9) In this section—

“ access land ” has the same meaning as in Part I of the Countryside and Rights of Way Act 2000;

“ minimum width ” in relation to a temporary footpath or bridleway, means the minimum width, within the meaning of Schedule 12A to this Act, of the footpath or bridleway diverted;

“ prescribed ” means prescribed by regulations made by the Secretary of State.]

Textual Amendments

F9 S. 135A inserted (*prosp.*) by 2000 c. 37, ss. 57, 103(3), **Sch. 6 Pt. I para. 16**

F10 Words in s. 135A(6)(b) substituted (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\)](#), s. 105(1), **Sch. 11 para. 67**; S.I. 2006/2541, **art. 2**

F11 Words in s. 135A(6)(c) substituted by 2000 c. 37 Sch. 6 para 16 (as amended) (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 411(3)** (with Sch. 7)

PROSPECTIVE

[^{F12}135B Temporary diversion for dangerous works: supplementary.

- (1) The person by whom a footpath or bridleway is diverted under section 135A above shall, before the diversion ceases to be authorised by that section, make good any damage to the footpath or bridleway resulting from the works mentioned in subsection (1) of that section, and remove from the footpath or bridleway any obstruction resulting from those works.
- (2) Any person who fails to comply with the duty imposed on him by subsection (1) above is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (3) The highway authority may make good any damage, or remove any obstruction, in respect of which any person has failed to comply with that duty and recover from that person the amount of any expenses reasonably incurred by them in or in connection with doing so.
- (4) Paragraph 3(1) of Schedule 12A to this Act does not apply in relation to any disturbance of the surface of a footpath or bridleway which subsection (1) above requires any person to make good; but paragraphs 7 and 8 of that Schedule apply for the purposes of subsection (3) above as if—
 - (a) references to the authority were references to the highway authority,
 - (b) references to the work were references to work carried out under subsection (3) above in relation to a footpath or bridleway, and
 - (c) references to the relevant land were references to the land over which the footpath or bridleway passes.
- (5) The diversion of a footpath or bridleway under section 135A above does not—
 - (a) affect the liability of any person for anything done in relation to the path or way otherwise than for the purposes of or in consequence of the works mentioned in subsection (1) of that section, or

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- (b) authorise any interference with the apparatus or works of any statutory undertakers.
- (6) Without prejudice to section 130 (protection of public rights of way) above, it is the duty of the highway authority to enforce the provisions of section 135A and this section.]

Textual Amendments

F12 S. 135B inserted (*prosp.*) by 2000 c. 37, ss. 57, 103(3), Sch. 6 Pt. I para. 16

136 Damage to highway consequent on exclusion of sun and wind.

- (1) If a highway which consists of or comprises a carriageway is being damaged in consequence of the exclusion from it of the sun and wind by a hedge or tree (other than a tree planted for ornament or for shelter to a building, courtyard or hop ground), a magistrates' court may by order require the owner or occupier of the land on which the hedge or tree is growing, so to cut, prune or plash the hedge or prune or lop the tree as to remove the cause of damage.
- (2) The power of a magistrates' court to make an order under subsection (1) above is exercisable on a complaint made by the highway authority for the highway, or, in the case of a highway maintainable by reason of tenure, enclosure or prescription, by the person liable to maintain the highway.
- (3) If a person against whom an order under subsection (1) above is made fails to comply with it within 10 days from such date as may be specified in the order, he is guilty of an offence and liable to a fine not exceeding [^{F13}level 1 on the standard scale], and the highway authority or other person on whose complaint the order was made may carry out the work required by the order and may recover the expenses reasonably incurred by them or him in so doing from the person in default.
- (4) No person shall be required by an order made under this section, nor is any person permitted by subsection (3) above, to cut or prune a hedge at any time [^{F14}except] between the last day of September and the first day of April.

Textual Amendments

F13 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

F14 Word inserted by Wildlife and Countryside Act 1981 (c. 69, SIF 4:5), s. 72(13)

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