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Highways Act 1980

1980 CHAPTER 66

PART IX

LAWFUL AND UNLAWFUL INTERFERENCE WITH HIGHWAYS AND STREETS

Obstruction of highways and streets

137 Penalty for wilful obstruction.

(1) If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway he is guilty of an offence and liable to a fine not exceeding [^{F1}level 3 on the standard scale].

^{F2}(2)

Textual Amendments

F1 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

F2 [S. 137\(2\)](#) repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, **Sch. 7 Pt. I**

Modifications etc. (not altering text)

C1 [S. 137](#) modified (16.8.2006) by [The Dover Harbour Revision Order 2006 \(S.I. 2006/2167\)](#), **art. 27**

VALID FROM 30/01/2001

[^{F3}137ZA] Power to order offender to remove obstruction.

(1) Where a person is convicted of an offence under section 137 above in respect of the obstruction of a highway and it appears to the court that—

- (a) the obstruction is continuing, and
- (b) it is in that person's power to remove the cause of the obstruction,

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the court may, in addition to or instead of imposing any punishment, order him to take, within such reasonable period as may be fixed by the order, such steps as may be specified in the order for removing the cause of the obstruction.

- (2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of the time as originally fixed or as extended under this subsection, as the case may be.
- (3) If a person fails without reasonable excuse to comply with an order under subsection (1) above, he is guilty of an offence and liable to a fine not exceeding level 5 on the standard scale; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding one-twentieth of that level for each day on which the offence is so continued.
- (4) Where, after a person is convicted of an offence under subsection (3) above, the highway authority for the highway concerned exercise any power to remove the cause of the obstruction, they may recover from that person the amount of any expenses reasonably incurred by them in, or in connection with, doing so.
- (5) A person against whom an order is made under subsection (1) above is not liable under section 137 above in respect of the obstruction concerned—
 - (a) during the period fixed under that subsection or any extension under subsection (2) above, or
 - (b) during any period fixed under section 311(1) below by a court before whom he is convicted of an offence under subsection (3) above in respect of the order.]

Textual Amendments

F3 S. 137ZA inserted (30.1.2001) by 2000 c. 37, ss. 64(1)(2), 103(2)

[^{F4}137A Interference by crops.

- (1) Where a crop other than grass has been sown or planted on any agricultural land the occupier of the land shall from time to time take such steps as may be necessary—
 - (a) to ensure that the line on the ground of any relevant highway on the land is so indicated to not less than its minimum width as to be apparent to members of the public wishing to use the highway; and
 - (b) to prevent the crop from so encroaching on any relevant highway, whether passing over that or adjoining land, as to render it inconvenient for the exercise of the public right of way.
- (2) For the purposes of subsection (1) above, a crop shall be treated as encroaching on a highway if, and only if, any part of the crop grows on, or otherwise extends onto or over, the highway in such a way as to reduce the apparent width of the highway to less than its minimum width.
- (3) For the purposes of the application of subsection (1) above in the case of a particular crop, the crop shall be treated as grass if, and only if—
 - (a) it is of a variety or mixture commonly used for pasture, silage or haymaking, whether or not it is intended for such a use in that case; and
 - (b) it is not a cereal crop.

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- (4) If the occupier fails to comply with the duty imposed by subsection (1) above he is guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.
- (5) 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.
- (6) In this section—
 - “minimum width”, in relation to a highway, has the same meaning as in Schedule 12A to this Act; and
 - “relevant highways” means—
 - (a) a footpath,
 - (b) a bridleway, or
 - (c) any other highway which consists of or comprises a carriageway other than a made-up carriageway.]

Textual Amendments

F4 S. 137A inserted by [Rights of Way Act 1990 \(c. 24, SIF 59\)](#), s. 1(5)

138 Penalty for erecting building, etc., in highway.

If a person, without lawful authority or excuse, erects a building or fence, or plants a hedge, in a highway which consists of or comprises a carriageway he is guilty of an offence and liable to a fine not exceeding [^{F5}level 3 on the standard scale].

Textual Amendments

F5 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46

139 Control of builders’ skips.

- (1) A builders’ skip shall not be deposited on a highway without the permission of the highway authority for the highway.
- (2) A permission under this section shall be a permission for a person to whom it is granted to deposit, or cause to be deposited, a skip on the highway specified in the permission, and a highway authority may grant such permission either unconditionally or subject to such conditions as may be specified in the permission including, in particular, conditions relating to—
 - (a) the siting of the skip;
 - (b) its dimensions;
 - (c) the manner in which it is to be coated with paint and other material for the purpose of making it immediately visible to oncoming traffic;
 - (d) the care and disposal of its contents;
 - (e) the manner in which it is to be lighted or guarded;
 - (f) its removal at the end of the period of permission.
- (3) If a builder’s skip is deposited on a highway without a permission granted under this section, the owner of the skip is, subject to subsection (6) below, guilty of an offence and liable to a fine not exceeding [^{F6}level 3 on the standard scale].

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- (4) Where a builder's skip has been deposited on a highway in accordance with a permission granted under this section, the owner of the skip shall secure—
- (a) that the skip is properly lighted during the hours of darkness [^{F7}and, where regulations made by the Secretary of State under this section require it to be marked in accordance with the regulations (whether with reflecting or fluorescent material or otherwise), that it is so marked];
 - (b) that the skip is clearly and indelibly marked with the owner's name and with his telephone number or address;
 - (c) that the skip is removed as soon as practicable after it has been filled;
 - (d) that each of the conditions subject to which that permission was granted is complied with;

and, if he fails to do so, he is, subject to subsection (6) below, guilty of an offence and liable to a fine not exceeding [^{F8}level 3 on the standard scale].

- (5) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.
- (6) In any proceedings for an offence under this section it is a defence, subject to subsection (7) below, for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (7) A person charged with an offence under this section is not, without leave of the court, entitled to rely on the defence provided by subsection (6) above unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (8) Where any person is charged with an offence under any other enactment for failing to secure that a builder's skip which has been deposited on a highway in accordance with a permission granted under this section was properly lighted during the hours of darkness, it is a defence for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (9) Where a person is charged with obstructing, or interrupting any user of, a highway by depositing a builder's skip on it, it is a defence for the person charged to prove that the skip was deposited on it in accordance with a permission granted under this section and either—
- (a) that each of the requirements of subsection (4) above had been complied with; or
 - (b) that the commission of any offence under that subsection was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (10) Nothing in this section is to be taken as authorising the creation of a nuisance or of a danger to users of a highway or as imposing on a highway authority by whom a permission has been granted under this section any liability for any injury, damage

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or loss resulting from the presence on a highway of the skip to which the permission relates.

(11) In this section and section 140 below—

“builder’s skip” means a container designed to be carried on a road vehicle and to be placed on a highway or other land for the storage of builders’ materials, or for the removal and disposal of builders’ rubble, waste, household and other rubbish or earth; and

“owner”, in relation to a builder’s skip which is the subject of a hiring agreement, being an agreement for a hiring of not less than one month, or a hire purchase agreement, means the person in possession of the skip under that agreement.

Textual Amendments

- F6** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
F7 Words inserted by [Transport Act 1982 \(c. 49, SIF 107:1\)](#), **s. 65**
F8 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**

140 Removal of builders’ skips.

- (1) The following provisions of this section have effect in relation to a builder’s skip deposited on a highway notwithstanding that it was deposited on it in accordance with a permission granted under section 139 above.
- (2) The highway authority for the highway or a constable in uniform may require the owner of the skip to remove or reposition it or cause it to be removed or repositioned.
- (3) A person required to remove or reposition, or cause to be removed or repositioned, a skip under a requirement made by virtue of subsection (2) above shall comply with the requirement as soon as practicable, and if he fails to do so he is guilty of an offence and liable to a fine not exceeding [^{F9}level 3 on the standard scale].
- (4) The highway authority for the highway or a constable in uniform may themselves remove or reposition the skip or cause it to be removed or repositioned.
- (5) Where a skip is removed under subsection (4) above, the highway authority or, as the case may be, the chief officer of police shall, where practicable, notify the owner of its removal, but if the owner cannot be traced, or if after a reasonable period of time after being so notified he has not recovered the skip, the highway authority or chief officer of police may dispose of the skip and its contents.
- (6) Any expenses reasonably incurred by a highway authority or chief officer of police in the removal or repositioning of a skip under subsection (4) above or the disposal of a skip under subsection (5) above may be recovered from the owner of the skip in any court of competent jurisdiction or summarily as a civil debt.
- (7) Any proceeds of the disposal of a skip under subsection (5) above shall be used in the first place to meet the expenses reasonably incurred in the removal and disposal of the skip and thereafter any surplus shall be given to the person entitled to it if he can be traced and if not may be retained by the highway authority or the chief officer of police, as the case may be; and any surplus so retained by a chief officer of police shall be paid into the police fund.

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- (8) References in this section to expenses incurred in the removal of a skip include references to expenses incurred in storing the skip until it is recovered by the owner or, as the case may be, disposed of.
- (9) The owner of a skip is not guilty of an offence under section 139(4) above of failing to secure that a condition relating to the siting of the skip was complied with if the failure resulted from the repositioning of the skip under subsection (3) or (4) above.

Textual Amendments

F9 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), ss. 38, 46

VALID FROM 01/01/1993

^{F10} 140A Builder's skips: charge for occupation of highway.

- (1) The Minister may make provision by regulations requiring the owner of a builder's skip deposited on a highway maintainable at the public expense to pay a charge to the highway authority where—
- (a) the period for which the skip remains in the highway exceeds such period as may be prescribed, and
 - (b) the skip is not removed within a reasonable period.
- (2) For this purpose “a reasonable period” means such period as is agreed by the authority and the owner of the skip to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.

In default of agreement, the authority's view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

- (3) The regulations may provide that if a person applying to the highway authority for permission under section 139 above submits together with his application an estimate of the likely duration of the occupation of the highway, the period stated in the estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.
- (4) The regulations may also provide that if it appears to the owner of the skip that by reason of matters not previously foreseen or reasonably foreseeable the duration of the occupation of the highway—
- (a) is likely to exceed the prescribed period,
 - (b) is likely to exceed the period stated in his previous estimate, or
 - (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

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(5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the period for which the highway is occupied by the skip and the extent of the occupation.

Different rates of charge may be prescribed according to the place and time of the occupation and such other factors as appear to the Minister to be relevant.

(6) The regulations may make provision as to the time and manner of making payment of any charge.

(7) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as they may decide or as may be prescribed, or generally.

(8) In this section “prescribed” means prescribed by the Minister by regulations.]

Textual Amendments

F10 S. 140A inserted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 Part I para.2](#); S.I. 1992/2984, art. 2(2), [Sch. 2](#) .

PROSPECTIVE

[^{F11}140B Builders' skips: charge determined by reference to duration of occupation of highway

(1) The Secretary of State may make provision by regulations requiring the owner of a builder's skip deposited on a highway maintainable at the public expense to pay to the highway authority a charge determined, in the prescribed manner, by reference to the period for which the highway is occupied by the skip.

(2) The regulations shall not require charges to be paid to a local highway authority unless the Secretary of State has, by order, approved the authority for the purposes of the regulations.

(3) The regulations may require disputes of any prescribed description to be referred to an arbitrator appointed in accordance with the regulations.

(4) Subsections (4) and (8) to (20) of section 140A apply in relation to regulations under subsection (1) of this section as they apply in relation to regulations under subsection (1) of that section.]

Textual Amendments

F11 S. 140B inserted (prosp.) by [Traffic Management Act 2004 \(c. 18\)](#), [ss. 67, 99](#) (with s. 38)

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PROSPECTIVE

[^{F12}140C Regulations under sections 140A and 140B

Nothing shall be taken to prevent the imposition of charges by both regulations under section 140A and regulations under section 140B in respect of the same builder's skip at the same time.]

Textual Amendments

F12 S. 140C inserted (prosp.) by [Traffic Management Act 2004 \(c. 18\)](#), **ss. 70(2), 99** (with s. 38)

141 Restriction on planting of trees etc. in or near carriageway.

- (1) Subject to sections 64 and 96 above and section 142 below, no tree or shrub shall be planted in a made-up carriageway, or within 15 feet from the centre of a made-up carriageway.
- (2) If a tree or shrub is planted in contravention of this section the highway authority for the highway or, in the case of a highway maintainable by reason of tenure, enclosure or prescription, the person liable to maintain the highway, may by notice given either to the owner or to the occupier of the land in which the tree or shrub is planted require him to remove it within 21 days from the date of service of the notice.
- (3) If a person fails to comply with a notice under subsection (2) above he is guilty of an offence and liable to a fine not exceeding [^{F13}level 1 on the standard scale] and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding 50p for each day on which the offence is so continued.

Textual Amendments

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

Modifications etc. (not altering text)

C2 S. 141 excluded (18.12.1996) by [1996 c. 61, s. 38](#), **Sch. 10 para. 5(2)**.

C3 S. 141 excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), s. 40, **Sch. 14 para. 7(2)**

142 Licence to plant trees, shrubs, etc., in a highway.

- (1) The highway authority for a highway may by a licence granted under this section permit the occupier or the owner of any premises adjoining the highway to plant and maintain, or to retain and maintain, trees, shrubs, plants or grass in such part of the highway as may be specified in the licence.
- (2) The highway authority may, as they think fit—
 - (a) grant a licence under this section to the person who at the time of the grant is the occupier of such premises and insert in the licence provisions prohibiting assignment of the licence and providing for its duration; or

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- (b) grant such a licence to the owner of such premises and his successors in title and insert in the licence provisions providing for the licence to be annexed to those premises and providing for its duration;
- and references in this section to the licensee are references to the person who is for the time being entitled by virtue of such a licence to do anything permitted by it to be done.
- (3) No fine, rent or other sum of money is payable in respect of such a licence except—
- (a) a reasonable sum in respect of legal or other expenses incurred in connection with the grant of the licence; and
- (b) an annual charge of a reasonable amount for administering the licence;
- and any such sum is recoverable from the licensee.
- (4) It shall be a condition of every licence granted by virtue of subsection (2)(b) above that within one month after any change in the ownership of the premises in question takes place the licensee is to inform the highway authority of it.
- (5) A highway authority may attach to any such licence such conditions as they consider necessary to ensure the safety and convenience of passengers in the highway and to prevent traffic therein being delayed, to prevent any nuisance or annoyance being caused to the owners or occupiers of other premises adjoining the highway and to protect the apparatus of statutory undertakers,^{F14} . . . [^{F15}and the operators of telecommunications code systems][^{F16}or driver information systems].
- (6) A highway authority may by notice served on the licensee withdraw a licence granted by them under this section—
- (a) on the expiration of such period as may be specified in the notice, being a period of not less than 7 days beginning with the date of service of the notice on the licensee, if any condition of the licence is contravened by the licensee;
- (b) on the expiration of such period as may be so specified, being a period of not less than 3 months beginning with the said date, if the authority consider the withdrawal of the licence is necessary for the purpose of the exercise of their functions as a highway authority.
- (7) Where a licence under this section expires or is withdrawn or surrendered, the highway authority by whom it was granted—
- (a) may remove all or any of the trees, shrubs, plants or grass to which the licence relates and reinstate the highway and may recover the expenses reasonably incurred by them in so doing from the last licensee; or
- (b) if satisfied that the last licensee can, within such reasonable time as they may specify, remove such trees, shrubs, plants or grass or such of them as they may specify and reinstate the highway, may authorise him to do so at his own expense.

In this subsection “the last licensee” means the person who immediately before the expiration, withdrawal or surrender of the licence in question was the licensee or, if that person has died, his personal representatives.

- (8) The licensee and the person who immediately before the expiration, withdrawal or surrender of a licence under this section was the licensee or, if that person has died, his personal representatives shall indemnify the highway authority against any claim in respect of injury, damage or loss arising out of—
- (a) the planting or presence in a highway of trees, shrubs, plants or grass to which the licence relates, or

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- (b) the execution by any person of any works authorised by the licence or by the highway authority under subsection (7) above, or
- (c) the execution by or on behalf of the highway authority of any works under subsection (7) above;

but this subsection is not to be taken as requiring any person to indemnify the highway authority against any claim in respect of injury, damage or loss which is attributable to the negligence of that authority.

- (9) If any person plants a tree or shrub in a highway otherwise than in pursuance of a licence granted under this section, the tree or shrub is to be deemed, for the purposes of section 141 above, to have been planted in contravention of that section.
- (10) Where the land on which a highway is situated is owned by the highway authority for the highway, nothing in subsection (3) above is to be taken as affecting the rights of that authority as the owner of that land to grant to any person, for such consideration as they think fit, the right to plant any thing in that land.

Textual Amendments

- F14** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. 1](#)
- F15** Words substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, [Sch. 4 para. 76\(4\)](#), [Sch. 5 para. 45](#)
- F16** Words inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 13(1), [Sch. 4 para. 3\(4\)](#)

Modifications etc. (not altering text)

- C4** [S. 142](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\)](#), [Sch. 1](#)

143 Power to remove structures from highways.

- (1) Where a structure has been erected or set up on a highway otherwise than under a provision of this Act or some other enactment, a competent authority may by notice require the person having control or possession of the structure to remove it within such time as may be specified in the notice.

For the purposes of this section the following are competent authorities—

- (a) in the case of a highway which is for the time being maintained by a [^{F17}non-metropolitan] district council by virtue of section 42 or 50 above, that council and also the highway authority, and
 - (b) in the case of any other highway, the highway authority.
- (2) If a structure in respect of which a notice is served under this section is not removed within the time specified in the notice, the competent authority serving the notice may, subject to subsection (3) below, remove the structure and recover the expenses reasonably incurred by them in so doing from the person having control or possession of the structure.
 - (3) The authority shall not exercise their power under subsection (2) above until the expiration of one month from the date of service of the notice.

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- (4) In this section “structure” includes any machine, pump, post or other object of such a nature as to be capable of causing obstruction, and a structure may be treated for the purposes of this section as having been erected or set up notwithstanding that it is on wheels.

Textual Amendments

F17 Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 25](#)

144 Power to erect flagpoles etc. on highways.

- (1) Subject to subsection (2) below, a local authority may—
- (a) erect flagpoles, pylons and other structures on any highway in their area for the purpose of displaying decorations;
 - (b) make slots in such a highway for the purpose of erecting the structures; and
 - (c) remove any structure erected or slot made by the authority in pursuance of paragraph (a) or (b) above;

and any structures or slots which may be erected or made by virtue of this subsection are hereafter in this section referred to as “relevant works”.

- (2) A local authority are not entitled to exercise the powers conferred on them by subsection (1) above in respect of a highway for which they are not the highway authority except with the consent in writing of the highway authority for the highway, and are not entitled to exercise those powers in respect of so much of a highway as—
- (a) is carried by a bridge which a body other than the local authority and the highway authority has a duty to maintain; or
 - (b) forms part of the approaches to such a bridge and is supported or protected by works or materials which a body other than the local authority and the highway authority has a duty to maintain.

except with the consent in writing of that body.

In this subsection “bridge” includes a structure which carries a highway superimposed over a cutting.

- (3) A highway authority or other body may give their consent in pursuance of subsection (2) above on such terms as they think fit (including in particular, without prejudice to the generality of the preceding provisions of this subsection, terms providing for the highway authority or body to remove any of the relevant works and reinstate the highway and to recover the reasonable cost of doing so from the local authority to whom the consent was given).
- (4) It is the duty of an authority by whom relevant works are erected or made by virtue of the preceding provisions of this section—
- (a) to ensure that the works are erected or made so as to obstruct the highway in question as little as is reasonably possible, so as not to obscure or conflict with traffic signs connected with the highway and so as to interfere as little as is reasonably possible with the enjoyment of premises adjacent to the highway and with, and with access to, any apparatus in or on the highway which belongs to or is used or maintained by statutory undertakers; and

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- (b) to ensure that while the works are retained they are properly maintained and, so far as it is necessary to light them to avoid danger to users of the highway, are properly lit; and
- (c) if the authority are not the highway authority for the highway, to indemnify the highway authority against any payments falling to be made by the highway authority in consequence of the works.

^{F18}(5) A person who without lawful authority interferes with or removes any relevant works is guilty of an offence and liable to a fine not exceeding £50 or, in the case of a second or subsequent conviction under this subsection, to a fine not exceeding £100.

(6) In this section—

“local authority” means any of the following, namely, the council of a county, district or London borough, ^{F19} . . . the Common Council, the Council of the Isles of Scilly and a parish or community council; and

“statutory undertakers” means any of the following, namely, any body which is a statutory undertaker within the meaning provided by section 329(1) below, the Post Office, ^{F20} . . . ^{F21} . . . any person entitled to the benefit of a licence in respect of the highway in question under section 181 below [^{F22}and the operator of a telecommunications code system][^{F23}or a driver information system].

Textual Amendments

- F18** Words in s. 144(5) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35, 37, 38, 46** (with s. 47)
- F19** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F20** Words 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**
- F21** Word repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, **Sch. 7**
- F22** Words inserted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, Sch. 4 para. 76(5), **Sch. 5 para. 45**
- F23** S. 144(6): words in definition of "statutory undertakers" inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 13(1), **Sch. 4 para. 3(5)**

Modifications etc. (not altering text)

- C5** 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 s. 144(6) cease to have effect

145 Powers as to gates across highways.

- (1) Where there is a gate of less than the minimum width across so much of a highway as consists of a carriageway, or across a highway that is a bridleway, the highway authority for the highway may by notice to the owner of the gate require him to enlarge the gate to that width or remove it.

In this subsection “the minimum width” means, in relation to a gate across so much of a highway as consists of a carriageway, 10 feet and, in relation to a gate across a bridleway, 5 feet, measured in either case between the posts of the gate.

- (2) If a person on whom a notice under subsection (1) above is served fails to comply, within 21 days from the date of service of the notice on him, with a requirement of

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the notice, he is guilty of an offence and liable to a fine not exceeding 50p for each day during which the failure continues.

146 Duty to maintain stiles etc. on footpaths and bridleways.

- (1) Any stile, gate or other similar structure across a footpath or bridleway shall be maintained by the owner of the land in a safe condition, and to the standard of repair required to prevent unreasonable interference with the rights of the persons using the footpath or bridleway.
- (2) If it appears to the appropriate authority that the duty imposed by subsection (1) above is not being complied with, they may, after giving to the owner and occupier not less than 14 days' notice of their intention, take all necessary steps for repairing and making good the stile, gate or other works.

For the purposes of this section the appropriate authority is—

- (a) in the case of a footpath or bridleway which is for the time being maintained by a [^{F24}non-metropolitan] district council by virtue of section 42 or 50 above, that council, and
 - (b) in the case of any other footpath or bridleway, the highway authority.
- (3) The appropriate authority may recover from the owner of the land the amount of any expenses reasonably incurred by the authority in and in connection with the exercise of their powers under subsection (2) above, or such part of those expenses as the authority think fit.
 - (4) The appropriate authority shall contribute not less than a quarter of any expenses shown to their satisfaction to have been reasonably incurred in compliance with subsection (1) above, and may make further contributions of such amount in each case as, having regard to all the circumstances, they consider reasonable.
 - (5) Subsection (1) above does not apply to any structure—
 - (a) if any conditions for the maintenance of the structure are for the time being in force under section 147 below, or
 - (b) if and so long as, under an agreement in writing with any other person, there is a liability to maintain the structure on the part of the appropriate authority or, where the appropriate authority are a [^{F24}non-metropolitan] district council, on the part of either the appropriate authority or the highway authority.

Textual Amendments

F24 Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 25](#)

Modifications etc. (not altering text)

C6 S. 146 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

147 Power to authorise erection of stiles etc. on footpath or bridleway.

- (1) The following provisions of this section apply where the owner, lessee or occupier of agricultural land, or of land which is being brought into use for agriculture, represents to a competent authority, as respects a footpath or bridleway that crosses the land,

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that for securing that the use, or any particular use, of the land for agriculture shall be efficiently carried on, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on the path or way.

For the purposes of this section the following are competent authorities—

- (a) in the case of a footpath or bridleway which is for the time being maintained by a [^{F25}non-metropolitan] district council by virtue of section 42 or 50 above, that council and also the highway authority, and
 - (b) in the case of any other footpath or bridleway, the highway authority.
- (2) Where such a representation is made the authority to whom it is made may, subject to such conditions as they may impose for maintenance and for enabling the right of way to be exercised without undue inconvenience to the public, authorise the erection of the stiles, gates or other works.
 - (3) Where an authorisation in respect of a footpath or bridleway is granted under this section the public right of way is to be deemed to be subject to a condition that the stiles, gates or works may be erected and maintained in accordance with the authorisation and so long as the conditions attached to it are complied with.
 - (4) For the purposes of section 143 above, any stile, gate or works erected in pursuance of an authorisation under this section is to be deemed to be erected under this section only if the provisions of the authorisation and any conditions attached to it are complied with.
 - (5) In this section references to agricultural land and to land being brought into use for agriculture include references to land used or, as the case may be, land being brought into use, for forestry.
 - (6) Nothing in this section prejudices any limitation or condition having effect apart from this section.

Textual Amendments

F25 Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 25](#)

Modifications etc. (not altering text)

C7 [S. 147](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\)](#), [Sch. 1](#)

VALID FROM 06/12/2006

[^{F26}147Z] **Agreements relating to improvements for benefit of persons with mobility problems.**

- (1) With respect to any relevant structure, a competent authority may enter into an agreement with the owner, lessee or occupier of the land on which the structure is situated which provides—
 - (a) for the carrying out by the owner, lessee or occupier of any qualifying works and the payment by the competent authority of the whole or any part of the costs incurred by him in carrying out those works, or

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- (b) for the carrying out by the competent authority of any qualifying works at their own expense or subject to the payment by the owner, lessee or occupier of the whole or any part of the costs incurred in carrying out those works.
- (2) In this section—
- (a) “competent authority” has the same meaning as in section 147 above,
 - (b) “relevant structure” means a stile, gate or other structure which—
 - (i) is authorised by a condition or limitation subject to which the public right of way over the footpath or bridleway was created, or
 - (ii) is authorised under section 147 above,but does not include a structure to which an agreement falling within section 146(5)(b) above relates, and
 - (c) “qualifying works”, in relation to a relevant structure, means works for replacing or improving the structure which will result in a structure that is safer or more convenient for persons with mobility problems.
- (3) An agreement under this section may include such conditions as the competent authority think fit.
- (4) Those conditions may in particular include conditions expressed to have enduring effect—
- (a) for the maintenance of the structure as replaced or improved, and
 - (b) for enabling the public right of way to be exercised without undue inconvenience to the public.
- (5) Where an agreement under this section has been entered into in relation to any structure—
- (a) the public right of way is to be deemed to be subject to a condition that the structure as replaced or improved may be erected and maintained in accordance with the agreement so long as any conditions included by virtue of subsection (4) above are complied with,
 - (b) in a case falling within subsection (2)(b)(i) above, as from the effective date the previous condition or limitation relating to the relevant structure shall cease to have effect, and
 - (c) in a case falling within subsection (2)(b)(ii) above, as from the effective date the previous authorisation under section 147 above shall cease to have effect in relation to the relevant structure.
- (6) In subsection (5) above “the effective date” means—
- (a) the first anniversary of the day on which the agreement was entered into, or
 - (b) such earlier date as may be specified for the purposes of this subsection in the agreement.
- (7) For the purposes of section 143 above, any stile, gate or other structure replaced or improved in pursuance of an agreement under this section is to be deemed to be erected under this section only if any conditions included by virtue of subsection (4) above are complied with.
- (8) A competent authority may not enter into an agreement under this section except with the consent of every owner, lessee or occupier of the land on which the relevant structure is situated who is not a party to the agreement.

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- (9) The Secretary of State may issue guidance to competent authorities as to matters to be taken into account for the purposes of this section; and in exercising their powers under this section competent authorities shall have regard to any such guidance issued to them.]

Textual Amendments

F26 S. 147ZA inserted (6.12.2006 for W. for certain purposes, 1.4.2007 for W. in so far as not already in force, 1.10.2007 for E.) by 2000 c. 37, s. 69(3); S.I. 2006/3257, arts. 2(b), 3; S.I. 2007/2595, art. 2

[^{F27}147A Road-side sales.

- (1) Subject to subsection (4) below, no person shall, for the purpose of selling anything, or offering or exposing anything for sale, use any stall or similar structure or any container or vehicle, kept or placed on—
- (a) the verge of a trunk road or a principal road;
 - (b) a lay-by on any such road; or
 - (c) unenclosed land within 15 metres of any part of any such road,
- where its presence or its use for that purpose causes or is likely to cause danger on the road or interrupts or is likely to interrupt any user of the road.
- (2) Any person who contravenes this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F28}level 3 on the standard scale].
- (3) It shall be a defence for a person charged with an offence under this section to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
- (4) This section does not apply—
- (a) to the sale or offer or exposure for sale of things from or on a vehicle which is used only for the purposes of itinerant trading with the occupiers of premises, or is used only for that purpose and for purposes other than trading;
 - (b) to the sale or offer or exposure for sale of newspapers;
 - (c) to anything done at a market in respect of which tolls, stallages or rents are payable; or
 - (d) to the sale or offer or exposure for sale of anything by way of street trading which has been authorised under Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 or under any local enactment which makes provision similar to that made by that Schedule, either by the person so authorised or by a person acting as assistant to the person so authorised.]

Textual Amendments

F27 S. 147A inserted by Local Government (Miscellaneous Provisions) Act 1982 (c. 30, SIF 81:1), s. 23

F28 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

148 Penalty for depositing things or pitching booths etc. on highway.

If, without lawful authority or excuse—

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- (a) a person deposits on a made-up carriageway any dung, compost or other material for dressing land, or any rubbish, or
- (b) a person deposits on any highway that consists of or comprises a made-up carriageway any dung, compost or other material for dressing land, or any rubbish, within 15 feet from the centre of that carriageway, or
- (c) a person deposits any thing whatsoever on a highway to the interruption of any user of the highway, or
- (d) a hawker or other itinerant trader pitches a booth, stall or stand, or encamps, on a highway.

he is guilty of an offence and liable to a fine not exceeding [^{F29}level 3 on the standard scale].

Textual Amendments

F29 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#)

149 Removal of things so deposited on highways as to be a nuisance etc.

- (1) If any thing is so deposited on a highway as to constitute a nuisance, the highway authority for the highway may by notice require the person who deposited it there to remove it forthwith and if he fails to comply with the notice the authority may make a complaint to a magistrates' court for a removal and disposal order under this section.
- (2) If the highway authority for any highway have reasonable grounds for considering—
 - (a) that any thing unlawfully deposited on the highway constitutes a danger (including a danger caused by obstructing the view) to users of the highway, and
 - (b) that the thing in question ought to be removed without the delay involved in giving notice or obtaining a removal and disposal order from a magistrates' court under this section,the authority may remove the thing forthwith.
- (3) The highway authority by whom a thing is removed in pursuance of subsection (2) above may either—
 - (a) recover from the person by whom it was deposited on the highway, or from any person claiming to be entitled to it, any expenses reasonably incurred by the authority in removing it, or
 - (b) make a complaint to a magistrates' court for a disposal order under this section.
- (4) A magistrates' court may, on a complaint made under this section, make an order authorising the complainant authority—
 - (a) either to remove the thing in question and dispose of it or, as the case may be, to dispose of the thing in question, and
 - (b) after payment out of any proceeds arising from the disposal of the expenses incurred in the removal and disposal, to apply the balance, if any, of the proceeds to the maintenance of highways maintainable at the public expense by them.
- (5) If the thing in question is not of sufficient value to defray the expenses of removing it, the complainant authority may recover from the person who deposited it on the

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highway the expenses, or the balance of the expenses, reasonably incurred by them in removing it.

- (6) A magistrates' court composed of a single justice may hear a complaint under this section.

Modifications etc. (not altering text)

C8 S. 149: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

150 Duty to remove snow soil etc. from highway.

- (1) If an obstruction arises in a highway from accumulation of snow or from the falling down of banks on the side of the highway, or from any other cause, the highway authority shall remove the obstruction.
- (2) If a highway authority fail to remove an obstruction which it is their duty under this section to remove, a magistrates' court may, on a complaint made by any person, by order require the authority to remove the obstruction within such period (not being less than 24 hours) from the making of the order as the court thinks reasonable, having regard to all the circumstances of the case.
- (3) In considering whether to make an order under this section and, if so, what period to allow for the removal of the obstruction, the court shall in particular have regard to—
 - (a) the character of the highway to which the complaint relates, and the nature and amount of the traffic by which it is ordinarily used,
 - (b) the nature and extent of the obstruction, and
 - (c) the resources of manpower, vehicles and equipment for the time being available to the highway authority for work on highways and the extent to which those resources are being, or need to be, employed elsewhere by that authority on such work.
- (4) Where they are under a duty to remove an obstruction under subsection (1) above, a highway authority may—
 - (a) take any reasonable steps (including the placing of lights, signs and fences on the highway) for warning users of the highway of the obstruction;
 - (b) sell any thing removed in carrying out the duty, unless the thing is claimed by its owner before the expiration of 7 days from the date of its removal;
 - (c) recover from the owner of the thing which caused or contributed to the obstruction, or where the thing has been sold under paragraph (b) above, from its previous owner, the expenses reasonably incurred as respects the obstruction in carrying out the duty and in exercising any powers conferred by this subsection, but so that no such expenses are recoverable from a person who proves that he took reasonable care to secure that the thing in question did not cause or contribute to the obstruction.
- (5) Where a highway authority sell any thing in exercise of their powers under subsection (4) above, then—
 - (a) if any expenses are recoverable under that subsection by the authority from the previous owner of the thing, they may set off the expenses against the proceeds of sale (without prejudice to the recovery of any balance of the expenses from

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- the previous owner) and shall pay over any balance of the proceeds to the previous owner; and
- (b) if no expenses are so recoverable, they shall pay over the whole of the proceeds of sale to the previous owner.
- (6) The foregoing provisions of this section apply to a person liable to maintain a highway by reason of tenure, enclosure or prescription as they apply to the highway authority for that highway, and references in those provisions to a highway authority are to be construed accordingly.

151 Prevention of soil etc. being washed on to street.

- (1) A competent authority may, by notice to the owner or occupier of any land adjoining a street which is a highway maintainable at the public expense, require him, within 28 days from the date of service of the notice, to execute such works as will prevent soil or refuse from that land from falling, or being washed or carried, on to the street or into any sewer or gully in it in such quantities as to obstruct the street or choke the sewer or gully.

For the purposes of this section the following are competent authorities—

- (a) in relation to a street outside Greater London, the highway authority for the street and also ^{F30}, if the street is situated in a non-metropolitan district, the council of that district; and]
- (b) in relation to a street within Greater London, the council of the London borough in which the street is situated or, if it is situated in the City of London, the Common Council. . . ^{F31}
- (2) A person aggrieved by a requirement under this section may appeal to a magistrates' court.
- ^{F32}(3) Subject to any order made on appeal, if a person on whom a notice is served under this section fails to comply with it within the period specified in subsection (1) above, he is guilty of an offence and liable to a fine not exceeding £20 for a first offence and £50 for a second or subsequent offence; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £1 for each day on which the offence is so continued.

Textual Amendments

F30 Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 26](#)

F31 Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

F32 Words in s. 151(3) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 35, 37, 38, 46](#) (with s. 47)

152 Powers as to removal of projections from buildings.

- (1) A competent authority may by notice to the occupier of any building require him to remove or alter any porch, shed, projecting window, step, cellar, cellar door, cellar window, sign, signpost, sign iron, showboard, window shutter, wall, gate, fence or other obstruction or projection which has been erected or placed against or in front of the building and is an obstruction to safe or convenient passage along a street.

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- (2) A notice under subsection (1) above may, at the option of the authority, be served on the owner of the building instead of on the occupier or may be served on both the owner and the occupier.
- (3) A person aggrieved by a requirement under subsection (1) above may appeal to a magistrates' court.
- (4) Subject to any order made on appeal, if a person on whom a notice under subsection (1) above is served fails to comply, within 14 days from the date of service of the notice on him, with a requirement of the notice, he is guilty of an offence and liable to a fine not exceeding [^{F33}level 1 on the standard scale].
- (5) Where an authority serve a notice under subsection (1) above on any person and he is guilty of an offence by reason of his failure to comply with a requirement of the notice within the time specified in subsection (4) above then, whether or not proceedings are taken against him in respect of the offence, the authority may remove the obstruction or projection to which the notice relates and may recover the expenses reasonably incurred by them in so doing from the owner or occupier of the building if, in either case, he is a person on whom the notice was served.
- (6) In a case where a requirement under subsection (1) above is made in connection with an obstruction or projection not erected or placed by the occupier of the relevant building Schedule 13 to this Act applies in relation to any sum paid by the occupier in complying with a requirement under that subsection or, where the requirement is not complied with, in reimbursing the relevant authority for expenses reasonably incurred by them under subsection (5) above.
- (7) Subsection (1) above does not apply in respect of any such obstruction or projection as is there mentioned if it was erected or placed before the date when section 69 of the ^{M1}Towns Improvement Clauses Act 1847 first applied in the area in which the building in question is situated.
- (8) If any such obstruction or projection was erected or placed before that date against or in front of a building in a street, a competent authority may, on the expiration of 30 days from the date of service on either the owner or the occupier of the building of a notice of their intention, remove or alter the obstruction or projection as they think fit, and, if the obstruction or projection was lawfully erected or placed, the authority shall pay reasonable compensation to every person who suffers damage by reason of its removal or alteration.
- (9) For the purposes of this section—
 - (a) the competent authorities are the local authority in whose area the street is situated and also, where the street is a highway, the highway authority for it;
 - (b) a projection which is erected or placed against or in front of a building, and which by reason of its being insecurely fixed or of defective construction or otherwise is a source of danger to persons lawfully using a street, is to be deemed to be an obstruction to safe or convenient passage along the street.

Textual Amendments

F33 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

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Marginal Citations

M1 1847 c. 34.

153 Doors etc. in streets not to open outwards.

- (1) A door, gate or bar which is put up on any premises and opens on a street shall be so put up as not to open outwards unless, in the case of a door, gate or bar put up on a public building, the local authority for the area in which the building is situated and also, if the street is a highway, the highway authority consent to its being otherwise put up.
- (2) Where a door, gate or bar is put up on any premises in contravention of subsection (1) above the local authority for the area in which the premises are situated or alternatively, if the street concerned is a highway, the highway authority may, by notice to the occupier, require him to alter, so as not to open outwards, the door, gate or bar.
- (3) A notice under subsection (2) above may, at the option of the highway authority or local authority, be served on the owner of the premises instead of on the occupier or may be served on both the owner and the occupier of the premises.
- (4) A person aggrieved by the refusal of a consent under subsection (1) above or by a requirement under subsection (2) above may appeal to a magistrates' court.
- (5) Subject to any order made on appeal, if a person on whom a notice under subsection (2) above is served fails to comply, within 8 days from the date of service of the notice on him, with a requirement of the notice, he is guilty of an offence and liable to a fine not exceeding [^{F34}level 1 on the standard scale].
- (6) Where a highway authority or local authority serve a notice under subsection (2) above on any person and he is guilty of an offence by reason of his failure to comply with a requirement of the notice within the time specified in subsection (5) above, then, whether or not proceedings are taken against him in respect of the offence, the authority may do the work required by the notice and recover the expenses reasonably incurred by them in so doing from the owner or occupier of the premises if, in either case, he is a person on whom the notice was served.
- (7) Where a requirement under subsection (2) above is made in connection with a door, gate or bar not put up by the occupier of the premises Schedule 13 to this Act applies in relation to any sum paid by the occupier in complying with a requirement under subsection (2) above or, where the requirement is not complied with, in reimbursing the authority for expenses reasonably incurred by them under subsection (6) above.

Textual Amendments

F34 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

154 Cutting or felling etc. trees etc. that overhang or are a danger to roads or footpaths.

- (1) Where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians, or obstructs or interferes with the view of drivers of vehicles or the light from a public lamp, a competent authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is growing, require him

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within 14 days from the date of service of the notice so to lop or cut it as to remove the cause of the danger, obstruction or interference.

For the purposes of this section the following are competent authorities—

- (a) in relation to a highway for which the Minister is the highway authority and which is in a district or London borough, the Minister and also the council of the district or, as the case may be, borough;
- (b) in relation to a highway for which a local highway authority are the highway authority, that authority and also ^{F35}, if the highway is situated in a non-metropolitan district, the council of that district;]
- (c) in relation to a road or footpath that is not a highway, the local authority in whose area the road or footpath is situated;

and “hedge, tree or shrub” includes vegetation of any description.

- (2) Where it appears to a competent authority for any highway, or for any other road or footpath to which the public has access—
 - (a) that any hedge, tree or shrub is dead, diseased, damaged or insecurely rooted, and
 - (b) that by reason of its condition it, or part of it, is likely to cause danger by falling on the highway, road or footpath,

the authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is situated, require him within 14 days from the date of service of the notice so to cut or fell it as to remove the likelihood of danger.

- (3) A person aggrieved by a requirement under subsection (1) or (2) above may appeal to a magistrates’ court.
- (4) Subject to any order made on appeal, if a person on whom a notice is served under subsection (1) or (2) above fails to comply with it within the period specified in those subsections, the authority who served the notice may carry out the work required by the notice and recover the expenses reasonably incurred by them in so doing from the person in default.

Textual Amendments

F35 Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 27](#)

155 Penalties in connection with straying animals.

- (1) If any horses, cattle, sheep, goats or swine are at any time found straying or lying on or at the side of a highway their keeper is guilty of an offence; but this subsection does not apply in relation to a part of a highway passing over any common, waste or unenclosed ground.

In this section “keeper”, in relation to any animals, means a person in whose possession they are.

- (2) A person guilty of an offence under this section is liable to a fine not exceeding [^{F36}level 3 on the standard scale].
- (3) A person guilty of an offence under this section is also liable to pay the reasonable expenses of removing any animal so found straying or lying to the premises of their keeper, or to the common pound, or to such other place as may have been provided

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for the purpose, and any person who incurs such expenses is entitled to recover them summarily as a civil debt.

For the purposes of this subsection “expenses”, in a case where an animal has been removed to the common pound, includes the usual fees and charges of the authorised keeper of the pound.

- (4) If a person, without lawful authority or excuse, releases any animal seized for the purpose of being impounded under this section from the pound or other place where it is impounded, or on the way to or from any such place, or damages any such place, he is guilty of an offence and liable to a fine not exceeding [^{F37}level 2 on the standard scale].
- (5) Nothing in this section prejudices or affects any right of pasture on the side of a highway.

Textual Amendments

- F36** Words in s. 155(2) substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35, 37, 38, 46** (with s. 47)
- F37** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 37, 46**

156 **Restriction on breaking up by undertakers of maintainable highways recently closed or re-surfaced.**

- (1) Subject to the provisions of this section, a statutory power of undertakers to break up or open a highway maintainable at the public expense which consists of or comprises a carriageway, being a power conferred for any purpose other than road purposes or purposes of a railway undertaking or a tramway undertaking, is not exercisable in the highway during the 12 months following either—
 - (a) the end of any period during which the use by vehicles of the carriageway has been prohibited, or the width of the carriageway available for vehicular traffic has been reduced to less than two-thirds of its width, for the purposes of the execution of works for road purposes or of such works and other works, or
 - (b) the completion of a re-surfacing extending to one-third or more of the width of the carriageway,if the conditions specified in subsection (2) below are satisfied.
- (2) The conditions referred to in subsection (1) above are—
 - (a) that a competent authority had given to the undertakers, more than 3 months before the date on which the works for road purposes, or the re-surfacing works, as the case may be, were substantially begun, a notice stating that works for road purposes, or re-surfacing works relevant for the purposes of this section were in prospect and specifying a date intended for beginning them, and
 - (b) that the works for road purposes, or the re-surfacing works, as the case may be, were substantially begun on, or within one month from, the date so specified or, if any undertakers’ works were in progress in, under, over, across, along or upon the highway on that date, within one month from the completion of those undertakers’ works, or in either case within some extended period agreed between a competent authority and the undertakers for the purposes of

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the operation of this subsection in relation to the works for road purposes, or the re-surfacing works, as the case may be.

For the purposes of this subsection the following are competent authorities:—

- (i) in the case of a highway which is for the time being maintained by a [^{F38}non-metropolitan] district council by virtue of section 42 or 50 above, that council and also the highway authority, and
- (ii) in the case of any other highway, the highway authority.

(3) Subsection (1) above does not apply to breaking up or opening for the purposes of emergency works.

(4) Subsection (1) above does not apply to breaking up or opening a part of the highway other than a carriageway for the purposes of—

- (a) works relating only to a service pipe or service line or [^{F39}overhead telecommunication apparatus][^{F40}, overhead apparatus of a driver information system] or an overhead electric line, or
- (b) works required for satisfaction by the undertakers of an obligation of theirs created by an enactment, or created by an agreement made before the giving of the notice referred to in subsection (1) above, which it is not reasonably practicable for them to satisfy without the breaking up or opening in question;

but the exception in paragraph (a) above applies, in the case of a placing of a service pipe or service line, only if it is for affording a supply or service to premises to which it is not already afforded.

(5) Subsection (1) above does not apply to breaking up or opening done with the consent of the highway authority, and a consent for this purpose shall not be unreasonably withheld.

Any question whether the withholding of such a consent is unreasonable shall be determined by the Minister and the Minister of the Crown in charge of the department concerned with the purposes for which the power to break up or open is conferred acting jointly (any question which is the department so concerned being determined by the Treasury), and such a determination of the said Ministers shall not be impugned on the ground that either of them is himself the highway authority or the authority by whom the power is exercisable.

(6) ^{F41}

(7) If undertakers break up or open a highway in any case in which it is unlawful by virtue of subsection (1) above for them to do—

- (a) they shall pay to the highway authority an amount equal to any cost reasonably incurred by the authority of reinstating and making good the highway; and
- (b) without prejudice to their liability under paragraph (a) above, they are guilty of an offence and liable to a fine not exceeding [^{F42}level 3 on the standard scale].

If any question arises in relation to a claim made for a payment under paragraph (a) above the question shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.

(8) Proceedings for the enforcement of the obligation imposed by subsection (1) above shall not, without the written consent of the Attorney-General, be taken by any person other than a person having an interest in the performance of the obligation.

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(9) In so far as any failure of undertakers to satisfy an obligation to which they are subject by virtue of any enactment is attributable to the prohibition by this section of breaking up or opening for which the undertakers have duly sought the consent of the highway authority and for which consent has been withheld and (where the withholding has been questioned) has been determined to have been reasonably withheld, the failure shall not be treated as a contravention of that enactment.

(10) In this section—

- (a) the reference to a power conferred for the purposes of a railway undertaking or a tramway undertaking includes a reference to a power conferred primarily for those purposes but for other purposes also;
- (b) “emergency works”, “railway”, “reinstatement and making good”, “road purposes”, “service line”, “service pipe”, . . . ^{F43}, “tramway”, “undertakers”, and “undertakers’ works” have the same meaning respectively as in the ^{M2}Public Utilities Street Works Act 1950.

Textual Amendments

- F38** Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 25**
- F39** Words substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, **Sch. 4 para. 76(6)**, **Sch. 5 para. 45**
- F40** Words inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 13(1), **Sch. 4 para. 3(6)**
- F41** [S. 156\(6\)](#) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F42** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
- F43** Words repealed by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, **Sch. 7 Pt. I**

Marginal Citations

- M2** 1950 c. 39.

157— ^{F44}
159.

Textual Amendments

- F44** [Ss. 157–159](#) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**

160 Powers as respects certain unnecessary obstructions of highways in Greater London.

- (1) If, in the case of any highway in Greater London. . . ^{F45}, it appears to an officer of police authorised for the purpose that any of the following persons, namely—
- (a) any undertakers acting in the exercise of a statutory power to break up or open that highway, or
 - (b) any person acting in the exercise of the power conferred by section 15(1) of the ^{M3}Pipelines Act 1962, or
 - (c) any person acting in the exercise of the power conferred by section 34(2) of the ^{M4}Public Health Act 1936,

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has caused an unnecessary obstruction for the purposes of this section, he shall report the matter to the highway authority for the highway and that authority shall cause an inspection to be made.

If on the inspection it appears to the highway authority that the allegation is well founded they may proceed as provided by subsection (4) below.

- (2) If, in the case of any highway in Greater London other than one for which the Minister of Transport is the highway authority, it appears to [^{F46}the highway authority that any person mentioned in paragraph (a), (b) or (c) of subsection (1) above has caused an unnecessary obstruction for the purposes of this section, that authority] may proceed as provided by subsection (4) below.
- (3) For the purposes of this section a person causes an unnecessary obstruction where by the deposit of excavated matter or other material, or by means of the erection of barriers, or otherwise, he creates an obstruction in a highway to a greater extent or for a longer period than is reasonably necessary.
- (4) In the circumstances mentioned in subsection (1) or (2) above the highway authority. . . ^{F47} may by notice require the person causing the obstruction to take such steps as may appear to the highway authority or, as the case may be, the Council to be necessary, and as are specified in the notice, to mitigate or discontinue the obstruction.
- (5) Subject to subsection (6) below, if the person causing the obstruction (“the defaulter”) fails to comply with such requirement within 24 hours of the receipt of the notice the enforcing authority (that is to say, the highway authority. . . ^{F48}) may take the necessary steps and may recover any expenses reasonably incurred by them in connection therewith from the defaulter.
- (6) If within 24 hours of receiving such a notice the defaulter, in a case where the obstructed highway is not one for which the Minister of Transport is the highway authority, makes representations to that Minister that the obstruction is not greater, or has not been continued for a longer period, than is reasonably necessary, and sends to the enforcing authority a copy of the representations so made, the enforcing authority shall not take any such steps as are authorised by subsection (5) above without the consent of that Minister.
- (7) A highway authority may, if they think fit, delegate to an officer of the authority their powers under this section of causing inspection to be made and of making requirements. . . ^{F49}
- (8) In this section “undertakers” has the meaning provided by section 157(9) above.

Textual Amendments

- F45** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F46** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 28](#)
- F47** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F48** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)
- F49** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

Modifications etc. (not altering text)

- C9** S. 160 extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 2\(5\)](#), [Sch. 8 para. 33](#)
- C10** S. 160 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 2\(6\)\(9\)](#), [Sch. 17 paras 33, 35\(1\)](#)

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C11 S. 160 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(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Marginal Citations

M3 1962 c. 58.

M4 1936 c. 49.

[^{F50} **160A Further powers of highway authorities and district council in relation to highways.**

Schedule 12A to this Act shall have effect.]

Textual Amendments

F50 S. 160A inserted by Rights of Way Act 1990 (c. 24, SIF 59), s. 1(6)

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