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Highways Act 1980

1980 CHAPTER 66

PART V

IMPROVEMENT OF HIGHWAYS

Miscellaneous improvements

VALID FROM 01/07/1992

[^{F1}95A Power to install equipment for detection of traffic offences.

A highway authority may install and maintain on or near a highway structures and equipment for the detection of traffic offences.]

Textual Amendments

F1 S. 95A inserted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), **s. 40(1)**; S.I. 1992/1286, **art. 2**, Sch.

96 Powers of highway and local authorities to plant trees, lay out grass verges, etc.

- (1) Subject to the provisions of this section, a highway authority may, in a highway maintainable at the public expense by them, plant trees and shrubs and lay out grass verges, and may erect and maintain guards or fences and otherwise do anything expedient for the maintenance or protection of trees, shrubs and grass verges planted or laid out, whether or not by them, in such a highway.
- (2) A highway authority may alter or remove any grass verge laid out, whether or not by them, in a highway maintainable at the public expense by them and any guard, fence or other thing provided, whether or not by them, for the maintenance or protection of any tree, shrub or verge in such a highway.

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- (3) Subject to the following provisions of this section, a highway authority may exercise the like powers as are conferred by subsections (1) and (2) above on any land acquired in exercise of powers conferred on them by section 239(2) to (4) below, notwithstanding that the land does not form part of a highway.
- (4) A local authority, if they are not the highway authority for a highway maintainable at the public expense in their area, may, with the consent of the highway authority, exercise with respect to that highway any of the powers conferred by subsections (1) and (2) above on the highway authority.
- (5) Subject to the restrictions for the time being imposed by any enactment on their expenditure, the council of a parish or community may, with the consent of the highway authority for a highway maintainable at the public expense in the parish or community, exercise with respect to that highway any of the powers conferred by subsections (1) and (2) above on the highway authority.
- (6) No tree, shrub, grass verge, guard or fence shall be planted, laid out or erected under this section, or, if planted, laid out or erected under this section, allowed to remain, in such a situation as to hinder the reasonable use of the highway by any person entitled to use it, or so as to be a nuisance or injurious to the owner or occupier of premises adjacent to the highway.
- (7) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person is entitled, subject to subsection (8) below, to recover compensation for it from the authority or parish or community council by whom the powers were exercised.
- (8) A person is not entitled to compensation under subsection (7) above if his negligence caused the damage; and if his negligence contributed to the damage the compensation under that subsection shall be reduced accordingly.
- (9) Any two or more highway authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred under it.
- (10) References in this section to trees or shrubs are to be construed as including references to plants of any description.

97 Lighting of highways.

- (1) The Minister and every local highway authority may provide lighting for the purposes of any highway or proposed highway for which they are or will be the highway authority, and may for that purpose—
 - (a) contract with any persons for the supply of gas, electricity or other means of lighting; and
 - (b) construct and maintain such lamps, posts and other works as they consider necessary.
- (2) A highway authority may alter or remove any works constructed by them under this section or vested in them under Part III of the ^{M1}Local Government Act 1966 or section 270 below.
- (3) A highway authority shall pay compensation to any person who sustains damage by reason of the execution of works under this section.

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- (4) Section 45 of the ^{M2}Public Health Act 1961 (attachment of street lamps to buildings) and section 81 of that Act (summary recovery of damages for negligence) apply to a highway authority who are not a council of a kind therein mentioned as they apply to such a council.

Marginal Citations

- M1 1966 c. 42.
M2 1961 c. 64.

98 Delegation of lighting functions of highway authority.

- (1) A highway authority may agree with a lighting authority for the delegation to the lighting authority of any of the functions of the highway authority with respect to the lighting of any highway or part of a highway within the area of the lighting authority.
- (2) A lighting authority shall, in the discharge of any functions delegated to them under subsection (1) above, act as agents for the highway authority; and it shall be a condition of the delegation—
- (a) that the works to be executed or expenditure to be incurred by the lighting authority in the discharge of the delegated functions are to be subject to the approval of the highway authority;
 - (b) that the lighting authority are to comply with any requirement of the highway authority as to the manner in which any such works are to be carried out, and with any directions of the highway authority as to the terms of contracts to be entered into for the purposes of the discharge of the delegated functions; and
 - (c) that any such works are to be completed to the satisfaction of the highway authority.
- (3) If at any time the highway authority are satisfied that a lighting system in respect of which the functions of that authority are delegated under this section is not in proper repair or condition, they may give notice to the lighting authority requiring them to place it in proper repair or condition, and if the notice is not complied with within a reasonable time may themselves do anything which seems to them necessary to place the system in proper repair or condition.
- (4) A highway authority may agree with a lighting authority for the carrying out by the lighting authority of any works in connection with a lighting system provided or to be provided by the highway authority within the area of the lighting authority; and subsections (2) and (3) above apply to the conditions to be included in and to the discharge of functions pursuant to any such agreement, as they apply to the conditions to be attached to a delegation of functions under subsection (1) above and the discharge of functions so delegated.
- (5) A delegation to a lighting authority under this section may be determined by notice given to that authority by the highway authority during the first 9 months of any calendar year, and functions delegated to a lighting authority under this section may be relinquished by notice given by that authority to the highway authority during any such period; and any such notice shall take effect as from 1st April in the calendar year following that in which it is given.

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99 Metalling of highways.

A highway authority may, in relation to a highway maintainable at the public expense by them, execute works for the conversion of the highway into a metalled highway.

100 Drainage of highways.

- (1) The highway authority for a highway may, for the purpose of draining it or of otherwise preventing surface water from flowing on to it, do all or any of the following:—
 - (a) construct or lay, in the highway or in land adjoining or lying near to the highway, such drains as they consider necessary;
 - (b) erect barriers in the highway or in such land as aforesaid to divert surface water into or through any existing drain;
 - (c) scour, cleanse and keep open all drains situated in the highway or in such land as aforesaid.
- (2) Where under subsection (1) above a drain is constructed or laid, or barriers are erected, for the purpose of draining surface water from a highway or, as the case may be, diverting it into an existing drain, the water may be discharged into or through that drain and into any inland waters, whether natural or artificial, or any tidal waters.
- (3) A highway authority shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any power under subsection (1) or (2) above.
- (4) If a person, without the consent of the highway authority, alters, obstructs or interferes with a drain or barrier which has been constructed, laid or erected by the authority in exercise of their powers under subsection (1) above, or which is under their control, then—
 - (a) the authority may carry out any work of repair or reinstatement necessitated by his action and may recover from him the expenses reasonably incurred by them in so doing, and
 - (b) without prejudice to their right to exercise that power, he is guilty of an offence and liable to a fine not exceeding three times the amount of those expenses.
- (5) Without prejudice to their powers under the foregoing provisions of this section, a highway authority may, for the purpose of the drainage of a highway or proposed highway for which they are or, as the case may be, will be the highway authority, exercise any powers exercisable by a [F2sewerage undertaker under[F3sections 158, 159, 163, 165 and 168 of the Water Industry Act 1991]for the purposes of the drainage of highways within the area of that undertaker].
- (6) Where the highway authority are a county council they shall, before exercising any powers [F4under[F3sections 158, 159, 163, 165 and 168 of the Water Industry Act 1991]] by virtue of subsection (5) above, give notice of their intention to do so to the district council, and the [F4sewerage undertaker] within whose area the powers are proposed to be exercised [F5, and where the highway authority are a metropolitan district council they shall, before so exercising any powers under that Act, give such notice to the [F4sewerage undertaker] within whose area the powers are proposed to be exercised.]
- (7) A person who is liable to maintain a highway by reason of tenure, enclosure or prescription shall, for the purpose of draining it, have the like powers as are conferred on a highway authority by subsections (1) and (2) above for that purpose, and

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subsections (3) and (4) above shall have effect in relation to a highway so maintainable as if references therein to a highway authority and to subsection (1) or (2) above included references to the person liable to maintain that highway and to this subsection respectively.

(8) This section is without prejudice to any enactment the purpose of which is to protect water against pollution.

(9) In this section—

“drain” includes a ditch, gutter, watercourse, soak-away, bridge, culvert, tunnel and pipe; and

“owner”, in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease the unexpired term of which exceeds 3 years.

Textual Amendments

- F2** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(4)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F3** Words in s. 100(5)(6) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2, 4(2), **Sch. 1 para. 36(1)**
- F4** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(4)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F5** Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 21**

101 Power to fill in roadside ditches etc.

(1) If it appears to the highway authority for any highway that a ditch on land adjoining or lying near to the highway constitutes a danger to users of the highway, the authority may—

- (a) if they consider the ditch unnecessary for drainage purposes and any occupier of the land known to the authority agrees in writing that it is unnecessary for those purposes, fill it in; or
- (b) place in the ditch, or in land adjoining or lying near to it, such pipes as they consider necessary in substitution for the ditch, and thereafter fill it in.

(2) A highway authority shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any power under subsection (1) above.

(3) If a person, without the consent of the highway authority, opens up or keeps open any ditch which has been filled in under subsection (1) above (except as may be reasonably necessary for the purpose of doing work on any pipes placed in the ditch), then—

- (a) the authority may carry out any work of repair or reinstatement necessitated by his action and may recover from him the expenses reasonably incurred by them in so doing; and
- (b) without prejudice to their right to exercise that power, he is guilty of an offence and liable to a fine not exceeding three times the amount of those expenses.

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- (4) Nothing in section 263 of the ^{M3}Public Health Act 1936 (which prohibits the culverting of watercourses in certain districts without the approval of the local authority) applies to anything done under subsection (1) above.
- (5) A highway authority shall not exercise their powers under subsection (1) above in such a manner as to be likely to cause damage to or affect the drainage of any land or works used for the purposes of a railway or canal undertaking, except—
- (a) after giving not less than 14 days' notice to the undertakers of the manner in which it is proposed to exercise those powers; and
 - (b) in accordance with any reasonable requirements of the undertakers of which notice is given to the authority within 14 days from the date of service of the authority's notice;
- and any question whether any such requirement is reasonable shall, in default of agreement, be determined by the Minister.
- (6) In this section, "ditch" includes a watercourse and any part of a ditch or watercourse, and "pipes" including culverts, tunnels and other works.

Marginal Citations

M3 1936 c. 49.

102 Provision of works for protecting highways against hazards of nature.

- (1) The highway authority for a highway maintainable at the public expense may provide and maintain such barriers or other works as they consider necessary for the purpose of affording to the highway protection against snow, flood, landslide or other hazards of nature; and those works may be provided on the highway or on land which, or rights over which, has or have been acquired by the highway authority in the exercise of highway land acquisition powers for that purpose.
- (2) The powers conferred by subsection (1) above to provide any works shall include power to alter or remove them.
- (3) A highway authority shall pay compensation to any person who suffers damage by reason of the execution by them under this section of any works on a highway.

103 Provision of posts to indicate depth of flood water.

- (1) It shall be the duty of a highway authority to provide, in connection with any highway for which they are the highway authority and which is subject to flooding to any considerable depth, graduated posts or stones in any case where they consider the provision thereof necessary or desirable for the purpose of indicating the depth of water covering the highway.
- (2) A highway authority may alter or remove any post or stone provided by them under this section.

104 Mitigating nuisance of dust.

A highway authority may, in relation to a highway maintainable at the public expense by them, treat the highway for mitigating the nuisance of dust.

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105 Power to improve road-ferries.

A highway authority may improve any road-ferry provided by them under this Act.

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