



Highways Act 1980

1980 CHAPTER 66

PART VI **E+W**

CONSTRUCTION OF BRIDGES OVER AND TUNNELS UNDER NAVIGABLE WATERS AND DIVERSION ETC. OF WATERCOURSES

Construction of bridges over and tunnels under navigable waters

106 Orders and schemes providing for construction of bridges over or tunnels under navigable waters. **E+W**

- (1) Provision may be made by an order made by the Minister under this subsection or under section 10 above (orders for trunk roads) for the construction of a bridge over or a tunnel under any specified navigable waters as part of a trunk road.
- (2) Provision may be made by a scheme under section 16 above (schemes for special roads) for the construction of a bridge over or a tunnel under specified navigable waters as part of a special road.
- (3) Provision may be made by a scheme made by a local highway authority^[F1] or a strategic highways company] under this subsection, and confirmed by the Minister, for the construction of a bridge over or a tunnel under specified navigable waters as part of a highway or proposed highway which is or is to be a highway (other than a special road) maintainable at the public expense by the authority^[F2] or company] .
- (4) Provision may be made by an order under section 14 above (roads that cross or join trunk or classified roads) or section 18 above (supplementary orders relating to special roads)—
 - (a) for the construction of a bridge over or tunnel under specified navigable waters as part of a highway which is to be altered or constructed in pursuance of the order;
 - (b) where the order authorises the highway authority by whom it is made to provide a new means of access to any premises from a highway, for the access

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to be provided by means of a bridge over specified navigable waters and for the construction of the bridge.

- [^{F3}(4A) Subsections (1) and (3) are subject to section 33(4) of the Planning Act 2008 (exclusion of powers to make or confirm orders or schemes in relation to highways for which development consent required).]
- (5) Parts I and III of Schedule 1 to this Act have effect as to the making of an order under subsection (1) above, Parts II and III of that Schedule have effect as to the making of a scheme under subsection (3) above and Schedule 2 to this Act has effect as to the validity and date of operation of any such order or scheme.
- (6) A scheme under subsection (3) above may be submitted to the Minister jointly by any two or more ^{F4}...highway authorities, and any such scheme may determine which of those authorities is to be the highway authority for the bridge or tunnel or any part of it, and may provide—
- (a) for the performance by that authority, in relation to the bridge or tunnel or that part of it, of any of the highway functions of any other authority who are party to the application, and
 - (b) for the making of contributions by that other authority to the highway authority in respect of expenditure incurred in the performance of those functions.
- (7) References in this section, in relation to any order or scheme, to specified navigable waters are references to such navigable waters (whether the sea, a river or other waters) as may be specified in the order or scheme.
- (8) References in the following provisions of this Part of this Act to an order or scheme which provides for the construction of a bridge over or a tunnel under navigable waters are references to any order or scheme made under or by virtue of subsection (1), (2), (3) or (4) above.

Textual Amendments

- F1** Words in s. 106(3) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 34(2)(a)**; S.I. 2015/481, reg. 2(a)
- F2** Words in s. 106(3) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 34(2)(b)**; S.I. 2015/481, reg. 2(a)
- F3** S. 106(4A) inserted (1.3.2010) by [Planning Act 2008 \(c. 29\)](#), ss. 36, 241, **Sch. 2 para. 26** (with s. 226); S.I. 2010/101, **art. 2** (with art. 6)
- F4** Word in s. 106(6) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 34(3)**; S.I. 2015/481, reg. 2(a)

107 Provisions supplementary to section 106. E+W

- (1) Before making or confirming an order or scheme which provides for the construction of a bridge over or a tunnel under navigable waters, the Minister shall take into consideration the reasonable requirements of navigation over the waters affected by the order or scheme.
- (2) An order or scheme which provides for the construction of such a bridge shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed bridge including its spans, headways and waterways, and

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in the case of a swing bridge shall contain such provisions as the Minister considers expedient for regulating its operation.

- (3) An order or scheme which provides for the construction of such a tunnel shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed tunnel, including its depth below the bed of the navigable waters.
- (4) If objection to an order or scheme proposed to be made or, as the case may be, to an order or scheme made and proposed to be confirmed, is duly made in accordance with Schedule 1 to ^{F5}this Act by the Environment Agency, the Natural Resources Body for Wales or any ^{F6}navigation authority] on whom notice is required to be served under paragraph 3 or, as the case may be, paragraph 11 of that Schedule, on the ground that the bridge or tunnel is likely to obstruct or impede the performance of their functions under any enactment, or to interfere with the reasonable requirements of navigation over the waters affected by the order or scheme, as the case may be, and the objection is not withdrawn, the order or scheme, as the case may be, shall be subject to special parliamentary procedure.

Textual Amendments

- F5** Words in s. 107(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 162** (with Sch. 7)
- F6** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(5), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- s. 337(c) inserted by [2024 asc 3 Sch. 3 para. 2\(10\)\(b\)](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)