



# Highways Act 1980

## 1980 CHAPTER 66

### PART XII

#### ACQUISITION, VESTING AND TRANSFER OF LAND ETC.

##### *Transfer of property and liabilities on change of status of highway etc.*

#### **265 Transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road**

- (1) Where a highway becomes a trunk road, then, subject to the provisions of this section, as from the date on which the highway becomes a trunk road (" the operative date "), there are transferred to the Minister by virtue of this section—
- (a) the highway, in so far as, immediately before the operative date, it was vested in the former highway authority,
  - (b) the property mentioned in subsection (3) below, in so far as, immediately before the operative date, it was vested—
    - (i) in the former highway authority for the purposes of their functions in relation to the highway, or
    - (ii) in a council for the purposes of functions in relation to the highway under any enactment to which this section applies, and
  - (c) all liabilities incurred by any such authority or council for the purposes of their functions in relation to the highway and not discharged before the operative date, other than loans and loan charges,
- and the highway and other property so transferred vest, by virtue of this section, in the Minister.
- (2) There is not transferred to the Minister by virtue of this section any right or liability in respect of—
- (a) work done, services rendered, goods delivered, or money due for payment, before the operative date, or
  - (b) damages or compensation for any act or omission before that date, or

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- (c) the price of, or compensation for, any land purchased, or for which a contract to purchase has been concluded, before that date.
- (3) The property referred to in subsection (1)(b) above is—
- (a) land, other than land—
    - (i) vested in the former highway authority for the purpose of being used for the storage of materials required wholly or mainly for the maintenance and improvement of other highways, or
    - (ii) acquired for the improvement or development of frontages to the highway, or of land adjoining or adjacent to the highway, and
  - (b) all other property (including the unexpended balances of any grants paid by the Minister to the former highway authority, or to any council for the purposes of their functions in relation to the highway), other than—
    - (i) materials to be used for the maintenance or improvement of the highway, and
    - (ii) the unexpended balances of any loans raised by the former highway authority, or by any council for the purposes of their functions in relation to the highway.
- (4) Any property vested in the Minister by virtue of this section shall be held by him subject to all covenants, conditions and restrictions subject to which the property was held by the authority or council from whom it was transferred and to all liabilities affecting the property, except liabilities referred to in subsection (2) above.
- (5) The Minister and the former highway authority may agree, on such terms as they think fit—
- (a) that any property or liabilities (except loans and loan charges) acquired or incurred by the former highway authority for the purposes of their functions in relation to a highway which has become a trunk road, other than property or liabilities transferred to the Minister by virtue of this section, shall be transferred to him, or
  - (b) that any property or liabilities transferred to the Minister by virtue of this section shall be re-transferred to the authority.
- (6) Any dispute between the Minister and any person as to the property or liabilities transferred by virtue of this section shall be determined by arbitration.
- (7) The foregoing provisions of this section apply in a case where a trunk road ceases to be a trunk road (otherwise than by virtue of section 10(8) above) in like manner as they apply where a highway becomes a trunk road, with the substitution—
- (a) for the references to the former highway authority and to a council, of references to the Minister, and
  - (b) for references to the Minister, of references to the council who become the highway authority for the road or, so far as relates to property and liabilities vested in or incurred by the Minister for the purposes of any functions under any enactment to which this section applies, to the council who are to exercise those functions in relation to the road.
- (8) The former highway authority shall produce to the Minister such documents relating to their functions, property and liabilities in respect of a highway which has become a trunk road, and furnish to him such other information relating to those matters, as he may require.

- (9) Schedule 21 to this Act has effect for the purpose of providing for transitional matters arising where a highway becomes a trunk road or a trunk road ceases to be a trunk road.
- (10) The enactments to which this section applies are sections 42, 50, 230(7) and 271 of this Act and sections 1, 21 and 75 of the Road Traffic Regulation Act 1967.
- (11) For the purposes of this section—
  - " former highway authority " means, in relation to a highway which has become a trunk road, the council in whom the highway was vested immediately before it became a trunk road ; and
  - " property " includes property, rights and powers of every description.

## **266 Transfer to Minister of privately maintainable bridges carrying trunk roads**

- (1) Where a highway comprising a bridge to which this section applies becomes a trunk road, the bridge by which that highway is carried is, subject to subsection (2) below, transferred to the Minister by virtue of this section on the date on which the highway becomes a trunk road (" the transfer date ").
- (2) If on the transfer date a part of the highway carried by the bridge is not a trunk road, the bridge is not transferred to the Minister by virtue of this section unless and until that part becomes a trunk road.
- (3) Where a bridge is transferred to the Minister by virtue of this section, then, subject to subsection (4) below—
  - (a) the bridge, including any building or structure comprised in it and the highway carried by it, vests by virtue of this section in the Minister for all the estate or interest of the owners therein, and
  - (b) any statutory provision in force, in relation to the bridge, for the protection or benefit of statutory undertakers has effect, subject to any necessary modifications, as if for any reference therein to the owners of the bridge there were substituted a reference to the Minister.
- (4) The Minister and the owners may, by agreement in writing made either before or after the transfer date, agree that the provisions of subsection (3) above with respect to the transfer of property shall not apply or, as the case may be, shall be deemed not to have applied, to such property comprised in the bridge as may be specified in the agreement.
- (5) In respect of any bridge which is transferred to the Minister by virtue of this section, the Minister shall pay to the owners such sum as may be agreed between the Minister and the owners, or in default of agreement such sum as may be determined by arbitration to represent the value to the owners of the bridge as an asset productive of revenue.

For the purposes of this subsection a bridge is not to be treated as an asset productive of revenue unless at the time when the bridge is transferred by virtue of this section—

- (a) a contract is in force under which payments have been made or will accrue to the owners in respect of the use of the bridge; or
  - (b) the bridge includes a building constructed or adapted for use by the owners for the purposes of their undertaking or for letting to some other person.
- (6) Where a bridge transferred to the Minister by virtue of this section carries the highway over a railway, canal, way or other works used for the purposes of an undertaking carried on by the owners, then, so long as those works are so used—

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- (a) the Minister shall, before entering on any land of the owners for the purpose of executing works for the maintenance, improvement or alteration of the bridge, give notice to the owners specifying the general nature of the works proposed to be executed;
  - (b) except with the consent of the owners, the Minister shall not reduce the headway or any span of the bridge; and
  - (c) if the headway of the bridge is reduced in consequence of subsidence due to mining operations, or of works carried out by the owners for the purpose of raising the railway, canal, way or other works to a level not higher than their level before the subsidence occurred, the Minister shall, if so required by the owners, raise the bridge so far as may be necessary to give the same headway as before the subsidence occurred.
- (7) A consent required for the execution of works by the Minister under subsection (6) above shall not be unreasonably withheld, and any question whether the withholding of such a consent is unreasonable shall be determined by arbitration.
- (8) Any dispute between the Minister and any person as to the property or liabilities transferred by virtue of this section, or as to the liability imposed on the Minister by subsection (6)(c) above to carry out works, shall be determined by arbitration.
- (9) This section applies to all bridges (not being highways maintainable at the public expense) which carry the highway over a railway or highway or over a canal, river, watercourse, marsh or other place where water flows or is collected or over a ravine or other depression, other than—
- (a) swing bridges,
  - (b) bridges which carry a railway as well as a highway, and
  - (c) bridges to which a right to levy tolls is attached;
- but this section does not apply to Rochester Bridge.
- (10) In this section—
- " bridge " includes so much of the approaches thereto as supports or protects the surface of the trunk road;
  - " owners", in relation to a bridge, means the persons who immediately before the transfer of the bridge to the Minister were responsible for the maintenance of it, and includes any persons who, in pursuance of any agreement with the persons so responsible, were then discharging that responsibility on their behalf.

**267 Transfer to local highway authorities of privately maintainable bridges carrying special roads**

- (1) Where the route prescribed by a scheme under section 16 above authorising the provision of a special road by a local highway authority includes a highway carried by a bridge which, if the special road were a trunk road, would be transferred to the Minister by virtue of section 266 above, any order under section 18 above by which the highway is appropriated by or transferred to the special road authority may provide for the transfer of the bridge to that authority.
- (2) Where a bridge is so transferred to a special road authority, subsections (3) to (8) of section 266 above apply as they apply in relation to a bridge transferred by virtue of that section and accordingly have effect as if, for references therein to the Minister and to the trunk road there were substituted references to the special road authority

and to the special road; and no order shall be made by virtue of section 268 below in respect of liabilities of the owners of the bridge.

- (3) In this section " bridge " and " owners " are to be construed in accordance with section 266(10) above, but with the substitution, in the definition of " owners " , of a reference to the special road authority for the reference to the Minister.

## **268 Transfer of property and liabilities in connection with special roads etc.**

- (1) Where provision is made by an order under section 14 or 18 above—
- (a) for transferring a highway from one highway authority to another,
  - (b) for enabling a highway authority to alter a highway vested in another, or
  - (c) in the case of an order under section 18 above, for authorising or requiring any functions of a local authority (within the meaning of that section) to be exercised by a highway authority,

the order may, subject to section 267(2) above, transfer to the highway authority to whom the highway is transferred, or in whom it is vested, or by whom those functions are to be exercised, any property, rights or liabilities (other than loans or loan charges) vested in or incurred by the other authority in connection with the highway or the alteration, or for the purposes of those functions, as the case may be.

- (2) An order transferring property, rights or liabilities under subsection (1) above may for that purpose (whether or not the highway in question is a trunk road) apply any of the provisions of section 265 above, subject to such modifications as may be specified in the order.
- (3) No order relating to a trunk road under section 14 above shall provide for transferring to any authority (except by agreement with that authority) any bridge over or tunnel under the trunk road, as distinct from the highway carried by the bridge or through the tunnel, and from any approaches to the bridge or tunnel.
- (4) No order relating to a classified road under section 14 above and no order under section 18 above shall provide for transferring to any authority (except by agreement with that authority) any bridge over or tunnel under a classified road or, as the case may be, a special road, as distinct from the highway carried by the bridge or through the tunnel, and from any approaches to the bridge or tunnel.

## **269 Transfer of property upon a highway becoming or ceasing to be a metropolitan road**

Where a highway in a London borough or the City becomes or ceases to be a metropolitan road, the council of the borough or the Common Council, as the case may be, and the Greater London Council may agree for the transfer to the new highway authority for the highway from the former highway authority of such property and liabilities relating to the highway, on such terms and conditions, as may be specified in the agreement.

## **270 Transfer of lighting systems**

- (1) In this section—
- " footway lighting system " means a system of lighting, provided for a highway, which satisfies the following conditions, namely, that either—
- (a) no lamp is mounted more than 13 feet above ground level, or

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(b) no lamp is mounted more than 20 feet above ground level and there is at least one interval of more than 50 yards between adjacent lamps in the system,

or such other conditions as may be prescribed by order of the Minister in substitution for the above-mentioned conditions;

" road lighting system " means a lighting system that is not a footway lighting system ;

and references in this section, as respects a transfer from a lighting authority to a highway authority, to " the agreed date " are references to such date as may be determined by agreement between the two authorities or, in default of such agreement, as the Minister may direct.

(2) Subsections (3) to (6) below have effect where a road lighting system is at any time provided by a lighting authority for the purposes of a highway for which they are not the highway authority, and this includes cases where a footway lighting system maintained by a lighting authority other than the highway authority becomes a road lighting system—

(a) in consequence of any order made by the Minister under subsection (1) above (as respects the conditions referred to in the definition of " footway lighting system "), or

(b) in consequence of any alterations effected by the lighting authority.

(3) On the agreed date there are transferred to the highway authority—

(a) all lamps, lamp-posts and other apparatus which, immediately before the agreed date, were vested in the lighting authority as part of the road lighting system; and

(b) except as provided by subsection (4) below, all other property or rights which, immediately before the agreed date, were vested in the lighting authority for the purposes of that system, and all liabilities incurred by that authority for those purposes and not discharged before that date;

and any property or rights so transferred vest, by virtue of this section, in the highway authority.

(4) There is not transferred to a highway authority by virtue of this section any right or liability of a lighting authority in respect of work done, services rendered, goods (including gas and electricity) supplied or money due /or payment before the agreed date, and there is not transferred to the Minister by virtue of this section any liability of a lighting authority in respect of loans or loan charges.

(5) A highway authority and a lighting authority, or any two or more highway authorities, may make agreements with respect to the transfer of property, rights and liabilities under this section, including agreements—

(a) for defining the property, rights and liabilities thereby transferred to the highway authority or any of those authorities, and

(b) for the transfer or retention of property, rights or liabilities held or incurred for the purposes of two or more road lighting systems, or partly for the purposes of such a lighting system and partly for other purposes.

(6) Any dispute between the authorities concerned as to the property, rights or liabilities transferred by this section shall be determined—

(a) where the Minister is one of those authorities, by arbitration;

(b) in any other case, by the Minister.

- (7) If in the case of a road or part of a road in which a footway lighting system is maintained by a lighting authority other than a highway authority the highway authority propose to provide a road lighting system (either as a separate system or by means of alterations of the footway lighting system), they may give notice to that effect to the lighting authority; and where such notice is given subsections (2) to (6) above apply in relation to the footway lighting system as if for the references in subsections (3) and (4) to the agreed date there were substituted references to such date as may be specified for the purpose in the notice.

## **271 Provisions with respect to transfer of toll highways to highway authorities**

- (1) Where a person has by virtue of a charter or special Act the right to charge tolls in respect of the use of a highway, then, an appropriate authority—
- (a) may agree with that person that he shall, on such terms as may be agreed, or
  - (b) subject to the provisions of this section, may by a notice to treat require that person to,

transfer that right to the appropriate authority, together with the property in the highway and all his other property, rights and obligations under the charter or special Act (being property, rights and obligations connected with the highway), or such of them as may be specified in the agreement or, as the case may be, the notice to treat.

For the purposes of this section the following are appropriate authorities:—

- (i) in the case of a trunk road, the Minister;
  - (ii) in the case of any other highway, except a highway in a London borough of the City, the council of the county in which the highway is situated;
  - (iii) in the case of a highway in a London borough or the City, other than a trunk road, the council of the borough or the Common Council, as the case may be, and also the Greater London Council.
- (2) Upon the making of the transfer under subsection (1) above the right to charge tolls and any other property, rights or obligations transferred vest in and are exercisable by and imposed upon the appropriate authority.
- (3) The consideration to be paid to any person for a compulsory transfer under this section shall, in default of agreement, be determined by the Lands Tribunal, and the rules in section 5 of the Land Compensation Act 1961 apply to the calculation of any such consideration.
- (4) Subject to any agreement with respect to the date of transfer, the person on whom a notice to treat is served under this section shall, on payment to him of the consideration determined as provided by subsection (3) above, transfer to the appropriate authority all such property, rights and obligations vested in or imposed upon him as are required by the notice to treat to be so transferred.
- (5) A council in whose area part only of the highway is situated have in relation to that highway the same powers as they would have under subsection (1) above if the highway were wholly situated within their area, but shall not exercise those powers except in pursuance of an agreement made under subsection (6) below.
- (6) Any two or more councils having under either subsection (1) or subsection (5) above powers in relation to a highway may enter into agreements with respect to the exercise of those powers by one council on behalf of the other or others of them and with respect to the making of contributions by any of them towards the expenses of any action so

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taken; and where those powers are exercised in pursuance of any such agreement the transfer of the highway and any other property, rights and obligations to be transferred shall be made to such council or councils as may be provided by the agreement.

- (7) The provisions of this section with respect to compulsory transfers shall not apply in relation to—
- (a) a highway vested in dock undertakers as such,
  - (b) a highway vested in harbour undertakers as such, or
  - (c) the property in a bridge vested in railway undertakers.