



# Highways Act 1980

## 1980 CHAPTER 66

### PART IX

#### LAWFUL AND UNLAWFUL INTERFERENCE WITH HIGHWAYS AND STREETS

##### *Protection of public rights*

#### **130 Protection of public rights.**

- (1) It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.
- (2) Any council may assert and protect the rights of the public to the use and enjoyment of any highway in their area for which they are not the highway authority, including any roadside waste which forms part of it.
- (3) Without prejudice to subsections (1) and (2) above, it is the duty of a council who are a highway authority to prevent, as far as possible, the stopping up or obstruction of—
  - (a) the highways for which they are the highway authority, and
  - (b) any highway for which they are not the highway authority, if, in their opinion, the stopping up or obstruction of that highway would be prejudicial to the interests of their area.
- (4) Without prejudice to the foregoing provisions of this section, it is the duty of a local highway authority to prevent any unlawful encroachment on any roadside waste comprised in a highway for which they are the highway authority.
- (5) Without prejudice to their powers under section 222 of the <sup>M1</sup>Local Government Act 1972, a council may, in the performance of their functions under the foregoing provisions of this section, institute legal proceedings in their own name, defend any legal proceedings and generally take such steps as they deem expedient.

*Status: Point in time view as at 02/05/2006.*

*Changes to legislation: Highways Act 1980, Section 130 is up to date with all changes known to be in force on or before 12 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) If the council of a parish or community or, in the case of a parish or community which does not have a separate parish or community council, the parish meeting or a community meeting, represent to a local highway authority—
- (a) that a highway as to which the local highway authority have the duty imposed by subsection (3) above has been unlawfully stopped up or obstructed, or
  - (b) that an unlawful encroachment has taken place on a roadside waste comprised in a highway for which they are the highway authority,
- it is the duty of the local highway authority, unless satisfied that the representations are incorrect, to take proper proceedings accordingly and they may do so in their own name.
- (7) Proceedings or steps taken by a council in relation to an alleged right of way are not to be treated as unauthorised by reason only that the alleged right is found not to exist.

**Modifications etc. (not altering text)**

**C1** [S. 130](#): 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](#)

**Marginal Citations**

**M1** [1972 c. 70](#).

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