



Highways Act 1980

1980 CHAPTER 66

PART IX

LAWFUL AND UNLAWFUL INTERFERENCE WITH HIGHWAYS AND STREETS

Miscellaneous

177 Restriction on construction of buildings over highways.

(1) No person shall—

- (a) except in the exercise of statutory powers, construct a building over any part of a highway maintainable at the public expense (whether it is intended to span the highway or not), or alter a building so constructed, without a licence granted under this section by the highway authority for that highway or otherwise than in accordance with the terms and conditions of a licence so granted;
- (b) use a building so constructed or altered in pursuance of a licence so granted otherwise than in accordance with the terms and conditions thereof.

and any person who contravenes any provision of this subsection is guilty of an offence and liable to a fine not exceeding [^{F1}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 £50 for each day on which the offence is so continued.

- (2) Subject to subsections (3) and (4) below, a licence under this section may contain such terms and conditions, including terms and conditions with respect to the construction (including the headway over the highway), maintenance, lighting and use of the building, as the highway authority think fit; and, any such term or condition is binding on the successor in title to every owner, and every lessee and occupier, of the building.
- (3) No fine, rent or other sum of money is payable in respect of a licence granted under this section except—
 - (a) a reasonable sum in respect of legal or other expenses incurred in connection with the grant of the licence; and

Status: Point in time view as at 05/12/2017. This version of this provision has been superseded.

Changes to legislation: Highways Act 1980, Section 177 is up to date with all changes known to be in force on or before 07 August 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)

- (b) an annual charge of a reasonable amount for administering the licence;
and any sum payable by virtue of paragraph (a) above is recoverable from the applicant for the licence and any sum payable by virtue of paragraph (b) above is recoverable from the owner of the building.
- (4) No such licence shall authorise any interference with the convenience of persons using the highway, or affect the rights of the owners of premises adjoining the highway, or the rights of [^{F2}statutory undertakers or the operator of [^{F3}an electronic communications code network]] [^{F4}or a driver information [^{F5}network]].
- (5) Where a licence under this section makes provision for the execution of any works or the provision of any facilities which in the opinion of the highway authority require to be executed or provided by them in connection with the building or its construction or alteration, the authority may execute those works or, as the case may be, provide those facilities and may recover the expenses reasonably incurred by them in so doing from the licensee or from the owner of the building.
- (6) A person aggrieved by the refusal of a highway authority to grant a licence under this section or by a term or condition of the licence may appeal to the Crown Court, except that no such appeal lies—
- (a) if the land on which the highway in question is situated is owned by the highway authority, or
 - (b) against any term or condition which the highway authority declare to be necessary for the purpose of securing the safety of persons using the highway or of preventing interference with traffic thereon.
- (7) Where a person has constructed or altered a building for the construction, or, as the case may be, alteration, of which a licence is required by this section without such a licence or otherwise than in accordance with the terms and conditions of the licence, the highway authority may by notice served on the licensee or the owner of the building require him to demolish the building within such time as may be specified in the notice or, as the case may be, to make such alterations therein and within such time as may be so specified.
- (8) Where there has been a failure to comply with any terms or conditions of a licence under this section with respect to the maintenance or use of a building, the highway authority may by notice served on the licensee or the owner of the building require him to execute such works or take such steps as are necessary to secure compliance with those terms or conditions within such time as may be specified in the notice.
- (9) If a person on whom a notice is served under subsection (7) or (8) above fails to comply with the notice within the time specified in it, the highway authority may demolish the building or, as the case may be, execute such works or take such steps as are necessary to comply with the notice and may recover the expenses reasonably incurred by them in so doing from that person.
- (10) Where by virtue of subsection (9) above a highway authority demolish a building, they may dispose of the materials resulting from the demolition.
- (11) In relation to any prohibition or restriction on the use of a building imposed by the Minister by virtue of any term or condition contained in a licence granted by him under this section, section 1(1)(c) of the ^{M1}Local Land Charges Act 1975 has effect as if the references to the date of the commencement of that Act were references to 1st November 1971.

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- [^{F6}(12) Paragraph 23 of the [^{F7}electronic communications code](which provides a procedure for certain cases where works involve the alteration of [^{F8}electronic communications apparatus]) shall apply, for the purposes of works authorised or required by a licence under this section to be executed, to the licensee.]
- (13) This section does not apply to a building which constitutes a bridge within the meaning of section 176 above, but subject to that in this section “building” includes any structure and any part of a building.
- (14) Where the land on which a highway is situated is owned by the highway authority, nothing in subsection (3) above is to be taken as affecting the rights of that authority as the owner of that land to sell or lease the air-space above the surface of that land or grant any rights in relation to it.

Textual Amendments

- F1** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**
- F2** Words substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, **Sch. 4 para. 76(10)(a)**, Sch. 5 para. 45
- F3** Words in s. 177(4) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(d)(2)(a)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F4** Words inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 13(1), **Sch. 4 para. 3(9)**
- F5** Word in s. 177(4) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(d)(2)(e)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F6** S. 177(12) substituted by [Telecommunications Act 1984 \(c.12, SIF 96\)](#), s. 109, **Sch. 4 para. 76(10)(b)**, Sch. 5 para. 45
- F7** Words in s. 177(12) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by [Communications Act 2003 \(c. 21\)](#), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(d)(2)(d)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F8** Words in s. 177(12) substituted (25.7.2003 for specified purposes, 29.12.2003 for specified) by [Communications Act 2003 \(c. 21\)](#), ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(d)(2)(c)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)

Marginal Citations

- M1** 1975 c. 76.

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