

## SCHEDULE 1

Article 2

### FUNCTIONS CONFERRED BY THE HIGHWAYS ACT 1980 OR ANY REGULATIONS MADE UNDER ANY PROVISION OF THAT ACT

1. Subject to paragraph 5 below, functions conferred on the Secretary of State as highway authority<sup>(1)</sup> for a highway in relation to that highway or to highway connected land, by or under any of the following provisions of the 1980 Act:

- (a) section 41(1) (highway authority's duty to maintain highway maintainable at public expense);
- (b) section 62 (general power of improvement);
- (c) section 64<sup>(2)</sup> (dual carriageways and roundabouts);
- (d) section 65 (cycle tracks);
- (e) section 66 (provision of footways and guard-rails etc. for publicly maintainable highways) other than subsections (6) and (7) thereof;
- (f) section 68 (refuges);
- (g) section 69(1) (highway authority's powers to construct, light, etc subways);
- (h) section 70 (footbridges over highways);
- (i) section 71 (margins for horses and livestock);
- (j) section 75(1) and (2) (highway authority's power to vary widths of carriageways and footways);
- (k) section 76 (levelling of highways);
- (l) section 77 (alteration of levels);
- (m) section 78 (cutting off of corners);
- (n) section 80<sup>(3)</sup> (power to fence highways);
- (o) section 81 (provision of highway boundary posts);
- (p) section 84 (maintenance of cattle-grids and by-passes);
- (q) section 90 (protection of bridges and railways);
- (r) section 92 (reconstruction of bridge maintainable at public expense);
- (s) section 96 (powers of highway authority to plant trees, lay out grass verges etc);
- (t) section 97 (lighting of highways);
- (u) section 99 (metalling of highways);
- (v) section 100(1) to (5)<sup>(4)</sup> (highway authority's powers and duties relating to drainage of highways) except insofar as they relate to the power to enter premises under section 168 of the Water Industry Act 1991<sup>(5)</sup> (entry for works purposes);
- (w) section 101 (power to fill in roadside ditches etc);

<sup>(1)</sup> The Secretary of State for Transport is highway authority for certain highways by virtue of sections 1(1) and 329 of the 1980 Act and S.I.1981/238.

<sup>(2)</sup> Section 64(4) was repealed by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51); section 64(5) was repealed by section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).

<sup>(3)</sup> Section 80 is to be read with section 72(12) of the Wildlife and Countryside Act 1981 (c. 69); section 80(4) was partially repealed by sections 8 and 102 of, and Schedules 4 and 17 to, the Local Government Act 1985 (c. 51); section 80(3) was amended by section 4 of, and Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11).

<sup>(4)</sup> Section 100(5), which confers certain powers of a sewerage authority under the Water Industry Act 1991 for the purposes of drainage on a highway authority, was amended by section 190 of, and Schedule 25 to, the Water Act 1989 (c. 15) and by section 2 of, and Schedule 1 to, the Water Consolidation (Consequential Provisions) Act 1991 (c. 60).

<sup>(5)</sup> 1991 c. 56.

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- (x) section 102 (provision of works for protecting highways against hazards of nature);
- (y) section 103 (provision of posts to indicate depth of flood water);
- (z) section 104 (mitigating nuisance of dust);
- (aa) section 105 (power to improve road-ferries);
- (bb) section 115H(1)(6) (prohibition on exercise of certain of a council's powers without consent of the highway authority);
- (cc) section 133 (damage to footways of streets by excavation);
- (dd) section 139(1) and (2) (prohibition on deposit of builders' skips without permission of the highway authority);
- (ee) section 140(2) (highway authority's power to require owner of builder's skip to remove or reposition it);
- (ff) section 141(2) (highway authority's power by notice to require removal of tree or shrub in or near carriageway);
- (gg) section 150(1), (2) and (4) (highway authority's duty to remove snow, soil etc from highway) except insofar as they relate to an obstruction in a highway which is the property of any person;
- (hh) section 167(2), (5), (6) (consultation with highway authority and highway authority's power to give notices in relation to retaining walls near streets);
- (ii) section 169(1), (2), (3) and (4)(7) (power of highway authority to license, and directions in relation to, scaffolding or other structures obstructing the highway);
- (jj) section 171 (control of deposit of building materials and making of excavations in streets) except insofar as the functions conferred by or under section 171(7) relate to the removal of property of any person; and
- (kk) section 178(1) (prohibition on placing rails, beams etc over highways without consent of the highway authority).

#### Commencement Information

**II** Sch. 1 para. 1 in force at 25.7.1995, see [art. 1\(1\)](#)

2. Subject to paragraph 5 below, functions conferred on the Secretary of State by or under any of the following provisions of the 1980 Act:

- (a) section 63 of the 1980 Act (relief of main carriageway of trunk road from local traffic);
- (b) section 112(3) and (5) (management of trunk road picnic areas and public sanitary conveniences) except insofar as the functions in subsection (5) relate to the provision of public sanitary conveniences; and
- (c) section 288 (power to require gas and water pipes to be moved) insofar as that provision applies to the exercise of any other function listed in this Schedule.

(6) Section 115H was inserted by section 20 of, and Schedule 5 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30). Section 115H(1) was amended by section 8 of, and Schedule 4 to, the Local Government Act 1985 (c. 51) and by section 4 of, and Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11).

(7) Section 169(4) was amended by section 109 of, and Schedule 4 to, the Telecommunications Act 1984 (c. 12); by section 190 of, and Schedule 25 to, the Water Act 1989 (c. 15); by section 13(1) of, and Schedule 4 to, the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22); and by section 168(1) of, and Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22).

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**Commencement Information**

**I2** Sch. 1 para. 2 in force at 25.7.1995, see [art. 1\(1\)](#)

**3.** Subject to paragraph 5 below, functions conferred on the Secretary of State as competent authority, by virtue of his being highway authority for a highway, by or under any of the following provisions of the 1980 Act:

- (a) section 143(1)(**8**) (competent authority's power to give notice requiring removal of structures from highways);
- (b) section 154(1) and (2)(**9**) (competent authority's to give notice requiring removal of overhanging hedge, tree or shrub); and
- (c) section 185(**10**) (competent authority's power to install etc refuse or storage bins in streets).

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 25.7.1995, see [art. 1\(1\)](#)

**4.** Functions conferred on the Secretary of State as highway authority for a highway by or under the following provisions of the Walkways Regulations 1973(**11**):

- (a) regulation 3(1) (prohibition on exercise of certain powers conferred on highway authority in relation to walkways without consent of building owner);
- (b) regulation 4(1) (prohibition on placing etc of apparatus of statutory undertakers without consent of highway authority and building owner);
- (c) regulation 5(3) (prohibition on temporary closure of walkway until expiry of a specified period from the date of notice to the highway authority and others); and
- (d) regulation 6 (stopping up of walkway by building owner).

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 25.7.1995, see [art. 1\(1\)](#)

**5.—(1)** Paragraphs 1 to 3 above shall not include:

- (a) any functions conferred by or under section 294 of the 1980 Act (entry of premises by highway authority or council for certain purposes); or
- (b) any function to the extent that the function confers a power or right of entry into or on any premises or land of which the Secretary of State for Transport is not the owner or occupier.

(2) Where section 338 or 339(**12**) of the 1980 Act (saving for walks, etc., of dock, harbour and canal undertakers and saving for works etc. of drainage authorities etc.) applies to the exercise of any functions listed in paragraphs 1 to 3 above, those functions shall be construed as including any additional requirements imposed by those sections.

(8) Section 143(1)(a) was amended by section 8 of, and Schedule 4 to, the Local Government Act 1985 (c. 51).

(9) Section 154(1)(b) was amended by section 8 of, and Schedule 4 to, the Local Government Act 1985 (c. 51).

(10) Section 185(3)(b) was amended by section 190 of, and Schedule 25 to, the Water Act 1989 (c. 15).

(11) S.I. 1973/686, amended by S.I. 1974/735.

(12) Section 339(1) and (4) were amended by section 190 of, and Schedule 25 to, the Water Act 1989 (c. 15) and section 2 of, and Schedule 1 to, the Water Consolidation (Consequential Provisions) Act 1991 (c. 60).

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**I5** Sch. 1 para. 5 in force at 25.7.1995, see [art. 1\(1\)](#)

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

- Order revoked in part by [S.I. 2009/721 art. 4\(1\)\(2\)](#)