



# Highways Act 1980

## 1980 CHAPTER 66

### PART XIV

#### MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

*Miscellaneous powers etc. of highway authorities and local authorities*

#### **282 Power of highway authority to execute works for mitigating adverse effect of constructing or improving etc. highway**

- (1) A highway authority may carry out—
  - (a) on land acquired by them under section 246 above;
  - (b) on any other land belonging to them ;
  - (c) on any highway for which they are the highway authority;
  - (d) on any highway which they have been authorised to improve or construct by virtue of an order under section 14 or 18 above,works for mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surroundings of the highway.
- (2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees, shrubs or plants of any other description and the laying out of any area as grassland.
- (3) A highway authority may develop or redevelop any land acquired by them under section 246 above, or any other land belonging to them, for the purpose of improving the surroundings of a highway in any manner which they think desirable by reason of its construction, improvement, existence or use.

#### **283 Power of Minister to conduct experiments**

- (1) The Minister may, either by himself or through an authority or other organisation approved by him, conduct experiments or trials for the purpose of—
  - (a) improving the construction of highways, road-ferries or subways, or

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- (b) testing the effect of various classes of vehicles on various types of highways.
- (2) The Minister may construct such highways and works, erect such plant, and provide such accommodation, as may be necessary for the purpose of conducting an experiment or trial under this section.
- (3) An experiment or trial under this section shall not be conducted on any highway except with the consent of the highway authority or other person responsible for the maintenance of the highway.
- (4) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person is entitled to recover from the Minister compensation in respect of the damage.

A person is not entitled to compensation under this subsection if the damage was caused by his own negligence; and if his own negligence contributed to the damage the compensation shall be reduced accordingly.

#### **284 Powers of Minister in relation to privately maintainable parts of trunk roads**

Where a trunk road comprises a highway which a person is liable to maintain under a charter or special enactment or by reason of tenure, enclosure or prescription, the Minister is entitled to exercise in relation to that highway any power which he would be entitled to exercise in relation thereto if that highway were a highway maintainable at the public expense.

#### **285 Power of Minister and Greater London Council to execute in Greater London road improvements not involving widening**

- (1) Subject to subsection (3) below, where either the Minister of Transport or the Greater London Council ("the Council"), after consultation with the highway authority, are of the opinion that, with a view to facilitating the movement of traffic it is expedient for works to be executed for the improvement of a highway in Greater London to which this section applies, being works which the highway authority could execute and which do not involve the widening of the highway, then—
  - (a) the highway authority shall, within 3 months of being notified of that fact, inform the Minister or, as the case may be, the Council whether they are prepared to undertake those works and, if so, within what time; and
  - (b) if the Minister or, as the case may be, the Council at the expiration of the said 3 months are not satisfied that the highway authority will with reasonable dispatch undertake those works (or within the said 3 months are satisfied that they will not), the Minister or, as the case may be, the Council may execute those works or other works appearing to him or them to secure the same or an equivalent improvement of the highway.

For the purposes of this subsection it is not to be treated as widening a highway to take into the highway land not forming part of it but situated within its outer limits.

- (2) The highways to which subsection (1) above applies are highways for which a London borough council or the Common Council are the highway authority and also, where the power under that subsection is exercised by the Minister, metropolitan roads.
- (3) The Minister shall exercise his powers under subsection (1) above only if he considers it necessary in connection with any order made or proposed to be made by him

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under section 6 or section 9 of the Road Traffic Regulation Act 1967 by virtue of section 84A(2) or (4) of that Act.

- (4) Where the Minister or the Council execute or propose to execute works under this section for the improvement of a highway, then for the purpose of or in connection with the execution of those works—
- (a) he or they shall (subject to the following provisions of this section) have all the powers and rights, and be subject to all the obligations and liabilities, of the highway authority; and
  - (b) he or they may exercise of his or their own motion any powers which, if the works were executed by the highway authority, he or they could exercise on the application of that authority; and
  - (c) he or they may do or require the highway authority to do anything which that authority has power to do in some capacity other than that of highway authority.
- (5) Where the Minister or the Council execute works under this section for the improvement of a highway the amount of his or their expenses in connection therewith, as certified by him or them, shall (except, where the expenses are the Minister's, in so far as they may be met by any grant made by the Minister) be paid to him or, as the case may be, them on demand by the highway authority; and that authority have the like power of raising money required to make such payment, and the like right to recover the whole or any part of any sum paid, as if the expenses of the Minister or the Council had been incurred in executing the works as their agent.
- (6) Subsection (4) above does not transfer to the Minister or the Council in connection with the execution of any works any powers, rights, obligations or liabilities of a highway authority under any enactment to which this subsection applies ; but where the Minister or the Council proceed under this section to execute works in a highway, any such enactment applies in relation to those works as if the Minister or the Council were acting as agent of the highway authority, but so that the highway authority are to comply with any directions of the Minister or, as the case may be, the Council as to the exercise of their powers and rights.
- This subsection applies to the Public Utilities Street Works Act 1950 and, in the case of any works, to such other enactments as the Minister or the Council may specify for this purpose in a notice given by him or them to the highway authority.
- (7) Without prejudice to the generality of the foregoing provisions of this section, the powers exercisable under this section by the Minister or the Council in place of a highway authority include any power of that authority to acquire land, or an interest or right in, over or under land ; and any land, or any interest or right in, over or under land, acquired by the Minister or the Council by virtue of this section shall be acquired in the name and on behalf of the highway authority, and shall vest in that authority accordingly.
- (8) A highway authority shall produce to the Minister or, as the case may be, the Council such documents relating to matters affecting the exercise of the Minister's or the Council's powers under this section, and furnish him or them with such other information relating to those matters, as he or they may require in connection with the exercise of those powers or any proposal to exercise them.

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## **286 Power to require angles of new buildings at corners of streets to be rounded off**

- (1) A local authority or, if there is a local highway authority for either of the two streets in question, that highway authority, may require the corner of a building intended to be erected at the corner of two streets in the area of the local authority to be rounded or splayed off to the height of the first storey or to the full height of the building, and to such extent otherwise as they may determine.
- (2) A person aggrieved by a requirement of a local authority or local highway authority under this section may appeal to a magistrates' court.
- (3) A local authority or local highway authority shall pay compensation for any loss which may be sustained through the exercise by them of their powers under this section.
- (4) This section does not apply to a building, other than a dwelling-house, belonging to any of the following undertakers and used by them for the following purposes respectively:
  - (a) railway undertakers, for purposes of a railway comprised in the railway undertaking ;
  - (b) canal undertakers, for purposes of a canal comprised in the canal undertaking;
  - (c) inland navigation undertakers, for purposes of a navigation comprised in the inland navigation undertaking;
  - (d) dock undertakers, for purposes of a dock comprised in the dock undertaking;
  - (e) harbour undertakers, for purposes of a harbour comprised in the harbour undertaking;
  - (f) pier undertakers for purposes of a pier comprised in the pier undertaking.

## **287 Power to erect barriers in streets in cases of emergency etc.**

- (1) Subject to the provisions of this section, for the purpose of securing public order or public safety or preventing congestion of traffic a competent authority may, in any case of emergency or on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed, cause barriers to be erected in any street and kept in position for so long as may be necessary for that purpose.

For the purposes of this section the following are competent authorities—

- (a) in the case of a street outside Greater London which is a highway, a local authority and also the highway authority;
  - (b) in the case of any other street, a local authority.
- (2) For the purpose of erecting barriers in a street under this section a competent authority may provide and maintain sockets or slots in or under the surface of the street.
  - (3) A competent authority shall not exercise the powers conferred by this section in such a way as to deprive pedestrians of reasonable access to any premises.
  - (4) Schedule 8 to this Act applies to the powers conferred on competent authorities by this section.
  - (5) If a person wilfully removes a barrier, socket or slot erected or provided under this section, he is guilty of an offence and liable to a fine not exceeding £5.
  - (6) In this section " local authority " means any of the following, namely, the council of a district or London borough, the Greater London Council, the Common Council and the Council of the Isles of Scilly.

## **288 Power to require gas and water pipes to be moved**

- (1) Section 153 of the Public Health Act 1875 (power to require gas and water pipes to be moved) applies for the purposes of any provisions of this Act to which this section applies as it applies for the purposes of that Act; but the said section 153 does not apply in any case in which the code in Part II of the Public Utilities Street Works Act 1950 (relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) has effect.
- (2) A local authority shall pay compensation to any person who sustains damage by reason of the execution by them of works under this section.
- (3) This section applies to section 294 below and to the other provisions of this Act which are specified in Schedule 22 to this Act.

## **289 Powers of entry of highway authority for the purpose of survey**

- (1) A person duly authorised in writing by a highway authority may at any reasonable time enter on any land for the purpose of surveying that or any other land in connection with the exercise by that authority, in their capacity as a highway authority, of any of their functions.
- (2) The power conferred by this section to enter on land includes power to place and leave on or in the land any apparatus for use in connection with any survey of that or any other land (whether from the air or on the ground) and to remove such apparatus.
- (3) The power conferred by this section to survey land includes power to search and bore for the purpose of ascertaining—
  - (a) the nature of the subsoil or the presence of minerals in it;
  - (b) whether any damage to a highway maintainable at the public expense for which the authority are the highway authority is being caused or is likely to be caused by mining operations or other activities taking place under the highway or in or under land adjoining, or in the vicinity of the highway.

## **290 Supplementary provisions as to powers of entry for the purpose of survey**

- (1) A person authorised under section 289 above to enter on any land shall, if so required, produce evidence of his authority before or after entering on that land.
- (2) A person so authorised may take with him on to the land in question such other persons, and such vehicles and equipment, as he may consider necessary.
- (3) Subject to subsection (6) below, a person shall not under section 289 above demand admission as of right to any land which is occupied unless at least 7 days' notice of the intended entry has been given to the occupier.
- (4) Subject to subsection (6) below, a person shall not, in the exercise of a power conferred by section 289 above, place or leave any apparatus on or in any land or remove any apparatus therefrom unless notice of his intention to do so has been included in the notice required by subsection (3) above and a like notice has been given to the owner of the land.
- (5) A person shall not execute any works authorised by section 289(3) above unless notice of his intention to do so was included in the notices required by subsections (3) and (4) above and, where the interests of the National Coal Board, or of any water authority

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or statutory undertakers are liable to be affected by the proposed works, a like notice has been given to that Board or, as the case may be, to the water authority or statutory undertakers concerned.

- (6) Where a highway authority intend to place and leave apparatus on or in a highway or to remove apparatus therefrom, or to execute in relation thereto such works as are authorised by section 289(3) above, no notice need be given to the occupier or owner of the land over which the highway subsists; but if the highway authority are not the highway authority for the highway, they shall give to that authority such notice as is required by subsections (4) and (5) above to be given to the owner.
- (7) If the National Coal Board, or any water authority or statutory undertakers to whom notice is given under subsection (5) above object to the proposed works on the ground that the execution thereof would be seriously detrimental to the carrying on of their undertaking or, in the case of a water authority, would obstruct or impede the performance of their functions under any enactment, the works shall not be executed except with the authority of the appropriate Minister.
- (8) Where in the exercise of a power conferred by section 289 above works authorised by subsection (3) of that section are to be executed in a street or controlled land within the meaning of the Public Utilities Street Works Act 1950, section 26 of that Act (obligations on undertakers executing works which are likely to affect other undertakers' apparatus) applies in relation to those works as if they were works to which that section applies and as if the highway authority by whom they are to be executed were operating undertakers within the meaning of that section.
- (9) The Post Office and the Civil Aviation Authority are to be deemed to be statutory undertakers and their respective undertakings statutory undertakings for the purposes of the foregoing provisions of this section.
- (10) In this section " the appropriate Minister " means—
  - (a) in relation to a water authority, other than a water authority in their capacity as a sewerage authority, the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly;
  - (b) in relation to statutory undertakers carrying on any railway, tramway, road transport, dock, harbour or pier undertaking, the Minister of Transport; and
  - (c) in all other cases, the Secretary of State.

## **291 Powers of entry of highway authority for purpose of maintaining, etc. certain structures and works**

- (1) Where a highway authority have power or a right to maintain, alter or remove any structure or work which is situated on, over or under any land, and that land neither belongs to the highway authority nor forms part of a highway for which they are the highway authority, then, if for the purpose of exercising that power or that right it is necessary for a person to enter on that land or any other land, a person duly authorised in writing by that authority may at any reasonable time enter on that land or any other land for that purpose.
- (2) Subsections (1), (2) and (3) of section 290 above have effect in relation to a person authorised under this section to enter on any land as they have effect in relation to a person authorised under section 289 above to enter on any land.

- (3) In relation to a bridge to which section 118 of the Transport Act 1968 (duty of highway authorities, etc. as respects bridges over railways or inland waterways) applies, and which belongs to a highway authority, subsections (1) and (2) above have effect subject to the provisions of that section.
- (4) In this section—
  - " structure " includes a bridge, fence, barrier or post;
  - " work " includes a tunnel, ditch, gutter, watercourse, culvert, drain, soak-away or pipe.
- (5) Nothing in this section affects the powers of a highway authority under section 100 above.
- (6) Nothing in this section affects any agreement for the time being in force between a highway authority having power or a right to maintain, alter or remove a structure or work and any person having an interest in the land on, over or under which it is situated, being an agreement relating to the maintenance of or other dealing with the structure or work.

## **292 Compensation for damage resulting from, and offences connected with, exercise of powers of entry etc. under section 289 or 291**

- (1) Where, in the exercise of a power conferred by section 289 or 291 above to enter, or to do anything, on any land, any damage is caused to that land or to any chattels on it, any person interested in that land or those chattels may, subject to subsection (2) below, recover compensation in respect of that damage from the highway authority by whom or on whose behalf the power was exercised; and where in consequence of the exercise of such a power any person interested in the land or in any chattels on it is disturbed in his enjoyment thereof, he may recover from that authority compensation in respect of the disturbance.
- (2) Where any person is entitled under section 26 of the Public Utilities Street Works Act 1950, as applied by section 290(8) above, to compensation in respect of any matter, he is not entitled to recover compensation under subsection (1) above in respect of the same matter.
- (3) A person who wilfully obstructs a person acting in the exercise of a power conferred by section 289 or 291 above or who removes or otherwise interferes with any apparatus placed or left on or in any land in exercise of a power conferred by section 289 above, is guilty of an offence and liable to a fine not exceeding £50.
- (4) If a person who, in compliance with the provisions of section 289 or 291 above, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, then, unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter the land, he is guilty of an offence and liable—
  - (a) on summary conviction to a fine not exceeding the prescribed sum within the meaning of section 32(9) of the Magistrates' Courts Act 1980 (£1,000 or such other sum as may be fixed by order under section 143(1) of that Act); or
  - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.

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### **293 Powers of entry for purposes connected with certain orders relating to footpaths and bridleways**

- (1) A person duly authorised in writing by the Secretary of State or other authority having power under this Act to make a public path creation order, a public path extinguishment order or a public path diversion order may enter upon any land for the purpose of surveying it in connection with the making of the order.
- (2) For the purpose of surveying land, or of estimating its value, in connection with a claim for compensation payable by an authority in respect of that or any other land under section 28 above, or under that section as applied by section 121(2) above, a person who is an officer of the Valuation Office or who has been duly authorised in writing by the authority from whom the compensation is claimed may enter upon the land.
- (3) A person authorised under this section to enter upon any land shall, if so required, produce evidence of his authority before entering; and a person shall not under this section demand admission as of right to any land which is occupied unless at least 7 days' notice in writing of the intended entry has been given to the occupier.
- (4) A person who wilfully obstructs a person acting in the exercise of his powers under this section is guilty of an offence and liable to a fine not exceeding £50.

### **294 Entry, etc., of premises by highway authority or council for certain purposes**

- (1) If, in the discharge of functions conferred or imposed on an authority, being a highway authority or council, by a provision of this Act to which this section applies, it becomes necessary for an authorised officer of the authority to enter, examine or lay open any premises for the purpose of—
  - (a) surveying,
  - (b) making plans,
  - (c) executing, maintaining or examining works,
  - (d) ascertaining the course of sewers or drains,
  - (e) ascertaining or fixing boundaries, or
  - (f) ascertaining whether any hedge, tree or shrub is dead, diseased, damaged or insecurely rooted,

and the owner or occupier of the premises refuses to permit the premises to be entered, examined or laid open for any such purpose, the authority, after giving notice to the owner or occupier of their intention to do so, may make a complaint to a magistrates' court for an order authorising the authority by any authorised officer to enter, examine and lay open the premises for any such purpose.

- (2) If on the hearing of the complaint no sufficient cause is shown against the making of the order for which the complaint is made, the court may make the order, and thereupon any authorised officer of the complainant authority may, subject to subsection (3) below, at all reasonable times between the hours of 9 a.m. and 6 p.m., enter, examine or lay open the premises described in the order for such of the purposes mentioned in subsection (1) above as are specified in the order.
- (3) Except in a case of emergency, no entry shall be made on any premises, and no works shall be begun therein, under subsection (2) above unless at least 7 days' notice of the intended entry, and of the object thereof, has been given to the occupier of the premises.



- (4) Where, in the course of an entry on or examination or laying open of premises authorised by an order under this section, damage is caused to land or to chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the authority on whose complaint the order was made; and where by reason of any such entry, examination or laying open any person is disturbed in his enjoyment of land or chattels, he may recover from that authority compensation in respect of the disturbance.
- (5) This section applies to sections 101 and 154(2) above and to the other provisions of this Act specified in Schedule 22 to this Act.

#### **295 Power of councils to dispose of certain materials**

- (1) The council of a county or a council who are a local authority may remove, appropriate, or use, sell or otherwise dispose of all old materials existing in any street other than a highway maintainable at the public expense at the time of the execution by the council of any works in the street, unless those materials are removed by the owners of premises in the street within 3 days from the date of service of a notice from the proper officer of the council requiring the owners of those premises to remove the materials.
- (2) Where a council remove, appropriate, or use, sell or otherwise dispose of any materials in a street under subsection (1) above, they shall, on demand, pay or allow to the owner of any premises in the street such proportion of the reasonable value of the material as is attributable to those premises, and the amount thereof shall be settled, in case of dispute, by arbitration, or, if the amount claimed does not exceed £50 and either party so requires, by a magistrates' court.

#### **296 Power of highway authority or council to execute certain works on behalf of other person**

A highway authority or a council may by agreement with any person execute at his expense any work which they have under this Act (except under Part XI) required him to execute, or any work in connection with a highway which he is otherwise under an obligation or is entitled to execute, and for that purpose they have all such rights as he would have.

#### **297 Power of highway authority or council to require information as to ownership of land**

- (1) A highway authority or a council may, for the purpose of enabling them to discharge or exercise any of their functions under this Act, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.
- (2) Any person who, having been required in pursuance of this section to give any information, fails to give that information is guilty of an offence and liable to a fine not exceeding £100.
- (3) Any person who, having been so required to give any information, knowingly makes any mis-statement in respect thereof is guilty of an offence and liable—

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- (a) on summary conviction to a fine not exceeding the prescribed sum within the meaning of section 32(9) of the Magistrates' Courts Act 1980 (£1,000 or such other sum as may be fixed by order under section 143(1) of that Act); or
- (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.

**298 Duty of local authorities to furnish information to county councils and the Greater London Council**

- (1) Every district council shall furnish, and shall instruct their officers to furnish, any information in their power which may reasonably be required by any county council for the purpose of enabling that council to discharge their functions under this Act.
- (2) Every London borough council and the Common Council shall furnish, and shall instruct their officers to furnish, any information in their power which may reasonably be required by the Greater London Council for the purpose of enabling that Council to discharge their functions under this Act.

**299 Right to discharge water**

- (1) Where there has been constructed or laid in land, or in the exercise of rights, acquired by a highway authority in the exercise of highway land acquisition powers, any drain or other work for the purpose of draining surface water from a highway, proposed highway, maintenance compound, trunk road picnic area, lorry area or service area, the water may be discharged into or through that drain or other work and into any inland waters, whether natural or artificial, or any tidal waters.
- (2) A highway authority shall pay compensation to the owner or occupier of any land who suffers damage by reason of the exercise by the authority of any right under subsection (1) above.
- (3) This section is without prejudice to any enactment the purpose of which is to protect water against pollution.

**300 Right of local authorities to use vehicles and appliances on footways and bridleways**

- (1) No statutory provision prohibiting or restricting the use of footpaths, footways or bridleways shall affect the use by a competent authority of appliances or vehicles, whether mechanically operated or propelled or not, for cleansing, maintaining or improving footpaths, footways or bridleways or their verges, or for maintaining or altering structures or other works situated

For the purposes of this section—

- (a) the following are competent authorities, namely, the council of any county, district or London borough, the Common Council, the Council of the Isles of Scilly, any parish or community council, or parish meeting, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple; and
- (b) " statutory provision " means a provision contained in, or having effect under, any enactment.

- (2) The Minister of Transport and the Secretary of State acting jointly may make regulations prescribing the conditions under which the rights conferred by this section may be exercised, and such regulations may in particular make provision as to—
- (a) the construction of any appliances or vehicles used under this section,
  - (b) the maximum weight of any such appliances or vehicles, or the maximum weight borne by any wheel or axle,
  - (c) the maximum speed of any such appliances or vehicles,
  - (d) the hours during which the appliances or vehicles may be used, and
  - (e) the giving by the Minister of Transport or the Secretary of State of directions dispensing with or relaxing any requirement of the regulations as it applies to a particular authority or in any particular case.

### **301 Restriction on exercise of powers of lighting authorities**

- (1) Subject to subsection (2) below, the powers of a lighting authority shall not be exercised for purposes of the lighting of any highway for which they are not the highway authority except with the consent of the highway authority (which may be given either generally or in respect of any particular highway or length of highway, and either without conditions or subject to such conditions as the highway authority think fit).
- (2) Subsection (1) above does not apply to the exercise of powers for the purpose only of the operation or maintenance of a lighting system not transferred to the highway authority under Part III of the Local Government Act 1966 or under section 270 above.
- (3) References in this section to the powers of a lighting authority are references to their powers under section 161 of the Public Health Act 1875 or section 3 of the Parish Councils Act 1957 or any corresponding local enactment.

### *Inquiries*

### **302 Provisions as to inquiries**

- (1) Subject to subsection (2) below, the Minister and the Secretary of State may each cause such inquiries to be held as he may consider necessary or desirable for the purposes of his functions under this Act, and subsections (2) to (5) of section 250 of the Local Government Act 1972 (giving of evidence at, and defraying of costs, of inquiries) apply, subject to subsection (2) below, in relation to any inquiry which either of the said Ministers may cause to be held under this section, or in compliance with any requirement of this Act, with the substitution in the case of an inquiry held by the Secretary of State, for references to a Minister, of references to the Secretary of State.
- (2) Subsection (4) of the said section 250 (costs of the Minister holding the inquiry to be defrayed by the parties) does not apply in relation to—
- (a) an inquiry caused to be held by the Minister for the purposes of his functions under section 93 above, or
  - (b) an inquiry held in compliance with paragraph 3 of Schedule 10 to this Act, or with paragraph 9 of Schedule 11 to this Act,
- in so far as the Minister is of opinion, having regard to the object and result of the inquiry, that the Minister's costs should be defrayed by him.

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*Obstruction of persons executing Act*

**303 Penalty for obstructing execution of Act**

A person who wilfully obstructs any person acting in the execution of this Act or any byelaw or order made under it is, in any case for which no other provision is made by this Act, guilty of an offence and liable to a fine not exceeding £25 ; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £5 for each day on which the offence is so continued.

**304 Power to require occupier to permit works to be executed by owner**

If on a complaint made by the owner of any premises, it appears to a magistrates' court that the occupier of the premises prevents the owner from executing any work which he is by this Act required to execute, the court may order the occupier to permit the execution of the work.

*Recovery of expenses*

**305 Recovery of expenses by councils and highway authorities**

- (1) Where a council or a highway authority have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable—
  - (a) under any of the provisions of this Act to which this section applies, or
  - (b) by agreement with the council or highway authority,those expenses, together with interest at such reasonable rate as the council may determine from the date of service of a demand for the expenses, may be recovered by the council or the highway authority from the owner for the time being of the premises ; and as from the date of the completion of the works the expenses and interest accrued due thereon are, until recovered, a charge on the premises and on all estates and interests therein.
- (2) A council or highway authority may by order declare any expenses and interest recoverable by them under this section to be payable by annual instalments within a period not exceeding 30 years, together with interest on them at such reasonable rate as the authority may determine; and any such instalment and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred.
- (3) A person aggrieved by an order of a council or highway authority under subsection (2) above, or by the refusal of a council or highway authority to make such an order, may, except in a case where an appeal lies to the Minister under section 233 above, appeal to a magistrates' court.
- (4) Schedule 13 to this Act applies in relation to any sum paid by an occupier of premises under the foregoing provisions of this section.
- (5) Any sum which a council or highway authority are entitled to recover under this section or any other provision of this Act, and with respect to the mode of recovery of which provision is not made by any other section of this Act, may be recovered either summarily as a civil debt or in any court of competent jurisdiction.

- (6) Any charge acquired by the Minister by virtue of subsection (1) above is (without prejudice to the operation of section 1 of the Local Land Charges Act 1975 as regards any charge acquired by a council by virtue of that subsection) a local land charge.
- (7) This section applies to the following provisions of this Act, namely, sections 152, 153, 165, 167, 177, 180, 184 and 230, except 230(7).

### **306 Time-limit for summary proceedings for recovery of expenses**

The time within which summary proceedings may be taken for the recovery of any sum which a highway authority or council are entitled to recover under this Act shall be reckoned—

- (a) in all cases except the one mentioned in paragraph (b) below, from the date of the service of a demand for the sum; and
- (b) in a case in which an appeal has been made to the Minister under section 233 above, from the date on which the decision on the appeal is notified to the appellant or the appeal is withdrawn, as the case may be.

#### *Determination of disputes as to compensation*

### **307 Disputes as to compensation which are to be determined by Lands Tribunal and related provisions**

- (1) Any dispute arising on a claim for compensation under any provision of this Act to which this section applies shall be determined by the Lands Tribunal.

The provisions of this Act to which this section applies are sections 21, 22, 28, 73, 74, 109, 110, 121(2), 126, 193, 200(2) and 292.

- (2) For the purposes of any reference to the Lands Tribunal under this section, section 4 of the Land Compensation Act 1961 (costs) has effect with the substitution, for references to the acquiring authority, of references to the authority from whom the compensation in question is claimed.
- (3) Rules 2 to 4 of the Rules in section 5 of the said Act of 1961 (rules for valuation on a compulsory acquisition) apply to the calculation of compensation under any provision of this Act to which this section applies, in so far as it is calculated by reference to the depreciation of the value of an interest in land.
- (4) In determining the amount of compensation payable under section 109, 110 or 126 above the Lands Tribunal shall have regard to any new means of access to the premises of the claimant or, as the case may be, any new right of access to a watercourse from the premises of the claimant, provided by the highway authority from whom the compensation is claimed.
- (5) In determining the amount of compensation payable under section 73 above in respect of injurious affection, the Lands Tribunal—
  - (a) shall take into account any benefit accruing to the claimant by reason of the improvement of the street in relation to which an improvement line has been prescribed under that section, and
  - (b) may take into account and embody in their award any undertaking with regard to the exercise of the powers of a highway authority under that section in

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relation to the property affected which the authority have offered to give to the claimant;

and the terms of any undertaking so embodied in the award are binding on and enforceable against the authority.

- (6) In determining the amount of compensation payable under section 74 above, the Lands Tribunal shall take into account any benefit accruing to the claimant by reason of any improvement made or about to be made to the highway in relation to which a building line has been prescribed under that section.
- (7) In determining the amount of compensation payable under section 193 or section 200(2) above, the Lands Tribunal shall take into account any benefit accruing to the claimant by reason of the widening of a street under the said section 193 or the said section 200(2), as the case may be.

**308 Disputes as to compensation which are to be determined by arbitration or county court**

- (1) Any dispute arising on a claim for compensation under this Act, being a dispute for the determination of which provision is not made by or under any section of this Act other than this section, shall be determined, if the parties so agree, by arbitration or, in default of agreement, by a county court.
- (2) A county court shall have jurisdiction to deal with any dispute which by virtue of subsection (1) above is to be determined by such a court notwithstanding that, by reason of the amount of the claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.

**309 Compensation in respect of depreciation in value of interest in land subject to mortgage**

Where an interest in land is subject to a mortgage—

- (a) any compensation payable under this Act in respect of the depreciation in value of that interest shall be calculated as if the interest were not subject to the mortgage;
- (b) a claim for the payment of any such compensation may be made by any mortgagee of the interest under a mortgage made before the happening of the event giving rise to the compensation, but without prejudice to the making of a claim by any other person ;
- (c) a mortgagee is not entitled to claim any such compensation in respect of his interest as such; and
- (d) any such compensation payable in respect of the interest subject to the mortgage shall be paid to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

*Prosecutions, appeals, etc.*

**310 Summary proceedings for offences**

All offences under this Act or under byelaws made under it are, except as provided by sections 292(4) and 297(3) above, punishable on summary conviction.

### **311 Continuing offences**

- (1) Where by virtue of any provision of this Act, or of byelaws made under it, a person convicted of an offence is, if the offence in respect of which he was convicted is continued after conviction, guilty of a further offence and liable to a fine for each day on which the offence is so continued, the court before whom the person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court.
- (2) Where a court fixes such a period the defendant is not liable to a fine in respect of the further offence for any day before the expiration of that period.

### **312 Restriction on institution of proceedings**

- (1) Proceedings for an offence under any provision of this Act to which this section applies or under byelaws made under any such provision shall not, without the written consent of the Attorney General, be taken by any person other than the person aggrieved, or a highway authority or council having an interest in the enforcement of the provision or byelaws in question.
- (2) This section applies to sections 167 and 177 above and to the provisions of this Act specified in Schedule 22 to this Act.

### **313 Inclusion of several sums in one complaint, etc.**

Where two or more sums are claimed from any person as being due under this Act, a complaint, summons or warrant issued for the purposes of this Act, or of any byelaws made under it, in respect of that person may contain in the body thereof or in a schedule thereto a statement of all or any of the sums so claimed.

### **314 Offences by body corporate**

- (1) Where an offence under any provision of this Act to which this section applies is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) This section applies to sections 139, 140, 167, 168, 177 and 181 above.

### **315 Notice to be given of right of appeal**

Where an appeal lies under this Act to the Crown Court or a magistrates' court against a requirement, order, refusal or other decision of a highway authority or a council, the notice given by the authority or council to the person concerned of the making of the requirement or order or of the refusal or other decision against which such an appeal lies shall state the right of appeal to the Crown Court or a magistrates' court, as the case may be, and the time within which such an appeal may be brought.

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### **316 Appeals and applications to magistrates' courts**

- (1) Where any provision of this Act provides—
  - (a) for an appeal to a magistrates' court against a requirement, order, refusal or other decision of a highway authority or a council, or
  - (b) for any other matter to be determined by, or an application in respect of any matter to be made to, a magistrates' court,the procedure shall be by way of complaint for an order.
- (2) The time within which an appeal such as is mentioned in subsection (1)(a) above may be brought is 21 days from the date on which notice of the decision of the highway authority or council is served on the person wishing to appeal, and for the purpose of this subsection the making of the complaint is to be deemed to be the bringing of the appeal.

### **317 Appeals to the Crown Court from decisions of magistrates' courts**

- (1) Where a person aggrieved by an order, determination or other decision of a magistrates' court under this Act is not by any other enactment authorised to appeal to the Crown Court he may appeal to that court.
- (2) The applicant for an order under section 116 above or any person who was entitled under subsection (7) of that section to be, and was, or claimed to be, heard on the application may appeal to the Crown Court against the decision made by the magistrates' court on the application.

### **318 Effect of decision of court upon an appeal**

Where on an appeal under this Act a court varies or reverses a decision of a highway authority or of a council it shall be the duty of the authority or the council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

### **319 Judges and justices not to be disqualified by liability to rates**

The judge of any court or a justice of the peace is not disqualified for acting in cases arising under this Act by reason 1 only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or to be benefited by, any rate or fund out of which any expenses of a council are to be defrayed.

*Notices, etc.*

### **320 Form of notices etc.**

All notices, consents, approvals, orders, demands, licences, certificates and other documents authorised or required by or under this Act to be given, made or issued by, or on behalf of, a highway authority or a council, and all notices, consents, requests and applications authorised or required by or under this Act to be given or made to a highway authority or a council, shall be in writing.



### **321 Authentication of documents etc.**

- (1) Any notice, consent, approval, order, demand, licence, certificate or other document which a council (whether as a highway authority or in any other capacity) are authorised or required by or under this Act to give, make or issue may be signed on behalf of the council—
  - (a) by the proper officer of the council, or
  - (b) by any officer of the council authorised by them in writing to sign documents of a particular kind or, as the case may be, the particular document.
- (2) Any document purporting to bear the signature of the proper officer of the council, or of an officer expressed to be duly authorised by the council to sign such a document or the particular document, shall for the purposes of this Act, and of any byelaws, regulations and orders made under it, be deemed, until the contrary is proved, to have been duly given, made or issued by the

In this subsection "signature" includes a facsimile of a signature by whatever process reproduced.

### **322 Service of notices etc.**

- (1) Any notice, consent, approval, order, demand, licence, certificate or other document required or authorised by or under this Act to be given or served on a corporation is duly given or served if it is given to or served on the secretary or clerk of the corporation.
- (2) Subject to the provisions of this section, any notice, consent, approval, order, demand, licence, certificate or other document required or authorised by or under this Act to be given or served on any person may be given or served either—
  - (a) by delivering it to that person, or
  - (b) by leaving it at his proper address, or
  - (c) by post;so, however, that where any such document is sent by post otherwise than in a registered letter, or by the recorded delivery service, it shall be deemed not to have been given or served if it is proved that it was not received by the person to whom it was addressed.
- (3) For the purposes of this section, and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of any person to or on whom any such document is to be given or served—
  - (a) where the person has furnished an address for service in accordance with arrangements agreed to in that behalf, is the address furnished ;
  - (b) where the person has not furnished an address as provided by paragraph (a) above, is—
    - (i) in the case of the secretary or clerk of a corporation, that of the registered or principal office of the corporation, and
    - (ii) in any other case, the person's usual or last known place of abode.
- (4) If the name or the address of any owner, lessee or occupier of premises to or on whom any such document is to be given or served cannot after reasonable inquiry be ascertained by the person seeking to give or serve the document, the document may be given or served by—

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- (a) addressing it to the person to whom it is to be given or on whom it is to be served by the description of "owner", "lessee", or "occupier" of the premises (describing them) to which the document relates, and
  - (b) delivering it to some responsible person resident or appearing to be resident on the premises or if there is no such person to whom it can be delivered, affixing it or a copy of it to some conspicuous part of the premises.
- (5) The foregoing provisions of this section do not apply to the service of—
- (a) a notice required or authorised to be served under Schedule 1 to the Act of 1946 as applied by this Act, or
  - (b) a summons.

### **323 Reckoning of periods**

- (1) For the purposes of this Act—
- (a) in reckoning any period which is therein expressed to be a period from or before a given date, that date is to be excluded; and
  - (b) in reckoning any period therein mentioned of 8 days or less which apart from this provision would include a Sunday, Christmas Day, Good Friday or a bank holiday, that day is to be excluded.
- (2) In this section "bank holiday" means a day which is a bank holiday under the Banking and Financial Dealings Act 1971.

*Regulations, schemes, orders, etc.*

### **324 Regulations for procedure in connection with, and centre line of roads authorised etc. by, certain schemes and orders**

- (1) Subject to Schedule 1 to this Act, the Minister of Transport may make regulations for prescribing the procedure to be followed in connection with the making and confirmation of schemes under section 16 above and orders under sections 17 and 18 above.
- (2) The Minister shall make regulations for securing that the centre line of—
- (a) a special road authorised by a scheme under section 16 above,
  - (b) a proposed highway directed by an order under section 10 above to become a trunk road, or
  - (c) a new highway to be constructed in pursuance of an order under section 14 or 18 above,
- is indicated on a map on such scale as may be prescribed by the regulations and for securing that any limits of deviation which apply in relation to the centre line of that road or highway or any part thereof by virtue of subsection (3) below are indicated or stated in such manner as may be prescribed by the regulations.
- (3) Where any such scheme or order as is referred to in subsection (2) above so provides in relation to a road or highway to which it relates or any part thereof, being such a road or highway as is referred to in that subsection, the centre line of that road or highway or that part thereof, as the case may be, may deviate from the centre line as indicated on the map referred to in that subsection within such limits of deviation, not exceeding 55 yards on either side of the centre of that line, as may be specified in the scheme or order.

### **325 Provisions as to regulations, schemes and orders**

- (1) The following powers conferred by this Act on: a Minister of the Crown are exercisable by statutory instrument:—
  - (a) all powers to make regulations,
  - (b) the power to make or confirm schemes under section 16 above, and the power to confirm schemes under section 106(3) above,
  - (c) the power to make byelaws under section 186 above, and
  - (d) all powers to make or confirm orders, except those conferred by any of the following provisions of this Act, namely, sections 14, 18, 20, 26, 27, 108(1), 118, 119, 120 and 124 and paragraph 2 of Schedule 21.
- (2) A statutory instrument containing—
  - (a) regulations made under this Act, other than a statutory instrument containing only regulations made under section 257(4) above, or
  - (b) an order made under section 344(4) below,is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing an order made under section 17 above is of no effect unless it is approved by resolution of each House of Parliament.

### **326 Revocation and variation of schemes and orders**

- (1) Section 14(b) of the Interpretation Act 1978 (implied power to revoke or amend orders made by statutory instrument) does not apply to an order made under section 74, 93 or 186 of this Act.
- (2) An order made or confirmed by the Minister, or the Secretary of State, under section 14, 18, 20, 27, 108(1), 120, or 124 of, or paragraph 2 of Schedule 21 to, this Act (which confer power to make orders otherwise than by statutory instrument) may be revoked or varied by a subsequent order made or confirmed in the like manner and subject to the like provisions.
- (3) Subject to the provisions of subsection (4) below, an order made by the Greater London Council under this Act may be revoked or varied by a subsequent order made in the like manner and subject to the like provisions.
- (4) Subsection (3) above does not apply to—
  - (a) an order made under subsection (6) of section 157 confirming a scheme made under that subsection but the Greater London Council may subsequently by order modify such a scheme, in so far as it imposes a prohibition or restriction on the execution of any works, in such manner as they may consider expedient,
  - (b) an order made under section 158.
- (5) Without prejudice to subsection (2) above, an order to which this subsection applies confirmed by the Minister, or the Secretary of State, or confirmed as an unopposed order by the authority making it, may be revoked or varied by a subsequent order made or confirmed in the like manner and subject to the like provisions, except that an order confirmed in either way may be revoked or varied by an order confirmed in the other way.

This subsection applies to a public path creation order, a public path extinguishment order, a public path diversion order and an order under section 124 above.

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- (6) Subject to the following provisions of this section, a scheme revoking or varying a scheme made or confirmed under section 16 or section 106(3) above, and an order varying or revoking an order made or confirmed under section 14, 17, 18, 108(1) or 124 above may contain such consequential provisions as appear to the Minister to be expedient.
- (7) Where a scheme under section 16 above is revoked by a subsequent scheme, any part of the special road authorised to be provided by the scheme which has been constructed before the date on which the revoking scheme comes into operation and any highway appropriated by or transferred to the special road authority before that date shall cease on that date to be a special road within the meaning of this Act, but shall, where the special road is a trunk road, continue to be a trunk road.
- (8) Where a scheme under section 16 above is varied by a subsequent scheme, subsection (7) above applies in relation to any part of the special road which ceases to form part of a route of that road in consequence of the variation.
- (9) Subject to the foregoing provisions of this section, the revocation or variation of a scheme under section 16 or section 106(3) above does not affect the validity of anything done in pursuance of the scheme before the date on which the revoking or varying scheme comes into force, or the validity of any order made under section 18 above before that date in connection with the special road to be provided under the scheme.

#### *Crown application*

### **327 Application of Act to Crown land**

- (1) The provisions of this section apply in relation to any land belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.
- (2) The appropriate authority in relation to any land and a highway authority may agree that any provisions of this Act specified in the agreement shall apply to that land and, while the agreement is in force, those provisions shall apply to that land accordingly, subject however to the terms of the agreement.
- (3) Any such agreement as is mentioned in subsection (2) above may contain such consequential and incidental provisions, including provisions of a financial character, as appear to the appropriate authority to be necessary or equitable, but provisions of a financial character shall not be included in an agreement made by a government department without the approval of the Treasury.
- (4) In this section " the appropriate authority " means—
  - (a) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question ;
  - (b) in the case of land belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of that Duchy;
  - (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints ;

- (d) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department; and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

### *Interpretation*

#### **328 Meaning of " highway "**

- (1) In this Act, except where the context otherwise requires, " highway " means the whole or a part of a highway other than a ferry or waterway.
- (2) Where a highway passes over a bridge or through a tunnel, that bridge or tunnel is to be taken for the purposes of this Act to be a part of the highway.
- (3) In this Act, " highway maintainable at the public expense " and any other expression defined by reference to a highway is to be construed in accordance with the foregoing provisions of this section.

#### **329 Further provision as to interpretation**

- (1) In this Act, except where the context otherwise requires—
  - " Act of 1946 " means the Acquisition of Land (Authorisation Procedure) Act 1946;
  - " Act of 1965 " means the Compulsory Purchase Act 1965 ;
  - " adjoining " includes abutting on, and " adjoins " is to be construed accordingly;
  - " advance payments code " has the meaning provided by section 203(1) above;
  - " agriculture " includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and " agricultural " is to be construed accordingly;
  - " apparatus " includes any structure constructed for the lodging therein of apparatus;
  - " approach ", in relation to a bridge or tunnel, means the highway giving access thereto, that is to say, the surface of that highway together with any embankment, retaining wall or other work or substance supporting or protecting the surface ;
  - " bridge " does not include a culvert, but, save as aforesaid, means a bridge or viaduct which is part of a highway, and includes the abutments and any other part of a bridge but not the highway carried thereby;
  - " bridleway " means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway ;
  - " by-pass " has the meaning provided by section 82(6) above;

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" canal undertakers " means persons authorised by any enactment to carry on a canal undertaking;

" carriageway " means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;

" cattle-grid " has the meaning provided by section 82(6) above;

" City " means the City of London;

" classified road " means a highway or proposed highway which is a classified road in accordance with section 12 above;

" Common Council " means the Common Council of the City of London;

" contravention " in relation to a condition, restriction or requirement, includes failure to comply with that condition, restriction or requirement, and "contravene" is to be construed accordingly;

"council" means a county council, the Greater London Council or a local authority;

" cycle track " means a way constituting or comprised in a highway, being a way over which the public have the following, but no other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot;

"dock undertakers" means persons authorised by any enactment to carry on a dock undertaking;

" drainage authority " means a water authority or an internal drainage board;

" electricity undertakers" means persons authorised by any enactment to carry on an undertaking for the supply of electricity;

" enactment " includes an enactment in a local or private Act of Parliament and a provision of an order, scheme, regulations or other instrument made under or confirmed by a public general, local or private Act of Parliament;

" financial year " means a year ending on 31st March;

" footpath " means a highway over which the public have a right of way on foot only, not being a footway;

" footway " means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only ; functions " includes powers and duties;

" gas undertakers " means persons authorised by any enactment to carry on an undertaking for the supply of gas;

" harbour undertakers " means persons authorised by any enactment to carry on a harbour undertaking; highway land acquisition powers " has the meaning provided by section 250(1) above ;

" highway maintainable at the public expense " means a highway which by virtue of section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense;

" horse " includes pony, ass and mule, and " horseback " is to be construed accordingly;

" hours of darkness " means the time between half an hour after sunset and half an hour before sunrise;

" improvement " means the doing of any act under powers conferred by Part V of this Act and includes the erection, maintenance, alteration and removal of traffic signs, and the freeing of a highway or road-ferry from tolls;

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" inland navigation undertakers " means persons authorised by any enactment to carry on an inland navigation undertaking;

" land " includes land covered by water and any interest or right in, over or under land ;

" lease " includes an underlease and an agreement for a lease or underlease, but does not include an option to take a lease or mortgage, and " lessee " is to be construed accordingly;

" lighting authority " means a council or other body authorised to provide lighting under section 161 of the Public Health Act 1875 or under section 3 of the Parish Councils Act 1957 or any corresponding local enactment ;

" local authority " means the council of a district or London borough or the Common Council;

" local highway authority " means a highway authority other than the Minister;

" local planning authority " has the same meaning as in the Town and Country Planning Act 1971; "lorry area" means an area provided under section 115 above;

" made-up carriageway " means a carriageway, or a part thereof, which has been metalled or in any other way provided with a surface suitable for the passage of vehicles;

" maintenance " includes repair, and "maintain" and " maintainable " are to be construed accordingly;

" maintenance compound " means an area of land (with or without buildings) used or to be used in connection with the maintenance of highways, or a particular highway ;

" metropolitan road " means a highway, or a proposed highway, which is a metropolitan road in accordance with section 15 above;

" the Minister ", subject to subsection (5) below, means as respects England, the Minister of Transport and as respects Wales, the Secretary of State ; and in section 258 of, and paragraphs 7, 8(1) and (3), 14, 15(1) and (3), 18(2), 19 and 21 of Schedule 1 to, this Act, references to the Minister and the Secretary of State acting jointly are to be construed, as respects Wales, as references to the Secretary of State acting alone ;

" navigation authority " means persons authorised by any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

" owner ", in relation to any premises, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if the premises were so let;

" petty sessions area " has the same meaning as in the Magistrates' Courts Act 1980;

" pier undertakers " means persons authorised by any enactment to carry on a pier undertaking;

" premises " includes land and buildings; " private street works code " has the meaning provided by section 203(1) above;

" proposed highway " means land on which, in accordance with plans made by a highway authority, that authority are for the time being constructing or intending to construct a highway shown in the plans;

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" public general enactment " means an enactment in an Act treated as a public general Act under the system of division of Acts adopted in the regnal year 38 George 3, other than an Act for confirming a provisional order;

" public path creation agreement " means an agreement under section 25 above; " public path creation order " means an order under section 26 above;

" public path diversion order " means an order under section 119 above;

" public path extinguishment order " means an order under section 118 above;

" public utility undertakers " means persons authorised by any enactment to carry on any of the following undertakings, that is to say, an undertaking for the supply of electricity, gas, water or hydraulic power;

" rack rent ", in relation to any premises, means a rent which is not less than two-thirds of the rent at which the premises might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes and tithes rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to command such rent;

" railway " includes a light railway;

" railway undertakers " means persons authorised by any enactment to carry on a railway undertaking;

" reconstruction ", in relation to a bridge, includes the construction of a new bridge and approaches thereto in substitution for the existing bridge and the approaches thereto;

" road-ferry " means a ferry connecting the termination of a highway which is, or is to become, a highway maintainable at the public expense with the termination of another highway which is, or is to become, such a highway;

" service area " means an area of land adjoining, or in the vicinity of, a special road, being an area in which there are, or are to be, provided service stations or other buildings or facilities to be used in connection with the use of the special road ;

" sewerage authority " means a water authority in their capacity as an authority exercising functions under or by virtue of section 14 of the Water Act 1973 ;

" special enactment " means any enactment other than a public general enactment;

" special road " means a highway, or a proposed highway, which is a special road in accordance with section 16 above;

" special road authority " has the meaning provided by section 16(4) above;

" statutory undertakers " means persons authorised by any enactment to carry on any of the following undertakings:—

- (a) a railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or
- (b) an undertaking for the supply of electricity, gas, water or hydraulic power,

and "statutory undertaking" is to be construed accordingly;

" street " includes any highway and any road, lane, footpath, square, court, alley or passage, whether a thoroughfare or not, and includes any part of a street;



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" swing bridge " includes any opening bridge operated by mechanical means;

" traffic " includes pedestrians and animals;

" traffic sign " has the same meaning as in section 54 of the Road Traffic Regulation Act 1967;

" tramway undertakers " means persons authorised by any enactment to carry on a tramway undertaking;

" transport undertakers " means persons authorised by any enactment to carry on any of the following undertakings, that is to say, a railway, canal, inland navigation, dock, harbour or pier undertaking, and "transport undertaking" is to be construed accordingly;

" trunk road " means a highway, or a proposed highway, which is a trunk road by virtue of section 10(1) or section 19 above or by virtue of an order or direction under section 10 above or under any other enactment;

" trunk road picnic area " has the meaning provided by section 112(1) above;

" water undertakers " means persons authorised by any enactment to carry on an undertaking for the supply of water.

- (2) A highway at the side of a river, canal or other inland navigation is not excluded from the definition in subsection (1) above of either " bridleway " or " footpath ", by reason only that the public have a right to use the highway for purposes of navigation, if the highway would fall within that definition if the public had no such right thereover.
- (3) In a case where two or more parishes are grouped under a common parish council, references in this Act to a parish are to be construed as references to those parishes.
- (4) Any reference in this Act to property of railway undertakers, canal undertakers, inland navigation undertakers, dock undertakers, harbour undertakers or pier undertakers is, where the undertakers are a body to which this subsection applies, to be taken as a reference to property of that body held or used by them wholly or mainly for the purposes of so much of their undertaking as consists of the carrying on of a railway undertaking or, as the case may be, of a canal undertaking, an inland navigation undertaking, a dock undertaking, a harbour undertaking or a pier undertaking.

This subsection applies to the following bodies, namely, the British Railways Board, the British Transport Docks Board, the British Waterways Board, the London Transport Executive, the National Freight Corporation (as far as included in this subsection by paragraph 15(b) of Schedule 23 to this Act) or any wholly-owned subsidiary (within the meaning of the Transport Act 1968) or joint subsidiary (within the meaning of section 51(5) of that Act) of any of those bodies.

- (5) In relation to that part of the road constructed by the Minister of Transport along the line described in Schedule 1 to the North of Almondsbury—South of Haysgate Trunk Road Order 1947 and referred to in that Order as " the new road " which lies to the east of the most easterly point before reaching the River Wye at which eastbound traffic of Classes I and II (as specified in Schedule 4 to this Act) can leave that road by another special road, the functions of the Minister under this Act shall be exercisable by the Minister of Transport and not by the Secretary of State.

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**330 Construction of certain enactments relating to execution of works by statutory undertakers**

- (1) Where by any enactment empowering statutory undertakers to execute works under, in, upon, over, along or across a highway the undertakers are thereby required—
- (a) to give notice to, or obtain the consent or approval of, a council,
  - (b) to carry out the works under the superintendence of a council,
  - (c) to reinstate the highway to the satisfaction of a council, or
  - (d) to do anything in relation to a road for which a county council are the highway authority (whether so described or described as a " county road "),
- any such requirement, and any provision of the enactment empowering the council to act in default of the undertakers or otherwise to enforce any such requirement, has effect, in relation to a trunk road, with the substitution, for references to the council, of references to the Minister and, for references to a road for which a county council are the highway authority (or a county road), of references to a trunk road.
- (2) Notwithstanding the provisions of any enactment as to the determination of disputes arising between statutory undertakers and a council in connection with the execution of any such works, any such dispute arising in the case of a trunk road between statutory undertakers and the Minister shall be determined by a single arbitrator appointed, in default of agreement between the parties concerned, by the President of the Institution of Civil Engineers.
- (3) Nothing in this section affects Part I of the Public Utilities Street Works Act 1950.

**331 References to functions of council as respects any highway**

Except where this Act otherwise requires, any enactment or document relating to the functions of a council as respects any highway is, in relation to functions not exercisable in the case of a trunk road by the Minister, to be construed as if references therein to highways included references to trunk roads.

**332 Widening of carriageway not to cease to be improvement by reason of diminution etc. of footway**

For the purposes of this Act and of any other enactment relating to highways, the widening of the carriageway of a highway is not to be treated as being otherwise than an improvement by reason only of the fact that it involves diminution or removal of a footway thereon.

*Savings etc.*

**333 Saving for rights and liabilities as to interference with highways**

No provision of this Act relating to obstruction of or other interference with highways is to be taken to affect any right of a highway authority or other person under any enactment not contained in this Act, or under any rule of law, to remove an obstruction from a highway or otherwise abate a nuisance or other interference with the highway, or to affect the liability of any person under such an enactment or rule to proceedings (whether civil or criminal) in respect of any such obstruction or other interference.

### 334 Savings for Post Office

(1) Subject to the provisions of this section, nothing in this Act or in any scheme or order made under it affects any powers or duties of the Post Office under the provisions of the Telegraph Acts or applies to any telegraphic lines placed or maintained by virtue of any of those provisions ; but this subsection does not affect the operation of section 20 above as it has effect in relation to powers of the Post Office by virtue of subsection (9) of that section, or the operation of sections 156 to 159 above.

(2) Where—

- (a) land is conveyed by a highway authority in pursuance of section 256 above, or
- (b) a highway is stopped up or diverted in pursuance of an order to which this paragraph applies,

and immediately before the conveyance or, as the case may be, the date on which the order comes into force there is under, in, upon, over, along or across the land conveyed or, as the case may be, the highway stopped up or diverted any telegraphic line belonging to or used by the Post Office, then the provisions of subsection (3) below have effect.

Paragraph (b) above applies to the following orders, namely, an order made or confirmed by the Minister under section 14 or 18 above, a public path extinguishment order and a public path diversion order.

(3) In the circumstances mentioned in subsection (2) above, the Post Office have the same powers in respect of the telegraphic line as if the conveyance had not been made or, as the case may be, the order had not come into force; but if the transferee of the land, or, as the case may be, any person entitled to land over which the stopped up or diverted highway subsisted requires the telegraphic line to be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 apply to the alteration and accordingly have effect, subject to the necessary modifications, as if references therein to undertakers included references to the person so requiring the line to be altered.

(4) Where in pursuance of an order made by a magistrates' court under section 116 above a highway is stopped up or diverted, the following provisions of this subsection have effect in relation to so much of any telegraphic line belonging to or used by the Post Office as is under, in, upon, over, along or across land which by reason of the stopping up or diversion ceases to be a highway (" the affected line "):—

- (a) the power of the Post Office to remove the affected line is exercisable notwithstanding the making of the order, so however that the said power is not exercisable, as respects the whole or any part of the affected line, after the expiration of a period of 3 months from the date of the sending of the notice referred to in subsection (5) below unless before the expiration of that period the Post Office have given notice to the authority on whose application the order was made of their intention to remove the affected line or that part of it, as the case may be;
- (b) the Post Office may by notice in that behalf to the said authority abandon the affected line or any part of it, and are to be deemed, as respects the affected line or any part of it, to have abandoned it at the expiration of the said period of 3 months unless before the expiration of that period they have removed it or given notice of their intention to remove it;
- (c) the Post Office are entitled to recover from the said authority the expense of providing, in substitution for the affected line and any telegraphic line connected with it which is rendered useless in consequence of the removal

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or abandonment of the affected line, a telegraphic line in such other place as they may require;

- (d) where under paragraph (b) above the Post Office have abandoned the whole or any part of the affected line, it vests in the authority there referred to and the provisions of the Telegraph Acts do not apply in relation to it as respects anything done or omitted after the abandonment.
- (5) As soon as practicable after the making of an order under section 116 above the authority on whose application the order was made shall by notice to the Post Office inform them of the making of the order.
- (6) Where an order under section 14 or 18 above provides for the alteration of a highway and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Post Office, then, if the highway authority for the highway require that line to be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 apply in relation to the alteration and accordingly have effect, subject to any necessary modifications, as if references therein to undertakers included references to the highway authority.
- This subsection does not have effect so far as it relates to the alteration of any telegraphic line for the purposes of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.
- (7) Where in pursuance of an order under section 14 or 18 above a highway is stopped up or diverted, or an order under either of those sections provides for the alteration of a highway, and, immediately before the date on which the order comes into force, there is under, in, upon, over, along or across the highway any telegraphic line belonging to or used by the Post Office, then, without prejudice to subsections (2), (3) and (6) above, the provisions of subsection (8) below have effect.
- (8) In the circumstances mentioned in subsection (7) above, if for purposes connected with the construction or improvement of the trunk road, special road or classified road, as the case may be, to which the order relates or with the execution of any works authorised by the order the Minister or other highway authority by whom the order in question was made requires the telegraphic line to be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 apply in relation to the alteration and accordingly have effect, subject to any necessary modifications, as if references therein to undertakers included references to the Minister or that other authority.
- (9) Without prejudice to the code in Part II of the Public Utilities Street Works Act 1950 (relations between an authority carrying out road alterations and undertakers whose apparatus is thereby affected)—
- (a) any work authorised or required by an order under section 93 above to be done by a highway authority or the owners of a bridge,
  - (b) any work proposed to be done by a highway authority in exercise of powers conferred on them by section 96 above, and
  - (c) any work authorised or required by a licence under section 176 above to be done by the person to whom the licence is granted,

is, for the purposes of section 7 of the Telegraph Act 1878, to be deemed to be work proposed to be done in the execution of an undertaking authorised by an Act of Parliament, and the authority or person carrying out the work are to be deemed to be the undertakers.

- (10) Where, in pursuance of any order or scheme made or confirmed under this Act, a navigable watercourse is diverted and, immediately before the date on which the order or scheme comes into force, there is under, in, upon, over, along or across the watercourse, or any towing path or other way adjacent to it, any telegraphic line belonging to or used by the Post Office, the Post Office have the same powers in respect of that line as if the order or scheme had not come into force ; but if—
- (a) the highway authority by whom the order or scheme was made, or
  - (b) any person entitled to land on which so much of the watercourse, towing path or way as is diverted in pursuance of the order or scheme was previously situated,
- requires the line to be altered, paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 apply in relation to the alteration and accordingly have effect, subject to any necessary modifications, as if references therein to undertakers included references to the highway authority or to the person so requiring the line to be altered, as the case may be.
- (11) For the purposes of the placing or maintenance of overground telegraphic lines under the powers conferred by the Telegraph Acts a bridge constructed or used in accordance with a licence under section 176 above is to be deemed to be part of any highway which it crosses.
- (12) The fact that the Telegraph Acts are not expressed to be binding on the Crown does not prevent those Acts having effect in relation to a street or public road, as defined for the purposes of those Acts, which is a trunk road or other highway for which the Minister is the highway authority, as they have effect in relation to any other street or public road as so defined, but this provision is without prejudice to section 20(9) above.
- (13) No provision of section 7 of the Telegraph Act 1878 creating a liability to a fine for breach of any obligation applies to an obligation in so far as, by virtue of a provision of this section, it falls to be performed by the Minister.
- (14) In this section "alter" and "telegraphic line" have the same meanings respectively as in the Telegraph Act 1878, and " the Telegraph Acts " means the Telegraph Act 1863, the Telegraph Act 1878, the Telegraph Act 1892, the Telegraph (Construction) Act 1908, the Telegraph (Arbitration) Act 1909, the Telegraph (Construction) Act 1911 and the Telegraph (Construction) Act 1916.

### **335 Saving for minerals etc.**

- (1) Notwithstanding anything in Part XII of this Act all mines and minerals of any description whatsoever under any highway vested in a highway authority by virtue of any provision contained in the said Part XII belong to the person who would be entitled thereto if the highway were not vested in the authority, and the person entitled to any such mine or minerals has the same powers of working and of getting the same as if the highway were not vested in a highway authority.
- (2) Nothing in this section affects any liability (whether civil or criminal) of the person entitled to any such mine or minerals in respect of damage to the highway resulting from the exercise of the said powers.

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### **336 Saving for Coast Protection Act 1949**

Nothing in this Act authorises the excavation or removal of any materials the excavation or removal of which is prohibited by section 18 of the Coast Protection Act 1949 (which makes it unlawful except as therein mentioned to excavate or remove certain materials on, under or forming part of any portion of the seashore to which the provisions of that section are applied), or the carrying out of any operation in contravention of section 34 of that Act (which restricts the carrying out of certain operations detrimental to navigation).

### **337 Saving for obligation to obtain planning permission**

Nothing in this Act authorises the carrying out of any development of land for which permission is required by virtue of section 23 of the Town and Country Planning Act 1971 and which is not authorised by permission granted or deemed to be granted under or for the purposes of Part III of that Act.

### **338 Saving for works, etc., of dock, harbour and canal undertakers**

- (1) Subject to the provisions of this section, nothing in any of the provisions of this Act to which this section applies authorises a highway authority or council, without the consent of the dock, harbour or canal undertakers concerned—
  - (a) to execute any works in, across, or under any dock, harbour, basin, wharf, quay or lock ; or
  - (b) to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof.
- (2) A consent required for the purposes of subsection (1) above shall not be unreasonably withheld, and if any question arises whether the withholding of a consent is unreasonable either party may require it to be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.
- (3) On an arbitration under this section, the arbitrator shall determine—
  - (a) whether any works which the highway authority or council propose to execute are such works as under subsection (1) above they are not entitled to execute without the consent of the undertakers concerned; and
  - (b) if they are such works, whether the injury, if any, to the undertakers will be of such a nature as to admit of being fully compensated by money; and
  - (c) if the works are of such a nature, the conditions subject to which the authority or council may execute the works, including the amount of the compensation, if any, to be paid by them to the undertakers.

If the arbitrator determines that the proposed works are such works as the highway authority or council are not entitled to execute without the consent of the undertakers and that the works would cause injury to the undertakers of such a nature as not to admit of being fully compensated by money, the authority or council shall not proceed to execute the works; but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator determines.

- (4) For the purposes of this section, dock, harbour and canal undertakers are to be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of navigating on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof.
- (5) This section applies to section 230(7) and section 294 above and to the provisions specified in Schedule 22 to this Act, but subsections (2) and (3) above do not apply as respect a consent required in relation to section 230(7).
- (6) In this section " canal" includes inland navigation.

### **339 Saving for works etc. of drainage authorities etc.**

- (1) Subject to the provisions of this section, nothing in any of the provisions of this Act to which this section applies authorises a highway authority or any other person to use or interfere with any watercourse (including the banks thereof), or any drainage or other works, vested in or under the control of a water authority or other drainage body within the meaning of the Land Drainage Act 1976 without the consent of that authority or body.
- (2) A consent required for the purposes of subsection (1) above shall not be unreasonably withheld, and if any question arises whether the withholding of a consent is unreasonable either party may require it to be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.
- (3) This section applies to sections 45, 100, 101, 110, 294 and 299 above and to the provisions specified in Schedule 22 to this Act.
- (4) In its application to sections 100, 110, and 299 above this section applies in relation to a navigation authority as it applies in relation to a water authority or other drainage body within the meaning of the Land Drainage Act 1976.

### **340 Preservation of amendments**

- (1) Notwithstanding the repeal by this Act of the Highways Act 1959—
  - (a) subsection (10) of section 3 of the Parish Councils Act 1957 (which was inserted by section 310 of the Highways Act 1959 and defines " road " for the purposes of the said section 3) continues to have effect, but subject to the amendments made to that subsection, in consequence of this Act, by Schedule 24 to this Act;
  - (b) the enactments mentioned in Schedule 22 to the said Act of 1959 continue to have effect with the amendments there made but subject, in the case of such of those enactments as are mentioned in Schedule 24 to this Act, to the amendments made, in consequence of this Act, by the said Schedule 24.
- (2) Notwithstanding the repeal by this Act of the Highways Act 1971 (referred to below as " the 1971 Act ")—
  - (a) section 29A and section 31(1 A) of the Road Traffic Regulation Act 1967 (which were inserted by section 9(1) and (3) of the 1971 Act and are concerned with provision of access to premises through off-street parking places) continue to have effect and section 30(1) and (3) and 32(5) of the said Act of 1967 (which were amended by section 9(2) and (4) of the 1971 Act in

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consequence of the insertion of section 29A and section 31 (1A)) continue to have effect with the amendments so made;

- (b) section 3(6) of the New Forest Act 1964 (which provides for the fencing of a source of danger in the New Forest) continues to have effect with the amendment made by section 34(2) of the 1971 Act;
- (c) paragraph 11(1)(b) of Schedule 1 to the Act of 1946 (which applies special parliamentary procedure in the case of compulsory purchase of land forming part of a common, open space, etc.) continues to have effect with the amendments made by section 56 of the 1971 Act;
- (d) paragraph 8 of Part III of Schedule 3 to the Countryside Act 1968 (which relates to the re-classification of roads used as public paths) continues to have effect with the amendment made by section 75 of the 1971 Act; and
- (e) the definition of " road purposes " in section 39 of the Public Utilities Street Works Act 1950 continues to have effect with the amendment made by section 78(1) of the 1971 Act, but subject to the amendment made to that definition, in consequence of this Act, by Schedule 24 to this Act.

#### **341 Amendment of section 303 of Public Health Act 1875**

In section 303 of the Public Health Act 1875 (power of Secretary of State to repeal and alter local Acts by means of provisional orders), the reference to any local Act which relates to the same subject matters as that Act is to be construed as including a reference to any local Act which relates to the same subject matters as the following provisions of this Act, namely, sections 288, 294, 312, 338, 339 and the provisions specified in Schedule 22 to this Act.

#### **342 Amendment of section 41 of Countryside Act 1968**

In section 41 of the Countryside Act 1968—

- (a) in subsection (1), at the end of paragraph (c) insert " or " and after that paragraph insert—
  - “(d) a trunk road picnic area as respects which functions of the Minister stand delegated to the local authority under section 113(1) of the Highways Act 1980, or are functions of the local authority by virtue of an agreement under section 113(3) of that Act,”;
- (b) after subsection (1) insert—
  - “(1A) The power of a local authority under subsection (1)(d) above is exercisable only in so far as any conditions attached to the relevant delegation or, as the case may be, included in the relevant agreement do not otherwise provide.”.

#### **343 Transitional provisions, amendments and repeals**

- (1) Schedule 23 to this Act, which contains transitional provisions, has effect.
- (2) The enactments specified in Schedule 24 to this Act are, in consequence of this Act, amended as there provided.
- (3) The enactments specified in Schedule 25 to this Act are repealed to the extent specified in the third column of that Schedule.



### **344 Application to Isles of Scilly**

- (1) Subject to the provisions of this section, the provisions of this Act specified in subsection (2) below do not extend to the Isles of Scilly.
- (2) The provisions referred to in subsection (1) above are—
  - (a) sections 25 to 29, 118 to 121, 134, 135, 146, 147, 275 and 293 ; and
  - (b) sections 219 to 225 and 229.
- (3) The Secretary of State may, after consultation with the Council of the Isles of Scilly, by order provide that all or any of the provisions of this Act specified in subsection (2) (a) above are, subject to such modifications as may be specified in the order, to apply in the Isles of Scilly as if those Isles were a separate county.
- (4) The Secretary of State may, on the application of the Council of the Isles of Scilly, by order provide that the provisions of this Act specified in subsection (2)(b) above are to apply in those Isles and, on the making of an order under this subsection, any reference in the said provisions to the street works authority is to be construed as a reference to the Council of those Isles.
- (5) On the making of an order under subsection (4) above the Council of the Isles of Scilly shall take such steps for notifying the public of its having been made as the Secretary of State may direct.
- (6) Section 232 above, in its application in the Isles of Scilly, has effect subject to the modification that any reference therein to the street works authority or the prospective street works authority is to be construed as a reference to the Council of those Isles, and any regulations made under that section are in their application to those Isles to be construed accordingly.
- (7) Sections 9, 97, 98, 270 and 301 of this Act, in their application in relation to the Isles of Scilly, have effect subject to such modifications as the Secretary of State may by order direct

### **345 Short title, commencement and extent**

- (1) This Act may be cited as the Highways Act 1980.
- (2) This Act shall come into force on 1st January 1981.
- (3) This Act (except paragraph 18(c) of Schedule 24) extends to England and Wales only.