



# Highways Act 1980

## 1980 CHAPTER 66

### PART IX

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

##### *Danger or annoyance to users of highways and streets*

#### **161 Penalties for causing certain kinds of danger or annoyance**

- (1) If a person, without lawful authority or excuse, deposits any thing whatsoever on a highway in consequence of which a user of the highway is injured or endangered, that person is guilty of an offence and liable to a fine not exceeding £100.
- (2) If a person, without lawful authority or excuse, lights any fire, or discharges any firearm or firework, within 50 feet of the centre of a highway which consists of or comprises a carriageway, and in consequence a user of the highway is injured, interrupted or endangered, that person is guilty of an offence and liable to a fine not exceeding £20 for a first offence and £50 for a second or subsequent offence.
- (3) If a person plays at football or any other game on a highway to the annoyance of a user of the highway he is guilty of an offence and liable to a fine not exceeding £10.
- (4) If a person, without lawful authority or excuse, allows any filth, dirt, lime or other offensive matter or thing to run or flow on to a highway from any adjoining premises, he is guilty of an offence and liable to a fine not exceeding £10.

#### **162 Penalty for placing rope, etc. across highway**

A person who for any purpose places any rope, wire or other apparatus across a highway in such a manner as to be likely to cause danger to persons using the highway is, unless he proves that he had taken all necessary means to give adequate warning of the danger, guilty of an offence and liable to a fine not exceeding £50.

### **163 Prevention of water falling on or flowing on to highway**

- (1) A competent authority may, by notice to the occupier of premises adjoining a highway, require him within 28 days from the date of service of the notice to construct or erect and thereafter to maintain such channels, gutters or downpipes as may be necessary to prevent—
- (a) water from the roof or any other part of the premises falling upon persons using the highway, or
  - (b) so far as is reasonably practicable, surface water from the premises flowing on to, or over, the footway of the highway.

For the purposes of this section the competent authorities, in relation to any highway, are the highway authority and also (where they are not the highway authority) the local authority for the area in which the highway is situated.

- (2) A notice under subsection (1) above may, at the option of the authority, be served on the owner of the premises in question instead of on the occupier or may be served on both the owner and the occupier of the premises.
- (3) A person aggrieved by a requirement under this section may appeal to a magistrates' court.
- (4) Subject to any order made on appeal, if a person on whom a notice is served under this section fails to comply with the requirement of the notice within the period specified in subsection (1) above he is guilty of an offence and liable to a fine not exceeding £20 ; and if the offence is continued after conviction he is guilty of a further offence and liable to a fine not exceeding £2 for each day on which the offence is so continued.

### **164 Power to require removal of barbed wire**

- (1) Where on land adjoining a highway there is a fence made with barbed wire, or having barbed wire in or on it, and the wire is a nuisance to the highway, a competent authority may by notice served on the occupier of the land require him to abate the nuisance within such time, not being less than one month nor more than 6 months from the date of service of the notice, as may be specified in it.

For the purposes of this section—

- (a) the competent authorities, in relation to any highway, are the highway authority and also (where they are not the highway authority) the local authority for the area in which the highway is situated;
  - (b) " barbed wire " means wire with spikes or jagged projections, and barbed wire is to be deemed to be a nuisance to a highway if it is likely to be injurious to persons or animals lawfully using the highway.
- (2) If at the expiration of the time specified in the notice the occupier has failed to comply with the notice, a magistrates' court, if satisfied on complaint made by the authority that the wire is a nuisance to the highway, may order the occupier to abate the nuisance and, if he fails to comply with the order within a reasonable time, the authority may do whatever may be necessary in execution of the order and recover from him the expenses reasonably incurred by them in so doing.
- (3) If the local authority who are a competent authority in relation to the highway concerned are the occupiers of the land in question proceedings under this section may be taken against them by any ratepayer within the area of that local authority and the

foregoing provisions apply accordingly in relation to him and to the authority as they apply in relation to an authority and to an occupier of land.

### **165 Dangerous land adjoining street**

- (1) If, in or on any land adjoining a street, there is an unfenced or inadequately fenced source of danger to persons using the street, the local authority in whose area the street is situated may, by notice to the owner or occupier of that land, require him within such time as may be specified in the notice to execute such works of repair, protection, removal or enclosure as will obviate the danger.
- (2) A person aggrieved by a requirement under subsection (1) above may appeal to a magistrates' court.
- (3) Subject to any order made on appeal, if a person on whom a notice is served under this section fails to comply with the notice within the time specified in it, the authority by whom the notice was served may execute such works as are necessary to comply with the notice and may recover the expenses reasonably incurred by them in so doing from that person.
- (4) Where the power conferred by subsection (1) above is exercisable in relation to land adjoining a street and has not been exercised by the local authority empowered to exercise it, then, if that authority are not the highway authority for the street, the highway authority for the street may request the local authority to exercise the power.
- (5) If the local authority refuse to comply with a request made under subsection (4) above or fail within a reasonable time after the request is made to them to do so, the highway authority may exercise the power (and where they do so subsections (2) and (3) above apply accordingly).

### **166 Forecourt abutting on streets**

- (1) If it appears to a competent authority that the forecourt of premises abutting on a street, or any steps or projection or goods (whether for sale or not) placed in such a forecourt, is or are a source of danger, obstruction or inconvenience to the public, the authority may by notice require the owner or occupier of the forecourt to fence the forecourt from the street or, at his election, to take such other steps as may be specified in the notice to obviate the danger, obstruction or inconvenience to the public.

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) If it appears to a competent authority that a stall or other erection on a forecourt of premises abutting on a street is by reason of its character injurious to the amenities of the street, the authority may by notice require the owner or occupier of the forecourt to make such alterations in the stall or other erection as may be necessary to prevent its being injurious to the amenities of the street or, at his election, to remove it.

This subsection does not apply to any erection which has been in position in the forecourt of any premises at all times since 10th November 1960.

- (3) A competent authority does not have power under subsection (1) or (2) above to give a notice applying to any advertisement as defined in section 290(1) of the Town and

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Country Planning Act 1971, or under subsection (2) above to give a notice applying to anything erected in conformity with planning permission granted on an application under Part III of that Act.

- (4) The provisions of Part XII of the Public Health Act 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works apply in relation to any notice under this section as if this section were contained in that Act (and as if the references to the local authority included references to the highway authority); and section 290(6) of that Act shall authorise the authority at their election to take either of the courses which were open to the person on whom the notice was served in order to comply with it.
- (5) In this section, "local authority" means any of the following, namely, the council of a district or London borough, the Common Council, the sub-treasurer of the Inner Temple, the under-treasurer of the Middle Temple, and the Council of the Isles of Scilly.

#### **167 Powers relating to retaining walls near streets**

- (1) This section applies to any length of a retaining wall, being a length—
  - (a) any cross-section of which is wholly or partly within 4 yards of a street; and
  - (b) which is at any point of a greater height than 4 feet 6 inches above the level of the ground at the boundary of the street nearest that point;
 but does not apply to any length of a retaining wall erected on land belonging to any transport undertakers so long as that land is used by them primarily for the purpose of their undertaking or to any length of a retaining wall for the maintenance of which a highway authority are responsible.
- (2) No length of retaining wall, being a length which when erected will be a length of retaining wall to which this section applies, shall be erected otherwise than in accordance with plans, sections and specifications approved by the local authority in whose area the street is situated; and before giving such approval that authority, if they are not the highway authority for the street, shall consult the highway authority.
- (3) Any person aggrieved by the refusal of a local authority to approve any plans, sections and specifications submitted to them under this section may appeal to a magistrates' court.
- (4) If a person erects a length of retaining wall in contravention of this section, he is guilty of an offence and liable to a fine not exceeding £100.
- (5) If a length of retaining wall to which this section applies is in such condition (whether for want of repair or some other reason) as to be liable to endanger persons using the street, the local authority in whose area the street is situated may, by notice served on the owner or occupier of the land on which that length of wall is, require him to execute such works as will obviate the danger.
- (6) Where the power conferred by subsection (5) above is exercisable in relation to a length of wall and has not been exercised by the local authority empowered to exercise it, then, if that authority are not the highway authority for the street in question, the highway authority may request the local authority to exercise the power; and if the local authority refuse to comply with the request or fail within a reasonable time after the request is made to them to do so, the highway authority may exercise the power.

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- (7) Subsections (2) to (7) of section 290 of the Public Health Act 1936 (appeals against and the enforcement of, certain notices under that Act) apply to any notice served under subsection (5) above as they apply to such notices as are mentioned in subsection (1) of that section, but subject to the following modifications:—
- (a) references to the local authority are to be construed as including references to the highway authority ;
  - (b) for paragraph (f) of subsection (3) there is substituted the following paragraph—
    - “(f) that some other person ought to contribute towards the expense of executing any works required by the notice”.
- (8) Sections 300 to 302 of the Public Health Act 1936 (supplementary provisions relating to appeals under the said section 290) apply, with the necessary modifications, to appeals brought by virtue of subsection (7) above.
- (9) In this section "retaining wall" means a wall, not forming part of a permanent building, which serves, or is intended to serve, as a support for earth or other material on one side only.