



# Highways Act 1980

## 1980 CHAPTER 66

### PART V

#### IMPROVEMENT OF HIGHWAYS

##### *Cattle-grids*

#### **82 Provision of cattle-grids and by-passes**

- (1) Where, whether on the representations of owners or occupiers of agricultural land or otherwise, and after such consultation with any such owners and occupiers as the highway authority consider requisite, it appears to the highway authority for a highway which consists of or comprises a carriageway expedient so to do for controlling the passage of animals along the highway, the authority may, subject to the provisions of this section and sections 83 to 90 below, provide for the highway, and maintain, a cattle-grid in the highway or partly in the highway and partly in adjoining land.
- (2) Where a highway authority provide a cattle-grid under this Act they shall also provide, either by means of a gate or other works on the highway or by means of a by-pass, or partly by one of those means and partly by the other, and maintain, facilities for the passage under proper control of animals and all other traffic that is unable to pass over the cattle-grid and is entitled by law to go along the highway.
- (3) Save as provided by subsection (4) below, the powers conferred by the foregoing provisions of this section do not include power to place any part of a cattle-grid in land not forming part of the highway and not belonging to the highway authority, or to provide a by-pass on land not belonging to the highway authority, except in so far as is authorised by any such agreement as is provided for by section 87 below.
- (4) Where after complying with the provisions of Schedule 10 to this Act the highway authority determine, as respects any common or waste land not forming part of the highway but adjoining the highway or adjacent thereto, that it is expedient so to do, the authority may place any part of a cattle-grid in, or provide a by-pass on, any of that land notwithstanding that it does not form part of the highway and does not belong to the authority.

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- (5) Without prejudice to subsection (3) above, a highway authority shall not provide a by-pass along any part of a highway unless, after complying with the provisions of Schedule 10 to this Act, the authority determine that it is expedient so to do.
- (6) In this Act—
- "cattle-grid" means a device designed to prevent the passage of animals, or animals of any particular description, but to allow the passage of all or some other traffic, and includes any fence or other works necessary for securing the efficient operation of the said device ; and
- "by-pass", in relation to a cattle-grid provided for a highway, means a way, over land not comprised within the limits of the highway, for the traffic for which the bypass is provided, with a public right of way thereover—
- (a) for that traffic, or
- (b) if any part of the by-pass is provided along an existing highway, for that traffic and for any other traffic entitled to use the highway before the by-pass was provided,
- subject in either case to the limitation that there may be placed on the way any such gate or other works as may be necessary for the proper control of all or any of such traffic and the efficient operation of the cattle-grid for use in connection with which the by-pass is provided;
- and references in this Act to the provision or maintenance of a by-pass include references to the provision or maintenance of any such gate or other works.
- (7) Subject to subsection (8) below, a highway authority may alter or improve—
- (a) a cattle-grid or by-pass provided under this Act for a highway for which they are the highway authority;
- (b) any works provided for use in connection with such a cattle-grid or provided for the purposes of such a bypass.
- (8) A highway authority shall not carry out any alteration or improvement under subsection (7) above whereby traffic of a description which before the alteration or improvement could lawfully have gone along the highway (either by passing over the cattle-grid or by going through a gate or along a by-pass provided under subsection (2) above) will be prevented from so going along the highway.

### **83 Removal of cattle-grids and discontinuance of by-passes**

- (1) Where it appears to a highway authority, after such consultation with such owners and such occupiers of agricultural land as the highway authority consider requisite, that a cattle-grid provided under this Act for a highway for which they are the highway authority is no longer required, the authority may remove the cattle-grid and any gate or other works on the highway which have been provided for use in connection with it, making good the site thereof.
- (2) Where a by-pass has been provided for use in connection with a cattle-grid and the highway authority remove the cattle-grid they may direct that the by-pass is to be discontinued, and where they give such a direction they may remove all or any of the works provided for the purposes of the by-pass.
- (3) If a direction under subsection (2) above so provides, then as from such date as may be specified in the direction the public right of way over the by-pass shall be extinguished.

- (4) Where a by-pass or any part of one has been provided along an existing highway, then—
- (a) notwithstanding subsection (3) above, a direction under subsection (2) above shall not extinguish any right of way which existed before the by-pass was provided;
  - (b) if the cattle-grid for use in connection with which the by-pass was provided is removed, as soon as may be thereafter the highway authority shall (whether or not they direct that the by-pass is to be discontinued, but without prejudice to their power to remove works under subsection (2) above if they do so direct) remove so much of the works provided for the purpose of the by-pass as obstructs the exercise of any right of way existing before the by-pass was provided.

#### **84 Maintenance of cattle-grids and by-passes**

- (1) A cattle-grid provided under this Act for a highway, a gate or other works on a highway provided for use in connection with such a cattle-grid, and any works provided for the purposes of a by-pass provided under this Act, are maintainable by the highway authority for the highway.
- (2) A by-pass provided under this Act shall, unless and until the highway authority give a direction discontinuing the bypass, in all cases be a highway which for the purposes of this Act is a highway maintainable at the public expense for which that authority are the highway authority.

#### **85 Exercise of powers by agreement between neighbouring authorities**

- (1) Where a highway maintainable at the public expense is intersected, joined or continued by a highway for which the highway authority are an authority other than the highway authority for the first-mentioned highway, the following provisions have effect.
- (2) The highway authority for the first mentioned highway ("the first authority") and the other authority ("the second authority") may enter into an agreement as to the exercise by the second authority of that authority's powers under sections 82 and 83 above in relation to the highway for which they are the highway authority; and any such agreement may provide for the first authority to defray the whole or any part of the expenses incurred by the second authority in consequence of the agreement.
- (3) The second authority shall not unreasonably refuse to enter into an agreement under this section; and if any question arises as to the terms (including terms as to payments) to be included in such an agreement, or whether the refusal of that authority to enter into such an agreement is unreasonable, the question shall be determined by arbitration.

#### **86 Supersession of gates by cattle-grids**

- (1) Where—
  - (a) any person has the right to install a gate or gates in a highway, and
  - (b) a highway authority providing or proposing to provide a cattle-grid in the highway under section 82 above determine, after complying with the provisions of Schedule 10 to this Act, that the purpose for which the above-

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mentioned right is exercisable will be adequately achieved by the provision of the cattle-grid,

the right is not exercisable, so long as the cattle-grid is provided, except with the approval of the highway authority, and the highway authority may require that a gate or gates installed in the exercise of the right before the provision of the cattle-grid shall be removed or may themselves remove any such gate or gates.

- (2) The highway authority shall on demand repay any expenses reasonably incurred in removing a gate in compliance with a requirement under this section.
- (3) Where in pursuance of subsection (1) above a gate has been removed (whether by, or in compliance with a requirement of, the highway authority) and the highway authority subsequently remove the cattle-grid, then, if within 12 months from the date of the removal of the cattle-grid a person reinstalls a gate in the exercise of a right the exercise of which was suspended while the cattle-grid was provided, the highway authority shall on demand repay the expenses reasonably incurred in reinstalling the gate.
- (4) No objection shall be made or proceedings brought in respect of the purported exercise by a highway authority of their powers under subsection (1) above as respects a gate or gates on the ground that no right to install the gate or gates existed; but the purported exercise by the authority of their powers under that subsection shall not affect the question whether any such right existed, or prejudice the powers of the highway authority or any other person under any enactment (including an enactment in this Act) or rule of law to protect public rights of way or to prevent or remove obstructions.

## **87 Agreements for use of land for cattle-grids or by-passes**

- (1) A highway authority may, for the purpose of providing, altering or improving a cattle-grid or by-pass under the powers conferred by this Part of this Act, enter into an agreement under this section with persons interested in any land for the use of the land for that purpose; and (without prejudice to the provision of other matters in the agreement) there shall be exercisable by the highway authority and the public such rights over the land as may be specified in the agreement.
- (2) An agreement under this section may contain provisions for payment to persons who are parties to it in consideration of the use of the land or otherwise in respect of their entering into the agreement.
- (3) The provisions of an agreement under this section bind the interest of any person who is a party to the agreement notwithstanding any devolution of that interest, and also bind any interest of any person which is thereafter created (whether immediately or not) out of that interest; but save as aforesaid an agreement under this section shall not operate so as to prejudice the rights of a person not a party to it or confer upon any other person any right against him.
- (4) A tenant for life may enter into an agreement under this section relating to the settled land or any part of it either for consideration or gratuitously, and—
  - (a) this subsection is to be construed as one with the Settled Land Act 1925;
  - (b) that Act and section 28 of the Law of Property Act 1925 (which confers the powers of a tenant for life on trustees for sale), apply as if the power conferred by this subsection had been conferred by that Act; and
  - (c) for the purposes of section 72 of the Settled Land Act 1925 (disposition by a tenant for life) and of any other relevant statutory provision, entering into an agreement under this section is to be treated as a disposition.

- (5) A university or college to which the Universities and College Estates Act 1925 applies may enter into an agreement under this section relating to any land belonging to it either for consideration or gratuitously, and that Act applies as if the power conferred by this subsection had been conferred by that Act.
- (6) Where land is glebe land or other land belonging to an ecclesiastical benefice, the incumbent of the benefice and, where land is part of the endowment of any other ecclesiastical corporation, the ecclesiastical corporation, may with the consent of the Church Commissioners enter into an agreement under this section relating to the land either for consideration or gratuitously, and the Ecclesiastical Leasing Acts apply as if the power conferred by this subsection had been conferred by those Acts, except that the consent of the patron of an ecclesiastical benefice is not requisite.
- (7) An agreement under this section is a local land charge.

## **88 Contributions towards expenditure of highway authorities**

- (1) A highway authority may enter into an agreement with a person at whose instance a cattle-grid has been or is to be provided by them under this Act, or any other person willing to make a contribution towards expenses of the authority under this Act in connection with a cattle-grid, for the making by that person of such a contribution (whether by a single payment or by periodical payments) of such amount as may be specified in the agreement and either towards all such expenditure of the authority or towards such description of such expenditure as may be so specified.
- (2) An agreement under this section may contain such incidental and consequential provisions as appear to the parties to it expedient for the purposes of the agreement, and in particular such an agreement providing for a contribution towards the cost of installing a cattle-grid may provide for repayment of the contribution, to such extent as may be specified in the agreement, in the event of the cattle-grid being removed.
- (3) In determining whether or not to provide a cattle-grid, a highway authority shall be entitled to have regard to the extent to which persons who in the opinion of the authority will derive special benefit from the provision of the cattle-grid are willing to enter into agreements under this section.

## **89 Delegation to certain authorities of functions of Minister**

- (1) Subsections (1) to (4) of section 6 above apply, as respects trunk roads, to the functions of the Minister under the foregoing provisions of this Part of this Act relating to cattle-grids, and to his functions under Schedule 10 to this Act in so far as they are conferred on him as highway authority.
- (2) Plant or materials belonging to a council to whom functions are delegated under this section may be used by them for the purposes of those functions, subject to the terms of the delegation.

## **90 Protection of bridges and railways**

- (1) A highway authority shall not, in the exercise of functions relating to cattle-grids conferred by this Part of this Act, carry out any work in—

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- (a) so much of a highway as is carried by a bridge maintainable by a person other than the highway authority or so much of a highway as is comprised within the immediate approaches to such a bridge,
- (b) so much of a highway passing under such a bridge as is within 10 feet of any part of the bridge or of the foundations of the bridge, or
- (c) so much (if any) of a highway passing above a tunnel provided for the purpose of a railway undertaking of railway undertakers as is within 10 feet of any part of the tunnel,

except with the consent of the person liable to maintain the bridge or of the railway undertakers, as the case may be.

- (2) Where consent under this section is withheld the highway authority may refer the matter to the Minister and if, after affording to the highway authority and to the said person, or to the railway undertakers, as the case may be, an opportunity of being heard by a person appointed by the Minister for the purpose, and considering his report, the Minister so directs, the work may be carried out notwithstanding that the consent has been withheld but subject to compliance with any conditions which the Minister may impose.