



Highways Act 1980

1980 CHAPTER 66

PART XI

MAKING UP OF PRIVATE STREETS

The private street works code

205 Street works in private streets

- (1) Where a private street is not, to the satisfaction of the street works authority, sewered, levelled, paved, metalled, flagged, channelled, made good and lighted, the authority may from time to time resolve with respect to the street to execute street works and, subject to the private street works code, the expenses incurred by the authority in executing those works shall be apportioned between the premises fronting the street.
- (2) Where the authority resolve to execute street works with respect to a part only of the street (other than a part extending for the whole of the length of the street), the expenses incurred by them in executing the works shall be apportioned only between the premises fronting the length of the street which constitutes or comprises that part.
- (3) Where an authority have passed a resolution under subsection (1) above, the proper officer of the council shall prepare—
 - (a) a specification of the street works referred to in the resolution, with any necessary plans and sections,
 - (b) an estimate of the probable expenses of the works, and
 - (c) a provisional apportionment apportioning the estimated expenses between the premises liable to be charged with them under the private street works code ;and the specification, plans, sections, estimate and provisional apportionment shall comprise the particulars specified in paragraphs 1 to 4 of Schedule 16 to this Act and shall be submitted to the authority, who may by a further resolution (hereafter in the private street works code referred to as " the resolution of approval") approve them with or without modification or addition as they think fit.

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- (4) If, in the case of a street outside Greater London, the street works referred to in the resolution under subsection (1) above include the sewerage of the street, the proper officer of the county council shall, when preparing the specification required by subsection (3) above, consult the council of the district in which the street works are to be carried out.
- (5) After the resolution of approval has been passed, a notice containing the particulars specified in paragraph 5 of Schedule 16 to this Act shall—
- (a) be published once in each of 2 successive weeks in a local newspaper circulating in the area of the street works authority, and
 - (b) be posted in a prominent position in or near to the street to which the resolution relates once at least in each of 3 successive weeks, and
 - (c) within 7 days from the date of the first publication under paragraph (a) above, be served on the owners of the premises shown in the provisional apportionment as liable to be charged ;
- and during one month from the said date a copy of the resolution of approval, and the approved documents or copies of them certified by the proper officer of the council, shall be kept deposited and open to inspection free of charge at all reasonable hours at the offices of the street works authority and also, in the case of a street outside Greater London, at the offices of the council of the district in which the street concerned is situated.
- (6) Where a notice is served on an owner of premises under subsection (5)(c) above it shall be accompanied by a statement of the sum apportioned on those premises by the provisional apportionment.

206 Incidental works

A street works authority may include in street works to be executed under the private street works code with respect to a street any works which they think necessary for bringing the street, as regards sewerage, drainage, level, or other matters, into conformity with any other streets, whether maintainable at the public expense or not, including the provision of separate sewers for the reception of sewage and of surface water respectively.

207 Provisional apportionment of expenses

- (1) In a provisional apportionment of expenses of street works under the private street works code, the apportionment of expenses between the premises liable to be charged with them shall, subject to the provisions of this section, be made according to the frontage of the respective premises.
- (2) The street works authority may, if they think just, resolve that in settling the apportionment regard shall be had to the following considerations:—
 - (a) the greater or less degree of benefit to be derived by any premises from the street Works;
 - (b) the amount and value of any work already done by the owners or occupiers of any premises.
- (3) The authority may—

- (a) if they think just, include in the apportionment any premises which do not front the street, but have access to it through a court, passage, or otherwise, and which will, in the opinion of the authority, be benefited by the works, and
- (b) fix, by reference to the degree of benefit to be derived by those premises, the amount to be apportioned on them.

208 Objections to proposed works

- (1) Within one month from the date of the first publication of a notice under section 205(5) (a) above, an owner of premises shown in a provisional apportionment of expenses as liable to be charged with any part of the expenses of executing street works with respect to a private street or a part of a private street may, by notice to the street works authority, object to their proposals on any of the following grounds:—
 - (a) that the alleged private street is not a private street or, as the case may be, that the alleged part of a private street is not a part of a private street;
 - (b) that there has been some material informality, defect or error in, or in respect of, the resolution, notice, plans, sections or estimate ;
 - (c) that the proposed works are insufficient or unreasonable;
 - (d) that the estimated expenses of the proposed works are excessive;
 - (e) that any premises ought to be excluded from or inserted in the provisional apportionment;
 - (f) that the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or, where the provisional apportionment is made with regard to other considerations than frontage, in respect of the degree of benefit to be derived by any premises, or of the amount or value of any work already done by the owner or occupier of premises.
- (2) Where premises are owned jointly by 2 or more persons, a notice under subsection (1) above may be given on behalf of those persons by one of their number, if he is authorised in writing by a majority of them to do so.

209 Hearing and determination of objections

- (1) If an objection is made under section 208 above within the period there specified, and is not withdrawn, the street works authority may, after the expiration of that period, apply to a magistrates' court to appoint a time for hearing and determining all objections so made within that period, and shall serve on the objectors notice of the time and place so appointed.
- (2) At the hearing the court shall hear and determine the objections in the same manner as nearly as may be as if the authority were proceeding summarily against the objectors to enforce payment of a sum of money summarily recoverable.

The court may quash in whole or in part or may amend the resolution of approval, specification, plans, sections, estimate and provisional apportionment, or any of them, on the application either of an objector or of the authority, and may also, if it thinks fit, adjourn the hearing and direct further notices to be given.
- (3) The costs of any proceedings before a magistrates' court in relation to objections under the private street works code are in the discretion of the court, and the court may, if it thinks fit, direct that the whole or a part of any costs ordered to be paid by an objector or objectors are to be paid in the first instance by the authority, and charged as part of

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the expenses of the works on the premises of the objector, or, as the case may be, on the premises of the objectors in such proportions as may appear just.

210 Power to amend specification, apportionment, etc.

- (1) Subject to the provisions of this section, the street works authority may from time to time amend the specification, plans, sections, estimate and provisional apportionment for any street works proposed under section 205 above.
- (2) If the street works authority propose to amend the estimate so as to increase the amount of it, then, before the amendment is made, a notice containing the particulars specified in paragraph 6 of Schedule 16 to this Act shall—
 - (a) be published once in each of 2 successive weeks in a local newspaper circulating in the area of the street works authority, and
 - (b) be posted in a prominent position in or near to the street to which the resolution of approval relates once at least in each of 3 successive weeks, and
 - (c) within 7 days from the date of the first publication under paragraph (a) above, be served on the owners of the premises shown in the provisional apportionment as liable to be charged;

and, during one month from the said date, a document certified by the proper officer of the council giving details of the amendment of the estimate and of the consequential amendment of the provisional apportionment shall be kept deposited and open to inspection free of charge at all reasonable hours at the offices of the street works authority and also, in the case of a street outside Greater London, at the offices of the council of the district in which the street concerned is situated.

- (3) Where a notice is served on an owner of premises under subsection (2)(c) above it shall be accompanied by a statement of the sum apportioned on those premises by the provisional apportionment as proposed to be amended.
- (4) Within one month from the date of the first publication of a notice under subsection (2) (a) above, objections may be made and, if made, shall be heard and determined in like manner, and subject to the like provisions with respect to the persons entitled to be heard and otherwise, as objections under section 208 above.

211 Final apportionment and objections to it

- (1) When any street works to be executed under the private street works code have been completed, and the expenses of them ascertained, the proper officer of the council shall make a final apportionment by dividing the expenses in the same proportions as those in which the estimated expenses were divided in the original or amended provisional apportionment, as the case may be, and notice of the final apportionment shall be served on the owners of the premises affected by it.
- (2) Within one month from the date on which notice of the final apportionment is served on him, the owner of any premises shown in the apportionment as liable to be charged may, by notice to the authority, object to the apportionment on the following grounds, or any of them:—
 - (a) that there has been an unreasonable departure from the specification, plans and sections ;
 - (b) that the actual expenses have without sufficient reason exceeded the estimated expenses by more than 15 per cent.;
 - (c) that the apportionment has not been made in accordance with this section

Objections under this section shall be determined in the like manner, and subject to the like provisions with respect to the persons entitled to be heard and otherwise, as objections to the provisional apportionment.

- (3) The final apportionment, subject to any amendment made to it by a court on the hearing of objections to it under this section, is conclusive for all purposes.

212 Recovery of expenses and charge thereof on premises

- (1) A street works authority may from time to time recover from the owner for the time being of any premises in respect of which any sum is due for expenses of street works the whole or any portion of that sum together with interest at such reasonable rates as the authority may determine from the date of the final apportionment.
- (2) The sum apportioned on any premises by the final apportionment or, as the case may be, by that apportionment as amended by a court, together with interest from the date of the final apportionment is, until recovered, a charge on the premises and on all estates and interests therein.
- (3) A street works authority, for the purpose of enforcing a charge under subsection (2) above before it is registered under the Local Land Charges Act 1975, have the same powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease and of appointing a receiver.
- (4) A street works authority may by order declare the expenses apportioned on any premises by a final apportionment made by the proper officer of the council or, as the case may be, by that apportionment as amended by a court, to be payable by annual instalments within a period not exceeding 30 years, together with interest from the date of the final apportionment; 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.

Schedule 13 to this Act applies in relation to any sum paid by an occupier of premises under this subsection.

213 Power for limited owners to borrow for expenses

The owners of any premises, if they are persons who under the Compulsory Purchase Act 1965 are empowered to sell and convey or release lands, may charge those premises with—

- (a) such sum as may be necessary to defray the whole or a part of any expenses which the owners of, or any other person in respect of, those premises for the time being are liable to defray under the private street works code, and
- (b) the expenses of making such a charge;

and, for securing the repayment of that sum with interest, may mortgage the premises to any person advancing that sum so, however, that the principal due on any such mortgage shall be repaid by equal yearly or half-yearly payments within 20 years.

214 Financial provisions

- (1) A street works authority shall keep separate accounts of all money expended and recovered by them in the execution of the private street works code.

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- (2) A street works authority may from time to time borrow money for the purpose of providing temporarily for expenses of street works in private streets.
- (3) If the whole or a part of a loan raised in respect of expenses of street works is outstanding at the date when any sum is recovered in respect of the expenses of those street works under section 212 above, the sum so recovered shall be applied in repayment of the loan.

215 Exemption for place of public religious worship

- (1) The incumbent or minister, or trustee, of a place of public religious worship is not liable to expenses of street works under the private street works code as the owner of that place, or of a churchyard or burial ground attached to it, and the proportion of expenses in respect of which an exemption is allowed under this section shall be borne by the street works authority.
- (2) No such expenses as aforesaid are to be deemed—
 - (a) to be a charge on such a place, or churchyard or burial ground, or
 - (b) to subject such a place, or churchyard or burial ground, to distress, execution or other legal process.

216 Certain railways and canals not to be chargeable with expenses

- (1) No railway undertakers or canal undertakers shall be deemed to be owners or occupiers for the purposes of the private street works code of land upon which a street wholly or partly fronts if the land has no direct communication with the street and at the time of the laying out of the street was used solely as part of their line of railway, canal, or siding, station, towing path, or works—
 - (a) by the undertakers, or
 - (b) in a case where the rights of other railway or canal undertakers in respect of the land under section 22 of the Private Street Works Act 1892, are vested in the undertakers, by those other railway undertakers or canal undertakers.
- (2) The amount of any expenses incurred by a street works authority under the private street works code which, but for subsection (1) above, the undertakers would be liable to pay shall be paid to the authority by the owners of the other premises included in the final apportionment in such proportion as may be settled by the proper officer of the council.
- (3) If the undertakers subsequently make a communication with the street, they shall pay to the authority the amount of the expenses which, but for subsection (1) above, the undertakers or such other undertakers as aforesaid would in the first instance have been liable to pay, and the authority shall divide among the owners for the time being of the other premises included in the final apportionment the amount so paid by the undertakers, less the costs and expenses attendant upon the division, in such proportion as may be settled by the proper officer of the council.
- (4) This section does not apply to a street existing at the date when the Private Street Works Act 1892 or the code of 1892 under the Highways Act 1959, as the case may be, first became applicable in the area in which the street is situated.

217 Objections only to be made as provided by private street works code

No objection which could be made under any provision of the private street works code shall be made in any proceeding or manner otherwise than as provided by that code.

218 Saving for Thames Water Authority and Port of London Authority

Nothing in the private street works code affects property or works of the Thames Water Authority on the shores of the river Thames, or of the Port of London Authority on those shores, or renders either of those authorities liable to charges in respect of any such property or works.