



# Highways Act 1980

## 1980 CHAPTER 66

### PART V

#### IMPROVEMENT OF HIGHWAYS

##### *Miscellaneous improvements*

#### **100 Drainage of highways.**

- (1) The highway authority for a highway may, for the purpose of draining it or of otherwise preventing surface water from flowing on to it, do all or any of the following:—
  - (a) construct or lay, in the highway or in land adjoining or lying near to the highway, such drains as they consider necessary;
  - (b) erect barriers in the highway or in such land as aforesaid to divert surface water into or through any existing drain;
  - (c) scour, cleanse and keep open all drains situated in the highway or in such land as aforesaid.
- (2) Where under subsection (1) above a drain is constructed or laid, or barriers are erected, for the purpose of draining surface water from a highway or, as the case may be, diverting it into an existing drain, the water may be discharged into or through that drain and into any inland waters, whether natural or artificial, or any tidal waters.
- (3) 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 power under subsection (1) or (2) above.
- (4) If a person, without the consent of the highway authority, alters, obstructs or interferes with a drain or barrier which has been constructed, laid or erected by the authority in exercise of their powers under subsection (1) above, or which is under their control, then—
  - (a) the authority may carry out any work of repair or reinstatement necessitated by his action and may recover from him the expenses reasonably incurred by them in so doing, and

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- (b) without prejudice to their right to exercise that power, he is guilty of an offence and liable to a fine not exceeding three times the amount of those expenses.
- (5) Without prejudice to their powers under the foregoing provisions of this section, a highway authority may, for the purpose of the drainage of a highway or proposed highway for which they are or, as the case may be, will be the highway authority, exercise any powers exercisable by a [<sup>F1</sup>sewerage undertaker under<sup>F2</sup>sections 158, 159, 163, 165 and 168 of the Water Industry Act 1991]for the purposes of the drainage of highways within the area of that undertaker].
- (6) Where the highway authority are a county council they shall, before exercising any powers [<sup>F3</sup>under<sup>F2</sup>sections 158, 159, 163, 165 and 168 of the Water Industry Act 1991]] by virtue of subsection (5) above, give notice of their intention to do so to the district council, and the [<sup>F3</sup>sewerage undertaker] within whose area the powers are proposed to be exercised [<sup>F4</sup>; and where the highway authority are a metropolitan district council they shall, before so exercising any powers under that Act, give such notice to the [<sup>F3</sup>sewerage undertaker] within whose area the powers are proposed to be exercised.]
- [<sup>F5</sup>(6A) In subsection (6) above, “the district council” shall be read, in relation to Wales, as “the Welsh council”.
- (6B) Where the highway authority are a Welsh council—
- (a) subsection (6) above does not apply; but
  - (b) before exercising any powers under sections 158, 159, 163, 165 and 168 of the <sup>M1</sup>Water Industry Act 1991 by virtue of subsection (5) above, they shall give notice of their intention to do so—
    - (i) to the sewerage undertaker; and
    - (ii) where they propose to exercise those powers outside their county or county borough, to the Welsh council or, as the case may be, the district council
 within whose area the powers are proposed to be exercised.]
- (7) A person who is liable to maintain a highway by reason of tenure, enclosure or prescription shall, for the purpose of draining it, have the like powers as are conferred on a highway authority by subsections (1) and (2) above for that purpose, and subsections (3) and (4) above shall have effect in relation to a highway so maintainable as if references therein to a highway authority and to subsection (1) or (2) above included references to the person liable to maintain that highway and to this subsection respectively.
- (8) This section is without prejudice to any enactment the purpose of which is to protect water against pollution.
- (9) In this section—
- “drain” includes a ditch, gutter, watercourse, soak-away, bridge, culvert, tunnel and pipe; and
- “owner”, in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple in the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a lease the unexpired term of which exceeds 3 years.

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#### Textual Amendments

- F1** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(4)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F2** Words in s. 100(5)(6) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2, 4(2), **Sch. 1 para. 36(1)**
- F3** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(4)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F4** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 21**
- F5** S. 100(6A)(6B) inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para.9** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.1**.

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#### Modifications etc. (not altering text)

- C1** S. 100 functions made exercisable concurrently (3.3.2017) by [The Cambridgeshire and Peterborough Combined Authority Order 2017 \(S.I. 2017/251\)](#), arts. 1(2)(b), **9(2)(z)(3)**

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#### Marginal Citations

- M1** 1991 c. 56.

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)