



# Highways Act 1980

## 1980 CHAPTER 66

### PART IX

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

##### *Precautions to be taken in doing certain works in or near streets or highways*

#### **169 Control of scaffolding on highways.**

- (1) Subject to subsection (6) below no person shall, in connection with any building or demolition work or the alteration, repair, maintenance or cleaning of any building, erect or retain on or over a highway any scaffolding or other structure which obstructs the highway (hereafter in this section referred to as a “relevant structure”) unless he is authorised to do so by a licence in writing issued for the purposes of this section by the highway authority (hereafter in this section referred to as “a licence”) and complies with the terms of the licence; and a licence may contain such terms as the authority issuing it thinks fit.
- (2) If a person applies to a highway authority for a licence in respect of any relevant structure and furnishes the authority with such particulars in connection with the structure as the authority reasonably demand, it is the duty of the authority to issue a licence to him in respect of the structure unless the authority consider—
  - (a) that the structure would cause unreasonable obstruction of a highway; or
  - (b) that a relevant structure erected otherwise than as proposed by the applicant would cause less obstruction of a highway than the structure proposed by him and could conveniently be used for the work in question.
- (3) If on an application for a licence in connection with a highway the highway authority refuse to issue a licence or issue a licence containing terms to which the applicant objects, the applicant may appeal to a magistrates’ court against the refusal or terms; and on such an appeal the court may—
  - (a) in the case of an appeal against a refusal, direct the highway authority to issue a licence in pursuance of the application;
  - (b) in the case of an appeal against the terms of the licence, alter the terms.

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*Changes to legislation: Highways Act 1980, Section 169 is up to date with all changes known to be in force on or before 26 February 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (4) Subject to subsection (6) below, it is the duty of a person to whom a licence is issued by a highway authority in respect of a relevant structure—
- (a) to ensure that the structure is adequately lit at all times between half an hour after sunset and half an hour before sunrise;
  - (b) to comply with any directions given to him in writing by the authority with respect to the erection and maintenance of traffic signs in connection with the structure; and
  - (c) to do such things in connection with the structure as any statutory undertakers reasonably request him to do for the purpose of protecting or giving access to any apparatus belonging to or used or maintained by the undertakers.

In this subsection and in section 171(2) below “statutory undertakers” means any of the following, namely, any body who are statutory undertakers within the meaning provided by section 329(1) below, [<sup>F1</sup>any universal service provider in connection with the provision of a universal postal service], <sup>F2</sup> . . . <sup>F3</sup> . . . [<sup>F4</sup>any licensee under a street works licence][<sup>F5</sup>and the operator of [<sup>F6</sup>an electronic communications code network]][<sup>F7</sup>or a driver information [<sup>F8</sup>network]].

- (5) A person who contravenes the provisions of subsection (1) above otherwise than by failing to comply with the terms of a licence or who fails without reasonable excuse to comply with the terms of a licence or to perform a duty imposed on him by subsection (4) above, is guilty of an offence and liable to a fine not exceeding [<sup>F9</sup>level 5 on the standard scale].
- (6) Nothing in the preceding provisions of this section applies to a relevant structure erected before 14th February 1977 or erected or retained by the British Railways Board, [<sup>F10</sup>Canal & River Trust] or [<sup>F11</sup>Transport for London or any of its subsidiaries (within the meaning of the Greater London Authority Act 1999)] in the exercise of powers conferred on the body in question by any enactment; and nothing in paragraph (a) or (b) of subsection (4) above applies to a relevant structure if no part of it is less than 18 inches in a horizontal direction from a carriageway of the relevant highway and no part of it over a footway of the relevant highway is less than 8 feet in a vertical direction above the footway.
- (7) No civil or criminal proceedings lie in respect of any obstruction of a highway which is caused by a relevant structure if the structure is on or over the highway in accordance with a licence and the person to whom the licence is issued performs the duties imposed on him in respect of the structure by subsection (4) above; and a highway authority by whom a licence is issued do not incur any liability by reason of the issue of the licence.

#### Annotations:

##### Amendments (Textual)

- F1** Words in s. 169(4) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 49(3)**
- F2** Words repealed 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. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F3** Word repealed by **Telecommunications Act 1984** (c. 12, SIF 96), s. 109, **Sch. 7 Pt. I**
- F4** Words in s. 169(4) substituted (1.1.1993) by **New Roads and Street Works Act 1991** (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Part I para. 4**(with s. 25(2)); S.I. 1992/2984, art. 2(2), **Sch. 2**.
- F5** Words inserted by **Telecommunications Act 1984** (c. 12, SIF 96), s. 109, Sch. 4 para. 76(8), **Sch. 5 para. 45**

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- F6** Words in s. 169(4) in definition of "statutory undertakers" substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by **Communications Act 2003 (c. 21)**, ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(b)(2)(a)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F7** Words inserted by **Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1)**, s. 13(1), **Sch. 4 para. 3(7)**
- F8** Word in s. 169(4) in definition of "statutory undertakers" substituted (25.7.2003 for specified purposes, 29.12.2003 for specified purposes) by **Communications Act 2003 (c. 21)**, ss. 406(1)(6), 408, 411, **Sch. 17 para. 56(1)(b)(2)(e)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), **2(1)**, 3(1), Sch. 1 (with art. 3(2) (as amended (8.12.2003) by S.I. 2003/3142, art. 1(3))); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F9** Words substituted by virtue of **Criminal Justice Act 1982 (c. 48, SIF 39:1)**, ss. **38, 46**
- F10** Words in s. 169(6) substituted (2.7.2012) by **The British Waterways Board (Transfer of Functions) Order 2012 (S.I. 2012/1659)**, art. 1(2), **Sch. 3 para. 6(3)** (with arts. 4-6)
- F11** Words in s. 169(6) substituted (15.7.2003) by **The Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615)**, art. 2, **Sch. 1 Pt. 1 para. 7(5)**

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

- C1** S. 169: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of **S.I. 2000/2853**, reg. 2(1), **Sch. 1**
- C2** S. 169(1) excluded (18.12.1996) by 1996 c. 61, s. 38, **Sch. 10 para. 5(1)(b)**.
- C3** S. 169(1) excluded (22.7.2008) by **Crossrail Act 2008 (c. 18)**, s. 40, **Sch. 14 para. 7(1)(b)**
- C4** S. 169(1) excluded (23.2.2017) by **High Speed Rail (London - West Midlands) Act 2017 (c. 7)**, s. 70(1), **Sch. 24 para. 1(1)** (with Sch. 24 para. 1(5))
- C5** S. 169(4): by **Telecommunications Act 1984 (c. 12, SIF 96)**, s. 109, Sch. 4 para. 3(1), **Sch. 5 para. 45** it is provided that references to British Telecommunications in s. 169(4) cease to have effect

**Changes to legislation:**

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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. 87(6A) inserted by 2018 No. 8 Sch. 1 para. 17(3)
- 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. 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)