



Highways Act 1980

1980 CHAPTER 66

PART XI

MAKING UP OF PRIVATE STREETS

The advance payments code.

219 Payments to be made by owners of new buildings in respect of street works.

- (1) Subject to the provisions of this section, where—
- it is proposed to erect a building for which plans are required to be deposited with the local authority in accordance with building regulations, and
 - the building will have a frontage on a private street in which the street works authority have power under the private street works code to require works to be executed or to execute works,

no work shall be done in or for the purpose of erecting the building unless the owner of the land on which it is to be erected or a previous owner thereof has paid to the street works authority, or secured to the satisfaction of that authority the payment to them of, such sum as may be required under section 220 below in respect of the cost of street works in that street.

- (2) If work is done in contravention of subsection (1) above, the owner of the land on which the building is to be erected and, if he is a different person, the person undertaking the erection of the building is guilty of an offence and liable to a fine not exceeding [^{F1}level 3 on the standard scale], and any further contravention in respect of the same building constitutes a new offence and may be punished accordingly.

Proceedings under this subsection shall not be taken by any person other than the street works authority.

- (3) Where the person undertaking the erection of the building is not the owner of the land on which it is to be erected and is charged with an offence under subsection (2) above, it shall be a defence for him to prove that he had reasonable grounds for believing that

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the sum required under section 220 below had been paid or secured by the owner of the land in accordance with subsection (1) above.

(4) This section does not apply—

- (a) where the owner of the land on which the building is to be erected will be exempt, by virtue of a provision in the private street works code, from liability to expenses incurred in respect of street works in the private street in question;
- (b) where the building proposed to be erected will be situated in the curtilage of, and be appurtenant to, an existing building;
- (c) where the building is proposed to be erected in a parish or community and plans for the building were deposited with the district council or, according to the date of deposit, the rural district council before the date on which the ^{M1}New Streets Act 1951, or the advance payments code (either in this Act or in the ^{M2}Highways Act 1959) was applied in the parish or community or as the case may require, in the part of the parish or community in which the building is to be erected;
- (d) where an agreement has been made by any person with the street works authority under section 38 above providing for the carrying out at the expense of that person of street works in the whole of the street or a part of the street comprising the whole of the part on which the frontage of the building will be, and for securing that the street or the part thereof, on completion of the works, will become a highway maintainable at the public expense;
- (e) where the street works authority, being satisfied that the whole of the street or such a part thereof as aforesaid is not, and is not likely within a reasonable time to be, substantially built-up or in so unsatisfactory a condition as to justify the use of powers under the private street works code for securing the carrying out of street works in the street or part thereof, by notice exempt the building from this section;
- (f) where the street works authority, being satisfied that the street is not, and is not likely within a reasonable time to become, joined to a highway maintainable at the public expense, by notice exempt the building from this section;
- (g) where the whole street, being less than 100 yards in length, or a part of the street not less than 100 yards in length and comprising the whole of the part on which the frontage of the building will be, was on the material date built-up to such an extent that the aggregate length of the frontages of the buildings on both sides of the street or part constituted at least one half of the aggregate length of all the frontages on both sides of the street or part;
- (h) where (in a case not falling within paragraph (g) above) the street works authority, being satisfied that the whole of the street was on the material date substantially built-up, by notice exempt the building from this section;
- (i) where the building is proposed to be erected on land belonging to, or in the possession of—
 - (i) the British Railways Board, ^{F2} . . . , [^{F3}Canal & River Trust], [^{F4}Transport for London], ^{F5} . . . ^{F6} . . . any wholly-owned subsidiary (within the meaning of the ^{M3}Transport Act 1968) or joint subsidiary (within the meaning of section 51(5) of that Act) of any of those bodies [^{F7}other than Transport for London, or any of its subsidiaries (within the meaning of the Greater London Authority Act 1999)];
 - (ii) the council of a county, district or London borough ^{F8} . . . or the Common Council;

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- (iii) the [^{F9}new towns residuary body] or a new town development corporation;
- (j) where the building is to be erected by a company the objects of which include the provision of industrial premises for use by persons other than the company, being a company the constitution of which prohibits the distribution of the profits of the company to its members, and the cost of the building is to be defrayed wholly or mainly by a government department;
- (k) where the street works authority, being satisfied—
 - (i) that more than three-quarters of the aggregate length of all the frontages on both sides of the street, or of a part of the street not less than 100 yards in length and comprising the whole of the part on which the frontage of the building will be, consists, or is at some future time likely to consist, of the frontages of industrial premises, and
 - (ii) that their powers under the private street works code are not likely to be exercised in relation to the street, or to that part of it, as the case may be, within a reasonable time,

by resolution exempt the street, or that part of it, from this section.

[^{F10}(4A) In subsection (4)(c) above, “ district council ” is to be read in relation to plans deposited on or after 1st April 1996 for a building to be erected in Wales as “ Welsh council ” .]

[^{F11}(4B) In subsection (4)(i)(iii) “ new towns residuary body ” means—

- (a) in relation to England, the Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008[^{F12}or the Greater London Authority so far as exercising its new towns and urban development functions]; and
 - (b) in relation to Wales, the Welsh Ministers so far as exercising functions in relation to anything transferred (or to be transferred) to them as mentioned in section 36(1)(a)(i) to (iii) of the New Towns Act 1981.]
- (5) Where a sum has been paid or secured under this section by the owner of the land in relation to a building proposed to be erected on it, and thereafter a notice is served under subsection (4) above exempting the building from this section, or a resolution is passed under paragraph (k) of that subsection exempting the street or part of a street on which the building will have a frontage from this section, the street works authority shall refund that sum to the person who is for the time being owner of the land or shall release the security, as the case may be.

Where the said sum was paid, and after the payment but before the service of the said notice or the passing of the said resolution, as the case may be, the land in respect of which it was paid was divided into 2 or more parts each having a frontage on the private street in question, the sum is to be treated for the purposes of this subsection as apportioned between the owners of the land according to their respective frontages.

- (6) For the purposes of this section “ the material date ” is—
- (a) in relation to a building proposed to be erected in an area which before 1st April 1974 was a rural district or a contributory place within a rural district, the date on which the ^{M4}New Streets Act 1951 or the advance payments code (either in this Act or in the ^{M5}Highways Act 1959) was applied in that area;
 - (b) in relation to a building proposed to be erected anywhere else, 1st October 1951.

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Textual Amendments

- F1** Words substituted by virtue of [Criminal Justice Act 1982](#) (c. 48, SIF 39:1), [s. 46](#)
- F2** Words repealed by [Transport Act 1981](#) (c. 56, SIF 126), s. 40, [Sch. 12 Pt. I](#)
- F3** Words in s. 219(4)(i)(i) 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\(4\)](#) (with arts. 4-6)
- F4** Words in s. 219(4)(i)(i) 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\(6\)\(a\)](#)
- F5** Words repealed by [Statute Law \(Repeals\) Act 1989](#) (c. 43), s. 1(1), [Sch. 1 Pt. X](#)
- F6** Word repealed by [London Regional Transport Act 1984](#) (c. 32, SIF 126), [s. 71\(3\)\(a\)\(b\)](#), Sch. 6 para. 20(b), Sch. 7
- F7** Words in s. 219(4)(i)(i) 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\(6\)\(b\)](#)
- F8** Words repealed by [Local Government Act 1985](#) (c. 51, SIF 81:1), s. 102, [Sch. 17](#)
- F9** Words in s. 219(4)(i)(iii) substituted (1.12.2008) by [Housing and Regeneration Act 2008](#) (c. 17), ss. 56, 325, [Sch. 8 para. 32\(2\)](#); S.I. 2008/3068, arts. 1(2), [2\(1\)\(w\)](#) (with savings and transitional provisions in arts. 6-13)
- F10** S. 219(4A) inserted (1.4.1996) by [1994 c. 19](#), s. 22(1), [Sch. 7 Pt. 1 para.20](#) (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, [Sch.1](#).
- F11** S. 219(4B) inserted (1.12.2008) by [Housing and Regeneration Act 2008](#) (c. 17), ss. 56, 325, [Sch. 8 para. 32\(3\)](#); S.I. 2008/3068, arts. 1(2), [2\(1\)\(w\)](#) (with savings and transitional provisions in arts. 6-13)
- F12** Words in s. 219(4B)(a) inserted (1.4.2012) by [Localism Act 2011](#) (c. 20), s. 240(2), [Sch. 19 para. 8](#); S.I. 2012/628, art. 6(i) (with arts. 911141517)

Modifications etc. (not altering text)

- C1** S. 219 modified by [Building Act 1984](#) (c. 55, SIF 15), [ss. 48\(2\)\(3\)](#), 49(8)

Marginal Citations

- M1** 1951 c. 40.
- M2** 1959 c. 25.
- M3** 1968 c. 73.
- M4** 1951 c. 40.
- M5** 1959 c. 25.

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. 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\(6\)](#)