



# Rights of Way Act 1990

## 1990 CHAPTER 24

### 4 Insertion of new Schedule 12A to Highways Act 1980.

After Schedule 12 to the Highways Act 1980 insert—

#### “SCHEDULE 12A

#### FURTHER POWERS OF HIGHWAY AUTHORITIES AND COUNCILS IN RELATION TO INTERFERENCE WITH HIGHWAYS

##### *Interpretation*

- 1 (1) For the purposes of this Schedule the “minimum width” and “maximum width” of a highway shall be determined in accordance with sub-paragraphs (2) and (3) below.
- (2) In any case where the width of the highway is proved, that width is both the “minimum width” and the “maximum width”.
- (3) In any other case—
  - (a) the “minimum width” is—
    - (i) as respects a footpath which is not a field-edge path, 1 metre,
    - (ii) as respects a footpath which is a field-edge path, 1.5 metres,
    - (iii) as respects a bridleway which is not a field-edge path, 2 metres,or  
(iv) as respects any other highway, 3 metres; and
  - (b) the “maximum width” is—
    - (i) as respects a footpath, 1.8 metres,
    - (ii) as respects a bridleway, 3 metres, or
    - (iii) as respects any other highway, 5 metres.

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*Changes to legislation:* There are currently no known outstanding effects for the Rights of Way Act 1990, Section 4. (See end of Document for details)

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*Competent authorities*

- 2 For the purposes of this Schedule each of the following shall be a competent authority in relation to a highway—
- (a) the highway authority; and
  - (b) in the case of a highway maintained by a district council under section 42 or 50 of this Act, that council.

*Power to carry out works*

- 3 (1) Where the surface of—
- (a) a footpath,
  - (b) a bridleway, or
  - (c) any other highway which consists of or comprises a carriageway other than a made-up carriageway,
- has been so disturbed as to render it inconvenient for the exercise of the public right of way, a competent authority may make good the surface to an extent not less than the minimum width nor greater than the maximum width.
- (2) Where the surface of a footpath or bridleway was disturbed under the right conferred by section 134(1) of this Act, the power conferred by sub-paragraph (1) above shall not become exercisable until the expiration of the period which is the relevant period for the purposes of section 134 or an extension of that period granted under subsection (8) of that section.
- (3) Where the surface of a footpath or bridleway was disturbed under an order made by virtue of section 135 of this Act, the power conferred by sub-paragraph (1) above shall not become exercisable until the expiration of the period which is the authorisation period for the purposes of section 135.
- 4 (1) Where the occupier of any land fails to carry out the duty imposed on him by section 134(3)(b) or 137A(1) of this Act in relation to a highway, a competent authority may carry out such works as may be necessary or expedient for the purpose of rectifying the default.
- (2) Sub-paragraph (1) above does not authorise the carrying out of works to an extent greater than the maximum width of the highway.
- (3) Where the surface of a footpath or bridleway was disturbed under the right conferred by section 134(1) of this Act, the power conferred by sub-paragraph (1) above shall not become exercisable until the expiration of the period which is the relevant period for the purposes of section 134, or an extension of that period granted under subsection (8) of that section.
- 5 If the applicant fails to comply with a condition imposed under section 135(3)(b) or (4)(a) or (b) of this Act, a competent authority may carry out such works as may be necessary or expedient for the purpose of rectifying the default.
- 6 Paragraphs 7 to 9 below have effect in relation to the carrying out by a competent authority of work under paragraphs 3 to 5 above in relation to a highway which passes over any land (“the relevant land”).

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### *Entry on land*

- 7 Subject to paragraph 8 below, any person duly authorised in writing by the authority may enter on the relevant land, or any other land the authority reasonably believe to be in the same occupation, for any purpose connected with the carrying out of the work; and may take with him on to the land such vehicles, machinery and other equipment as may be requisite.
- 8 (1) Except in the case of entry, solely for the purpose of obtaining information, on land other than a building or structure, before entering on any land the authority shall give the occupier not less than twenty-four hours' notice of their intention to do so; and the notice shall—
- (a) identify the highway to which it relates; and
  - (b) specify the work to be carried out and the equipment to be used for that purpose; and
  - (c) identify the line or lines of passage over the land in question, if any, that may need to be used for access to the site of the work; and
  - (d) state the date and time when the power to enter on the land becomes exercisable.
- (2) Without prejudice to section 322 (service of notices etc.) of this Act, if after reasonable enquiry the authority are satisfied that it is not practicable to ascertain the name and address of the occupier, a notice under this paragraph may be given by addressing it to him as “The Occupier” of the land (describing it) and affixing copies of the notice to some conspicuous object—
- (a) at each end of so much of the highway as is referred to in the notice; and
  - (b) at such other points in the vicinity of that highway as the authority may consider suitable; and
  - (c) if appropriate, at a point adjacent to a highway comprising a made-up carriageway from which access is required for equipment.
- (3) A notice shall not be given under this paragraph before the power referred to in paragraph 3, 4 or 5 above has become exercisable.

### *Financial*

- 9 (1) Subject to sub-paragraph (2) below, a competent authority may recover the amount of any expenses reasonably incurred by the authority in, or in connection with, the carrying out of the work—
- (a) in a case falling within paragraph 3(1) above, from the occupier of the relevant land or the person who disturbed the surface of the highway; and
  - (b) in any other case, from the occupier of the relevant land.
- (2) A person—
- (a) is not liable under paragraph (a) of sub-paragraph (1) above if he shows that he had any lawful authority or excuse for disturbing the surface of the highway; and
  - (b) is not liable under that paragraph as an occupier of land if he shows that the surface of the highway was not disturbed by him or with his consent.”

**Changes to legislation:**

There are currently no known outstanding effects for the Rights of Way Act 1990, Section 4.