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# Highways Act 1980

## 1980 CHAPTER 66

### PART XII

#### ACQUISITION, VESTING AND TRANSFER OF LAND ETC.

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

C1 Pt. XII (ss. 238–271) applied by SI 1986/564, art. 4(2)(a)

##### *Introductory*

#### **238 Interpretation etc. of Part XII.**

- (1) Any power under sections 239 to 246 below to acquire land, except the power under section 246(2), is exercisable compulsorily or by agreement.
- (2) In this Part of this Act “common”, “fuel or field garden allotment” and “open space” have the same meaning respectively as in the [<sup>F1</sup>Acquisition of Land Act of 1981].

##### Textual Amendments

F1 Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, [Sch. 4 para. 31\(2\)](#)

##### *Acquisition of land generally*

#### **239 Acquisition of land for construction, improvement etc. of highway: general powers.**

- (1) Subject to section 249 below, the Minister<sup>[F2]</sup> or a strategic highways company ] may acquire land required for the construction of a trunk road, and any highway authority

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may acquire land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road.

- (2) Subject to section 249 below, the Minister<sup>F3</sup> or a strategic highways company ] may acquire land which in his<sup>F4</sup> or its] opinion is required—
- (a) for the carrying out of any works authorised by an order relating to a trunk road under section 14 above, or
  - (b) for the provision of buildings or facilities to be used in connection with the construction or maintenance of a trunk road other than a special road.
- (3) Subject to section 249 below, a highway authority may acquire land required for the improvement of a highway, being an improvement which they are authorised by this Act to carry out in relation to the highway.
- (4) Subject to section 249 below, a special road authority may acquire land which in the opinion of the authority is required—
- (a) for the improvement of a highway which is included in the route of the special road but has not been transferred to the authority by means of an order under section 18 above,
  - (b) for the purposes of any order made in relation to the special road under section 18 above, or
  - (c) for the provision of service stations or other buildings or facilities to be used in connection with the construction of the special road or with the use or maintenance of it.
- (5) Where a highway authority have acquired, or propose to acquire, in exercise of any of the powers conferred by subsections (1) to (4) above, land forming part of a common, open space, or fuel or field garden allotment, and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land under the subsection in question as if it were land required for the construction or improvement of a highway, and nothing in section 249 below applies to an acquisition by virtue of this subsection.
- (6) A highway authority may acquire land required for the improvement or development of frontages to a highway for which they are the highway authority or of the land adjoining or adjacent to that highway.

#### Textual Amendments

- F2** Words in s. 239(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 45(2)**; [S.I. 2015/481](#), reg. 2(a)
- F3** Words in s. 239(2) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 45(3)(a)**; [S.I. 2015/481](#), reg. 2(a)
- F4** Words in s. 239(2) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 45(3)(b)**; [S.I. 2015/481](#), reg. 2(a)

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

- C2** S. 239(3)(4)(c) applied (13.2.1992) by [Severn Bridges Act 1992 \(c. 3\)](#), s. 32(2)
- C3** S. 239(4)(c) extended (1.11.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 16(3)(with ss. 25(2), 167(2)); [S.I. 1991/2288](#), art. 3, **Sch.**

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## **240 Acquisition of land in connection with construction, improvement etc. of highway: further general powers.**

- (1) Subject to section 249 below, a highway authority may acquire land which is required for, or for use by them in connection with, the carrying out of works authorised by section 129 above, or by an order relating to a classified road under section 14 above.
- (2) Without prejudice to any other power conferred by this Act—
  - (a) a highway authority may acquire land which is required for use by them in connection with the construction or improvement of a highway, or with the carrying out of works authorised by an order relating to a trunk road under section 14 above or an order under section 18 or section 108(1) above; and
  - (b) any power of a highway authority under subsection (1) above or under any provision of this Part of this Act not contained in this section to acquire land for a purpose whose achievement involves the diversion of a navigable watercourse or the carrying out of works under section 110 above includes power to acquire land which is required for carrying out the diversion or, as the case may be, the works.
- (3) Subject to section 249 below, the Minister<sup>F5</sup> or a strategic highways company] may acquire land which is required for the purpose of—
  - (a) providing a trunk road picnic area; or
  - (b) providing public sanitary conveniences in the exercise of his<sup>F6</sup> or its] powers under section 112(5) above.
- (4) A local highway authority may acquire land which is required for the purpose of providing public sanitary conveniences in the exercise of their powers under section 114 above.
- (5) Subject to section 249 below, a highway authority may acquire land which is required for the purpose of providing a lorry area in the exercise of their powers under section 115 above.
- (6) Where, in exercise of any of the powers conferred by subsections (1) to (5) above, a highway authority have acquired, or propose to acquire, for any purpose land forming part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land.

### **Textual Amendments**

- F5** Words in s. 240(3) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 46\(a\)](#); [S.I. 2015/481, reg. 2\(a\)](#)
- F6** Words in s. 240(3)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 46\(b\)](#); [S.I. 2015/481, reg. 2\(a\)](#)

## **241 Acquisition of land between improvement line and boundary of street.**

- (1) Where a highway authority have prescribed an improvement line in relation to any street under section 73 above they may acquire any land, not occupied by buildings, lying between the improvement line and the boundary of the street.

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- (2) Any land acquired under this section shall, at such time or times as the highway authority may determine, be added to and made good as part of the street by the authority, and until it is so added the occupier of the land from which it is severed, and other persons with his permission, are entitled to reasonable access across the land so acquired to and from the street, and have the same rights in regard to the laying, altering, maintaining and removal of [<sup>F7</sup>sewers,] drains, mains, pipes or electric lines in that land as if it were already part of the street.
- (3) Subsection (11) of section 73 above has effect in relation to this section as it has effect in relation to that section.

#### Textual Amendments

**F7** Word inserted 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(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

#### **242 Acquisition of land for execution of works in connection with certain bridges.**

- (1) A highway authority may, subject to subsection (3) below, acquire land which they require to enable them to comply with a requirement or direction contained in an order made under section 93 above.
- (2) The Minister may, subject to subsection (3) below, authorise the owners of a bridge to acquire land which they require to enable them to comply with a requirement or direction contained in an order made under section 93 above.
- (3) Nothing in this section authorises the compulsory acquisition of land which is the property of a council, or which has been acquired by transport undertakers for the purposes of their undertaking, but—
- (a) a highway authority may acquire compulsorily a right upon, under or over such land for the purpose of executing any works which they are required or authorised by an order made under section 93 to execute or construct; and
  - (b) the Minister may authorise the owners of a bridge to acquire compulsorily a right upon, under or over such land for that purpose.

#### **243 Acquisition of land for cattle-grids etc.**

A highway authority may acquire land which they require for the purpose of providing, altering or improving a cattle-grid or by-pass in the exercise of powers conferred on them by this Act.

#### **244 Acquisition of land for road-ferries.**

A highway authority may acquire land which they require for the purpose of providing or improving a road-ferry in the exercise of powers conferred on them by this Act.

#### **245 Acquisition of land for buildings etc. needed for discharge of functions of highway authority.**

Without prejudice to section 239(4) above, a local highway authority may acquire land, whether situated within or without their area, which in their opinion is required for

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the provision of any buildings or facilities needed for the purposes of their functions as a highway authority.

**[<sup>F8</sup>245A Acquisition of land by Secretary of State [<sup>F9</sup>, strategic highways company ] or Assembly for buildings etc. needed for traffic management purposes**

- (1) The Secretary of State may acquire land which in his opinion is required for the provision of any buildings or facilities which are needed—
- (a) for use by, or in connection with the activities of, traffic officers in England; or
  - (b) for other purposes connected with the management of traffic on highways in England for which he is the highway authority.

- [ A strategic highways company may acquire land in England which in its opinion is <sup>F10</sup>(1A) required for the provision of any buildings or facilities which are needed—
- (a) for use by, or in connection with the activities of, traffic officers in the area for which it is appointed in accordance with Part 1 of the Infrastructure Act 2015; or
  - (b) for other purposes connected with the management of traffic on highways in that area and for which it is the highway authority.]

- (2) The National Assembly for Wales may acquire land which in its opinion is required for the provision of any buildings or facilities which are needed—
- (a) for use by, or in connection with the activities of, traffic officers in Wales; or
  - (b) for other purposes connected with the management of traffic on highways in Wales for which it is the highway authority.]

**Textual Amendments**

- F8** S. 245A inserted (4.10.2004 for E. for specified purposes, 1.5.2009 for W. for specified purposes and otherwise prosp.) by [Traffic Management Act 2004 \(c. 18\)](#), **ss. 13, 99** (with s. 38); S.I. 2004/2380, **art. 2(b)**; S.I. 2009/1095, **art. 2**
- F9** Words in s. 245A heading inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 47(3)**; S.I. 2015/481, **reg. 2(a)**
- F10** S. 245A(1A) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 47(2)**; S.I. 2015/481, **reg. 2(a)**

**246 Acquisition of land for mitigating adverse effects of constructing or improving highway.**

- (1) Subject to subsection (3) below, a highway authority may acquire land for the purpose of mitigating any adverse effect which the existence or use of a highway constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the highway.
- (2) Subject to subsection (3) below, a highway authority may acquire by agreement (but not compulsorily)—
- (a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or improvement of a highway;
  - (b) land the enjoyment of which is seriously affected by the use of a highway which the authority have constructed or improved,
- [<sup>F11</sup>if the interest of the vendor is a qualifying interest].

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- <sup>F12</sup>[(2A) Where the highway authority propose to carry out works on blighted land for the construction or improvement of a highway, they may acquire by agreement land the enjoyment of which will in their opinion be seriously affected by the carrying out of the works or the use of the highway if the interest of the vendor is a qualifying interest.
- (2B) In this section—
- “qualifying interest” has the meaning given in section 149(2) of the Town and Country Planning Act 1990, taking references to the relevant date as references to the date on which the purchase agreement is made, and
- “blighted land” has the meaning given in section 149(1) of that Act.]
- (3) The powers conferred by subsection (1) above to acquire land compulsorily and the powers conferred by subsection (2)(a) above shall not be exercisable unless the acquisition is begun before the date on which the highway or, as the case may be, the improved highway is first opened to public traffic (“the opening date”); and the powers conferred by subsection (1) above to acquire land by agreement and the powers conferred by subsection (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after the opening date.
- (4) For the purposes of subsection (3) above the acquisition of any land is begun—
- (a) if it is compulsory, on the date on which the notice required by [<sup>F13</sup>section 11 of the Acquisition of Land Act 1981] is first published;
- (b) if it is by agreement, on the date on which the agreement is made;
- and where the compulsory acquisition of any land under subsection (1) above is begun within the time limited by subsection (3) above but is not proceeded with, any subsequent compulsory acquisition of that land under subsection (1) is to be treated for the purposes of this section as begun within that time.
- (5) Where under the powers of this section a highway authority have acquired, or propose to acquire, land forming part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land.
- (6) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this section the land is to be treated as if it were being acquired for the construction of the highway or, as the case may be the improvement in question.
- (7) In this section references to the construction or improvement of a highway include references to the construction or improvement of a highway by virtue of an order under section 14 or 18 above.

#### Textual Amendments

- F11** Words in s. 246(2) substituted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\), s. 70, Sch. 15 para.26; S.I. 1991/2067](#), art. 3.
- F12** S. 246(2A)(2B) inserted (25.09.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:1\), s. 62\(2\); S.I. 1991/2067, art. 3](#).
- F13** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34, Sch. 4 para. 31\(3\)](#)

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## 247 General provision as to acquisition procedure etc.

- (1) Any power to acquire land compulsorily conferred by any of the foregoing provisions of this Part of this Act on<sup>[F14]</sup> a strategic highways company or] a local highway authority is exercisable in any particular case on their being authorised to do so by the Minister.
- <sup>[F15]</sup>(2) The Acquisition of Land Act 1981 shall, subject to sub-section (5) below, apply to the compulsory acquisition of land under any of the foregoing provisions of this Part of this Act.]
- (5) Notwithstanding anything in <sup>[F16]</sup>Part III of the Acquisition of Land Act 1981] an order authorising the owners of a bridge to acquire a right compulsorily pursuant to section 242(3) above is not subject to special parliamentary procedure by reason only of its authorising the acquisition of any such right, nor does anything in the said Part III prevent the acquisition of any right pursuant to section 242(3) above (whether by the owners of a bridge or by a highway authority).
- (6) Where under this Part of this Act a highway authority are authorised to acquire land by agreement, the provisions of Part I of the Act of 1965 (so far as applicable) other than sections 4 to 8, section 10 and section 31, apply, and in the said Part I as so applied the word “land” has the meaning provided by section 329 below.

### Textual Amendments

- F14** Words in s. 247(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 48](#); S.I. 2015/481, reg. 2(a)
- F15** S. 247(2) substituted for s. 247(2)–(4) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34, Sch. 4 para. 31\(4\)](#)
- F16** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34, Sch. 4 para. 31\(5\)](#)

## 248 Acquisition in advance of requirements.

- (1) Any power of the Minister under any of the foregoing provisions of this Part of this Act, other than sections 240 and 246 to acquire by agreement land required for a purpose mentioned in the provision in question is exercisable in respect of any land which, in the opinion of the Minister, may be required for that purpose, notwithstanding that the land is not immediately required for that purpose.
- (2) Subject to the following provisions of this section, where under any provision of this Act specified in column 1 of Schedule 17 to this Act a highway authority have power to acquire, or have acquired, land (“the initial stage area”) for a purpose specified in column 2 of that Schedule, then any power of the authority under this Act to acquire land compulsorily for a purpose specified in column 3 is, in the case of other land adjacent to the initial stage area (“the subsequent stage area”), exercisable by them notwithstanding that the other land is not immediately required for the purpose specified in column 3.
- (3) A highway authority shall not acquire land compulsorily by virtue of subsection (2) above unless one or more of the following conditions are satisfied, namely—
  - (a) the authority intend, when they have acquired the subsequent stage area, forthwith to incorporate it within the boundaries of the highway or proposed highway or, as the case may be, of the service area, maintenance compound,

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- trunk road picnic area or lorry area, for the purposes of which the initial stage area is to be, or has been, acquired;
  - (b) the authority's proposed use of the initial stage area involves the carrying out of works wholly or partly on, or under or over, the subsequent stage area;
  - (c) plans for the use of the subsequent stage area (for the purpose for which the authority have power by virtue of this section to acquire it) have been made or approved by the Minister.
- (4) A highway authority shall not by virtue of subsection (2) above acquire land compulsorily for any purpose where, apart from this section, they would not have power to acquire it compulsorily if it were required immediately for that purpose.

**249 Distance limits from highway applicable to compulsory acquisition.**

- (1) Subject to subsection (3) below, a highway authority shall not in the exercise of a power to acquire land under any of the provisions of this Act specified in column 1 of Part I of Schedule 18 to this Act require compulsorily land lying beyond the limit specified in relation to that power in column 2 of that Schedule.
- (2) Part II of Schedule 18 has effect with respect to limits specified in Part I of that Schedule.
- (3) Nothing in this section applies to land required for purposes connected with the drainage of a highway or proposed highway, or of a maintenance compound, service area, trunk road picnic area or lorry area, or required for the purpose—
- (a) of the diversion of a navigable watercourse,
  - (b) of the carrying out of works authorised by section 110 above, or
  - (c) of providing protection for a highway or proposed highway against snow, flood, landslide or other hazards of nature.

*Additional provisions with respect to acquisition of rights over land*

**250 Land acquisition powers to extend to creation as well as acquisition of rights.**

- (1) A compulsory purchase order made in the exercise of highway land acquisition powers may provide for the acquisition of rights over land by creating them as well as for the acquisition of rights already in existence.

In this Act “highway land acquisition powers” means powers in respect of acquisition of land which are exercisable by a highway authority under any of the following provisions of this Act, namely, sections 239, 240, 242 to 246 and 250(2).

- (2) Where rights over land are, or are to be, acquired by a highway authority by means of a compulsory purchase order made in the exercise of highway land acquisition powers, and the land forms part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for those rights, the authority may acquire by agreement or compulsorily that other land; and subsections (1) to (3) of section 247 above apply in relation to this subsection as they apply in relation to the provisions there mentioned.
- (3) In section 247(1) to (4) above references to acquisition of land include references to compulsory acquisition of rights by virtue of this section.



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[<sup>F17</sup>(3A) Schedule 3 to the Acquisition of Land Act 1981 shall apply to the compulsory purchase of a right by virtue of this section.]

- (4) The Acts of . . . <sup>F18</sup> 1965 have effect with the modifications necessary to make them apply to the compulsory acquisition of a right by virtue of this section as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in these Acts to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is, or is to be, exercisable, according to the requirements of the particular context.
- (5) For the purpose of giving effect to this section, and without prejudice to the general adaptation of enactments under subsection (4) above—
- [<sup>F19</sup>(a) Part II of Schedule 19 to this Act has effect for the adaptation of Part I of the Act of 1965 to cases of compulsory acquisition of rights]
- (c) as respects compensation in such cases, the enactments relating to compensation for the compulsory purchase of land apply, with the necessary modifications, as they apply to compensation on the compulsory purchase of land and interests in land.
- (6) References in any enactment or instrument to the acquisition of land, in a context relating to compulsory acquisition under highway land acquisition powers, are to be construed (except in so far as the context otherwise requires) as including references to the compulsory acquisition of a right or rights by virtue of this section.
- (7) The provisions of this section are without prejudice to section 242(3) above, sections 254 and 255 below and any other provision of this Act which, by virtue of the definition of “land” in section 329(1) below, authorises the acquisition of interests in or rights over land.
- (8) References in this section and in sections 251 and 252 below to rights over land include references to the right to do, or to place and maintain, any thing in, on or under land, or in the air-space above its surface.

#### Textual Amendments

- F17** S. 250(3A) inserted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 4 para. 31(6)**
- F18** 1946 and repealed by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 6 Pt. I**
- F19** S. 250(5)(a) substituted for paras. (a) and (b) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 4 para. 31(7)**

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

- C4** S. 250(4) modified by [Dartford-Thurrock Crossing Act 1988 \(c. 20, SIF 29\)](#), ss. 2, 19, **Sch. 2, Pt. II para. 2(3)(a)**
- C5** S. 250(4)(5) applied (with modifications) (13.2.1992) by [Severn Bridges Act 1992 \(c. 3\)](#), s. 2(6), **Sch. 2, Pt. II, para. 1(3)(a)** and (5.11.1993) by [1993 c. 42, s. 5](#), **Sch. 4 para. 1(2)(3)(a)**
- C6** S. 250(5) modified by [Dartford-Thurrock Crossing Act 1988 \(c. 20, SIF 29\)](#), ss. 2, 19, **Sch. 2, Pt. II, para. 2(3)(a)**

## 251 Rights acquired to be binding on successive owners of the land.

- (1) Where by a deed or other instrument in which—

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- (a) it is stated that it is made in pursuance of a compulsory acquisition of rights by virtue of section 250 above; or
- (b) it is certified by a highway authority that the instrument is made in connection with the performance of their functions under this Act,
- any person having an interest in the land grants or agrees to grant to a highway authority any right over the land, the grant or agreement is binding upon his successors in title and persons deriving title under him or them (otherwise than by a disposition taking effect before the date of the grant) to the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon such persons apart from this subsection.
- (2) Where by a deed poll under any provision of the Act of 1965 a highway authority vest in themselves any right over land as against some person having an interest in the land, that right is binding upon that person's successors in title and persons deriving title under him or them (otherwise than by a disposition taking effect before the date of the deed poll) to the same extent as it is, or would have been, binding upon the first-mentioned person.
- (3) The foregoing provisions of this section apply whether or not (apart from this section) the right in question is capable in law of binding interests in the land other than the interest of the grantor or, as the case may be, the person first-mentioned in subsection (2) above.
- (4) Where under any provisions of this Act any right conferred by a deed or other instrument to which subsection (1) or (2) above applies is transferred from one highway authority to another, this section applies after the transfer in relation to the other highway authority as it applied before the transfer to the first-mentioned authority.
- (5) <sup>F20</sup> .....

#### Textual Amendments

**F20** S. 251(5) repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 133, 135, [Sch. 11 para. 16](#), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); S.I. 2003/1725, [art. 2\(1\)](#)

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

- C7** S. 251 modified by [Dartford-Thurrock Crossing Act 1988 \(c. 20, SIF 59\)](#), ss. 2, 19, [Sch. 2, Pt. II para. 2\(3\)\(b\)](#)
- C8** S. 251 applied (with modifications) (13.2.1992) by [Severn Bridges Act 1992 \(c. 3\)](#), s. 2(6), [Sch. 2 Pt. II para. 1\(3\)\(b\)](#)
- C9** S. 251 applied (with modifications) (16.7.1992) by [Cattewater Reclamation Act 1992 \(c. xiv\)](#), [s. 5\(2\)](#)
- C10** S. 251(1)-(3) applied (with modifications) (5.11.1993) by [1993 c. 42, s. 5](#), [Sch. 4 para. 1\(2\)\(3\)\(b\)](#)

## 252 Power of landowner affected by rights acquisition to compel acquisition of whole interest.

- (1) The following provisions have effect where there has come into force a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers and providing for the acquisition of a right over land and notice to treat in respect of the right has been served on a person having an interest in the land.

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- (2) A person for the time being entitled to that interest (“the landowner”) may, at any time within 6 weeks of service of the notice to treat, or such longer period as may be agreed in writing by the highway authority, but so long only as the notice has not been withdrawn, serve on the highway authority a counter-notice requiring them, instead of acquiring the right in question, to acquire instead his interest so far as it subsists in the land which is shown in the notice to treat as that over which the right is to be acquired.
- (3) As from the date of service of the landowner’s counter-notice—
- (a) the compulsory purchase order shall, as against the landowner, cease to have effect so far as it authorises the acquisition of the right in respect of which the counter-notice was served and shall have effect instead so as to authorise the authority to acquire compulsorily the landowner’s interest in the land referred to in subsection (2) above; and
  - (b) the notice to treat referred to in subsection (1) above shall be deemed to have been served (on the date on which it was in fact served) in respect of the said interest, instead of in respect of the right (without prejudice to the authority’s power under section 31 of the <sup>M1</sup>Land Compensation Act 1961 to withdraw the notice).
- (4) Nothing in this section prevents the highway authority from exercising any powers (and, in particular, any power of entry) which they have by virtue of having served notice to treat; and the operation of subsection (3) above does not prejudice any such power of the authority either as respects a previous exercise of it or as respects its continuance by virtue of sub-section (3)(b).

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

**C11** S. 252 modified by Dartford-Thurrock Crossing Act 1988 (c. 20, SIF 59), ss. 2, 19, **Sch. 2, Pt. II para. 2(3)(c)**

**C12** S. 252 applied (with modifications) (13.2.1992) by Severn Bridges Act 1992 (c. 3), s. 2(6), **Sch. 2 Pt. II para. 1(3)(c)**

**Marginal Citations**

**M1** 1961 c. 33.

**253 Agreements as to use of land near highways.**

- (1) For the purpose of mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on the surrounding of the highway, the highway authority may enter into an agreement with any person interested in land adjoining or in the vicinity of the highway for restricting or regulating the use of the land either permanently or during such period as may be specified in the agreement.

Any such agreement may, in particular, make provision for the planting and maintenance of trees, shrubs or plants of any other description on the land and for restricting the lopping or removal of trees, shrubs or other plants on the land.

- (2) An agreement under this section may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the highway authority to be necessary or expedient for the purposes of the agreement.

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- (3) The provisions of any agreement made under this section with any person interested in land are binding on persons deriving title from that person in respect of the land.
- (4) An agreement under this section is a local land charge.
- (5) This section is without prejudice to <sup>[F21]</sup>section 106 of the Town and Country Planning Act 1990] (agreements regulating development or use of land).

#### Textual Amendments

**F21** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 45\(14\)](#)

### 254 Compulsory acquisition for certain purposes of rights in land belonging to local authorities etc.

- (1) Subject to the provisions of this section, an order made, or made and confirmed, in the like manner and subject to the like conditions as an order authorising compulsory acquisition of land under section 239 above may authorise a highway authority to acquire compulsorily, subject to such conditions (including conditions as to the persons by whom any works are to be constructed or maintained) as may be imposed by the order, a right upon, under or over any land which is the property of a local authority or which has been acquired, for the purposes of their undertaking, by statutory undertakers, if the acquisition is—
  - (a) for the purposes of the construction of a bridge or of the approaches to a bridge (not including the reconstruction or alteration of the bridge or approaches in existence at the date of the order) upon, under or over such land;
  - (b) for the purposes of the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of the bridge or of the approaches to a bridge transferred to the Minister<sup>[F22]</sup> or a strategic highways company] by virtue of section 266 below or transferred to a special road authority other than the Minister<sup>[F22]</sup> or a strategic highways company] by virtue of section 267 below; or
  - (c) for the purposes of any system of road drainage;
 and, <sup>[F23]</sup>nothing in Part III of, or Schedule 3 to, the Acquisition of Land Act 1981 shall prevent] the acquisition of any such right.
- (2) The power to acquire a right compulsorily conferred by subsection (1) above may be exercised—
  - (a) if the acquisition is for a purpose specified in that subsection in connection with a trunk road in a London borough, . . . <sup>F24</sup> by the council of that borough and . . . <sup>F24</sup> as well as by the Minister<sup>[F25]</sup> or a strategic highways company], and
  - (b) if the acquisition is for a purpose so specified in connection with any other trunk road, by the council of the county <sup>[F26]</sup>or metropolitan district] in which the road is situated as well as by the Minister<sup>[F25]</sup> or a strategic highways company].
- (3) An order authorising the compulsory acquisition of a right under this section shall be made subject to such conditions as the Minister, after consultation with the local authority or statutory undertakers from whom the right is to be acquired, considers necessary for securing—

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- (a) that the bridge or approaches to be constructed, reconstructed or altered, as the case may be, will be so designed, placed and constructed, or so reconstructed or altered, or
  - (b) that the drainage system to be provided will be so designed, placed and constructed,
- as to avoid unreasonable interference with the functions and future development of the body concerned.
- (4) An order authorising the compulsory acquisition under this section of a right for the purposes of a system of road drainage shall be made subject to such conditions as the Minister considers necessary for securing that no highway is drained—
- (a) into any watercourse under the control of an <sup>[F27]</sup>, the Environment Agency or the Natural Resources Body for Wales without the consent of that body, or <sup>[F28]</sup> the National Rivers Authority without the consent of that board or that Authority], or
  - (b) into any reservoir, river, canal, dock, harbour, basin, culvert, <sup>[F29]</sup> sewer,] syphon or other work which belongs to or is under the jurisdiction of a local authority or statutory undertakers without the consent of that authority or those undertakers.
- (5) Nothing in this section authorises the compulsory acquisition of a right upon, under or over any land for the purposes of the construction of a bridge under or over the Manchester Ship Canal; but this subsection does not prevent the acquisition of such a right if the acquisition is—
- (a) for the purposes of the construction of a bridge for which provision is made by any such order as is mentioned in section 106(1) above, or
  - (b) for the purposes of the execution of any works (other than the reconstruction of a bridge on a different site) for the maintenance, improvement or alteration of a bridge transferred to the Minister<sup>[F30]</sup> or a strategic highways company] by virtue of section 266 below.
- (6) For the purposes of this section and section 255 below—
- “local authority” has the same meaning as in the <sup>[F31]</sup> Acquisition of Land Act 1981], and
  - the Civil Aviation Authority <sup>[F32]</sup>, a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (to the extent that the person is carrying out activities authorised by the licence)] and <sup>[F33]</sup> a universal service provider in connection with the provision of a universal postal service] are to be deemed to be statutory undertakers.

<sup>[F34]</sup>(6ZA) In its application to a person who holds a licence under Chapter I of Part I of the Transport Act 2000, subsection (1) of this section shall be construed as if for the words “or which has been acquired, for the purposes of their undertaking, by statutory undertakers” there were substituted the words “or of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 and which, in the case of such a person, is being held or used for the purpose of carrying out activities authorised by the licence”];

<sup>[F35]</sup>(6A) In its application to a universal service provider, subsection (1) of this section shall be construed as if for the words “or which has been acquired, for the purposes of their undertaking, by statutory undertakers” there were substituted the words “or of a universal service provider and which, in the case of a universal service provider, is

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being held or used for any purpose in connection with the provision of a universal postal service”.]

#### Textual Amendments

- F22** Words in s. 254(1)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 49(2)**; S.I. 2015/481, reg. 2(a)
- F23** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 4 para. 31(8)**
- F24** Word(s) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F25** Words in s. 254(2) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 49(3)**; S.I. 2015/481, reg. 2(a)
- F26** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 19**
- F27** Words in s. 254(4)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 165** (with Sch. 7)
- F28** 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(9)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F29** Word inserted 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(9)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F30** Words in s. 254(5)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), **Sch. 1 para. 49(4)**; S.I. 2015/481, reg. 2(a)
- F31** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, **Sch. 4 para. 31(9)**
- F32** Words in s. 254(6) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 4(b)(i)**
- F33** Words in s. 254(6) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 49(8)(a)**
- F34** S. 254(6ZA) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. II para. 4(b)(ii)**
- F35** S. 254(6A) inserted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 49(8)(b)**

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

- C13** S. 254(6): by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, **Sch. 4 para. 3(1)** it is provided that references to British Telecommunications in s. 254(6) cease to have effect

## 255 Liability for certain expenses resulting from order under section 254.

- (1) Subject to the provisions of this section, an order authorising the compulsory acquisition of a right by a highway authority under section 254 above for a purpose specified in section 254(1)(a) or (b) shall, except so far as may be otherwise agreed, provide that the bridge or approaches to which the order relates is to be constructed, reconstructed or altered, as the case may be, and maintained, at the expense of the highway authority.
- (2) Where an order is made authorising the compulsory acquisition of a right by a highway authority under section 254 above for the purpose of substituting a bridge for a level crossing over a railway, the expenses of the construction and maintenance of the bridge and of the approaches to the bridge shall, subject to subsection (3) below, be defrayed either—
  - (a) wholly by the highway authority, or
  - (b) partly by the highway authority and partly by the person from whom the right is acquired (hereafter in this section referred to as “the railway owners”) as, in default of agreement, may be determined by arbitration.
- (3) Unless otherwise agreed—
  - (a) the railway owners’ share of the expenses of such construction and maintenance, except so much of those expenses as is attributable to works

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- executed at the instance of the railway owners for the improvement of their undertaking, shall be an amount equivalent to the saving to the railway owners estimated to result from the substitution of a bridge for the level crossing; and
- (b) any additional expense incurred by the railway owners by reason of any alteration of a railway due to the provisions of the order, other than provisions applied for by the railway owners for the improvement of their undertaking, shall be defrayed by the highway authority.
- (4) Where by virtue of an agreement or award made under subsection (2) above the railway owners are required to contribute to the expenses of a highway authority the contribution shall, at the option of the railway owners, be paid—
- (a) as a lump sum, or
- (b) by annual payments of such amount, and continuing for such number of years, as may be agreed between the railway owners and the highway authority or, in default of agreement, as may be determined by arbitration, or
- (c) by perpetual annual payments of such amount as may be so agreed or determined.
- (5) Where by means of an order authorising a compulsory acquisition under section 254 above a highway authority acquire a right from a local authority or statutory undertakers any additional expense which, in consequence of—
- (a) the construction, reconstruction or alteration of the bridge to which the order relates, or of the approaches to that bridge, or
- (b) the construction of the drainage system to which the order relates,
- is thereafter incurred by the local authority or statutory undertakers in connection with the widening or alteration, on land which was vested in them before the making or confirmation of the order, of any railway, canal, inland navigation, dock, harbour, works or apparatus belonging to them, shall be defrayed by the highway authority.
- (6) Any question whether any such additional expense as is mentioned in subsection (5) above has been incurred as there mentioned, or as to the amount of any such additional expense, shall, in default of agreement, be determined by arbitration.
- (7) An order authorising the compulsory acquisition of a right by a highway authority under section 254 above for the purposes of a system of road drainage shall, except so far as may be otherwise agreed, provide that the system is to be constructed and maintained at the expense of the highway authority.

### *Exchange of land*

## **256 Power to exchange land to adjust boundaries of highways.**

- (1) Subject to the provisions of this section, the highway authority for any highway maintainable at the public expense may, for the purpose of straightening or otherwise adjusting the boundaries of the highway, enter into an agreement with the owner of any land which adjoins or lies near to the highway providing for the exchange of any such land for land on which the highway is situated, with or without the payment by either party of money for equality of exchange.
- (2) A highway authority proposing to enter into an agreement under this section shall—

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- (a) publish once at least in each of 2 successive weeks, in one or more newspapers circulating in the area concerned, a notice giving particulars of the proposed agreement; and
  - (b) not later than the date on which the notice is first published in pursuance of paragraph (a) above (“the publication date”), serve a copy of the notice—
    - (i) on any statutory undertakers appearing to the authority to be affected by the proposal; and
    - (ii) on any other person appearing to the authority to have an interest in the land proposed to be conveyed by the authority; and
  - (c) not later than the publication date, cause a copy of the notice to be displayed in a prominent position on the part of the highway to which the proposal relates; and shall not enter into the proposed agreement before the expiration of the period of 2 months from the publication date and, where an appeal under subsection (3) below is brought against the proposed agreement, until the determination or abandonment of the appeal and of any appeal arising out of that appeal.
- (3) Any person who objects to a proposed agreement under this section may, before the expiration of the period aforesaid, appeal to a magistrates’ court against the proposed agreement; and the court shall, after considering any representations made by or on behalf of any party to the appeal and the desirability in the public interest of the proposed agreement, either dismiss the appeal or order the highway authority not to enter into the proposed agreement (without prejudice to the power of the authority to make the same proposal on a subsequent occasion).
- (4) Where any land on which a highway is situated falls to be conveyed by the highway authority in pursuance of an agreement under this section, then—
- (a) if the land belongs to the highway authority, nothing in this section dispenses with any consent of a government department which, under any enactment, is required for the conveyance, but where such consent is given or is not required the conveyance of the land by the authority operates, by virtue of this paragraph, to extinguish the public right of way over the land;
  - (b) if the land does not belong to the highway authority, the authority may convey the land in accordance with the agreement and the conveyance operates, by virtue of this paragraph, to vest the land in the transferee for an estate in fee simple freed and discharged (subject to subsections (6) and (7) below and section 334(2) below) from all other estates, interests, rights and charges, including the public right of way, which subsisted in, over or on the land immediately before the conveyance.
- (5) Where by virtue of subsection (4)(b) above any person suffers damage by being deprived of such an estate, interest, right or charge as is there mentioned, other than the public right of way, the highway authority shall pay him compensation equal to the amount of the damage.
- (6) Where immediately before the conveyance of any land by a highway authority in pursuance of this section there is under, in, upon, over, along or across the land any apparatus belonging to or used by statutory undertakers for the purposes of their undertaking Part II of Schedule 12 to this Act applies to the land.
- [<sup>F36</sup>(6A) In this section “ statutory undertakers ” includes operators of driver information systems ]
- (7) Nothing in this section affects any mines or minerals under a highway.



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### Textual Amendments

**F36** S. 256(6A) inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 13(1), [Sch. 4 para. 3\(12\)](#)

*Further provisions with respect to acquisition procedure  
for exercise of highway land acquisition powers*

## 257 Compulsory acquisition proceedings taken concurrently with other related proceedings, etc.

- (1) Where a compulsory purchase order is made or proposed to be made in the exercise of highway land acquisition powers—
  - (a) for the purpose of enabling one or more of the orders and schemes to which Schedule 1 to this Act applies (“the related instruments”) to be implemented when it or they become operative, or
  - (b) for a purpose connected with a highway or proposed highway to which one or more of the related instruments relate,the proceedings required by [<sup>F37</sup>Acquisition of Land Act 1981] to be taken for the purpose of confirming or making the compulsory purchase order may be taken concurrently (so far as practicable) with the proceedings required by Schedule 1 to this Act to be taken for the purpose of confirming or making the related instrument or, as the case may be, with two or more of the proceedings thereby required to be taken for the purpose of confirming or making the related instruments.
- (2) Where—
  - (a) a compulsory purchase order is made or proposed to be made in the exercise of highway land acquisition powers for the purpose of the provision of a new means of access to any premises, and
  - (b) an order under section 124 above authorising the stopping up of a means of access to those premises is made or proposed to be made in connection with the provision of the new means of access,the proceedings required by [<sup>F38</sup>Acquisition of Land Act 1981] to be taken for the purpose of confirming or making the compulsory purchase order may be taken concurrently (so far as practicable) with the proceedings required by section 124 to be taken for the purpose of confirming or making the order under that section.
- (3) A compulsory purchase order made in the exercise of highway land acquisition powers for a purpose specified in column 1 of Schedule 20 to this Act may come into operation on the same day as any order or scheme specified in relation thereto in column 2 of that Schedule.
- (4) The Minister of Transport may make regulations for securing that proceedings required by [<sup>F39</sup>Acquisition of Land Act 1981] to be taken in respect of the compulsory acquisition of any land—
  - (a) for the purpose of enabling a highway authority or the owners of a bridge to comply with a requirement or direction contained in an order made under section 93 above, or
  - (b) for the purpose of providing or improving a cattle-grid or by-pass in the exercise of powers conferred by this Act,

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may be taken concurrently (so far as practicable) with proceedings required to be taken for the purposes of the order under section 93 or, as the case may be, the purposes of the determination under Schedule 10 to this Act of a question relating to the provision of the cattle-grid or by-pass.

#### Textual Amendments

**F37** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, [Sch. 4 para. 31\(10\)](#)

**F38** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, [Sch. 4 para. 31\(10\)](#)

**F39** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, [Sch. 4 para. 31\(10\)](#)

### 258 Provisions relating to objections to compulsory purchase orders.

- (1) Where proceedings required by [<sup>F40</sup>Part II of, or Schedule 1 to, the Acquisition of Land Act 1981] to be taken in respect of a compulsory purchase order made or proposed to be made in the exercise of highway land acquisition powers for a purpose specified in column 1 of Schedule 20 to this Act are taken after the confirmation or making by the Minister of an order or scheme specified in relation thereto in column 2 of that Schedule, then—
- (a) in the case of a compulsory purchase order proposed to be made by the Minister, the Minister and the Secretary of State acting jointly,
  - (b) in any other case, the Minister,
- may disregard for the purposes of the said Schedule 1 any objection to the compulsory purchase order or draft thereof, as the case may be, which in his or their opinion amounts in substance to an objection to that order or scheme.
- (2) Where objections to a compulsory purchase order made or proposed to be made in the exercise of highway land acquisition powers for purposes connected with the construction, improvement, diversion or alteration of a highway are to be the subject of a local inquiry or considered by a person appointed by the Minister, or by the Minister and the Secretary of State acting jointly, the Minister or, as the case may be, those Ministers may, by notice served on the persons making such objections or by the notice announcing the holding of the inquiry or hearing, direct that any person who intends at the inquiry to submit—
- (a) that any highway or proposed highway to which the order relates should follow an alternative route, or
  - (b) that, instead of improving, diverting or altering a highway to which the order relates, a new highway should be constructed on a particular route,
- shall send to the Minister within such period as may be specified in the notice, being a period of not less than 14 days and ending not less than 14 days before the date fixed for the holding of the inquiry or hearing, sufficient information about the alternative route or the route of the new highway, as the case may be, to enable it to be identified.
- (3) Where the Minister or the Minister and the Secretary of State acting jointly have given a direction under subsection (2) above in relation to an inquiry or hearing, the person holding the inquiry or hearing and the Minister or, as the case may be, those Ministers may disregard so much of any objection as consists of a submission to which the direction applies unless the person making the objection has complied with the direction.

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#### Textual Amendments

**F40** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, [Sch. 4 para. 31\(11\)](#)

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

**C14** Functions under s. 258 so far as exercisable jointly by Minister of Transport and Secretary of State now exercisable by Secretary of State for Transport: [S.I. 1981/238](#), [art. 2\(1\)\(b\)](#)

**C15** S. 258: functions transferred (25.11.2002) by [The Transfer of Functions \(Transport, Local Government and the Regions\) Order 2002 \(S.I. 2002/2626\)](#), [arts. 5, 7](#) (with art. 8)

### **259 Power to confirm, etc., compulsory purchase order in part and postpone consideration of remainder.**

**F41** .....

#### Textual Amendments

**F41** S. 259 repealed (31.10.2004) by [Planning and Compulsory Purchase Act 2004 \(c. 5\)](#), ss. 118(2), 120, [Sch. 7 para. 11\(4\)](#), [Sch. 9](#) (with s. 111, [Sch. 7 para. 11\(5\)](#)); [S.I. 2004/2593](#), [art. 2\(d\)\(e\)\(iv\)](#)

### **260 Clearance of title to land acquired for statutory purposes.**

- (1) There may be included in a compulsory purchase order made by a highway authority in the exercise of highway land acquisition powers land in which the authority have already acquired interests by agreement in the exercise of such powers.
- (2) Where land is included in a compulsory purchase order as mentioned above, it is to be treated as subject to compulsory purchase for the purposes of the Act of 1965, and that Act shall apply accordingly, except as respects—
  - (a) the conveyance to the acquiring authority of any interest which they have acquired by agreement before the date of the coming into force of the compulsory purchase order; and
  - (b) compensation, so far as already paid or the subject of agreement.
- (3) Where—
  - (a) in the exercise of powers conferred by section 239(4)(c) above, a special road authority have acquired land for the provision of a service area, or
  - (b) in the exercise of powers conferred by section 240(3)(a) above, the Minister<sup>F42</sup> or a strategic highways company] has acquired land for the provision of a trunk road picnic area, or
  - (c) in exercise of powers conferred by section 240(5) above, a highway authority have acquired land for the provision of a lorry area,subsection (4) below has effect with respect to any activities carried on on the land in the course of its use for the purposes of a service area, trunk road picnic area or lorry area, as the case may be.
- (4) Any such activities are, as against a person who apart from the acquisition would have had a right to restrain such activities, or a right the exercise of which would be calculated to interfere with them, to be treated as activities of the authority in question (that is to say, the special road authority, the Minister<sup>F43</sup>, strategic highways

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company ] or the highway authority, as the case may be) carried on under statutory powers, notwithstanding that they are carried on by other persons under contract to the authority or otherwise.

#### Textual Amendments

- F42** Words in s. 260(3)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 50\(2\)](#); S.I. 2015/481, reg. 2(a)
- F43** Words in s. 260(4) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 50\(3\)](#); S.I. 2015/481, reg. 2(a)

#### *Special compensation provisions as respects certain compulsory acquisitions for highway purposes*

### **261 Benefit to vendor to be taken into account in assessing compensation on certain compulsory acquisitions for highway purposes.**

- (1) Subject to subsection (3) below, in assessing the compensation payable in respect of the compulsory acquisition of land by a highway authority under section 239 above (except subsection (6) thereof), section 240 above, section 246 above or section 250(2) above, the [<sup>F44</sup>Upper Tribunal]—
- (a) shall have regard to the extent to which the remaining contiguous lands belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired;
  - (b) without prejudice to the generality of paragraph (a) above, shall in the case of land authorised to be acquired for widening a highway set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue to him by reason of the creation of a frontage to the highway as widened; and
  - (c) shall take into account, and embody in its award, any undertaking given by the highway authority as to the use to which the land, or any part of it, will be put.
- (2) Without prejudice to subsection (1) above, in assessing the compensation payable on a compulsory acquisition by virtue of section 252(3)(a) above the [<sup>F44</sup>Upper Tribunal] shall take into account, and embody in its award, any undertaking given by the acquiring authority as to rights of user or occupation, or other rights, which they are willing to accord to the landowner (or to him and his successors) as respects the land referred to in section 252(2) above.
- (3) Where a highway authority, by virtue of section 250(1) above, compulsorily acquire rights under section 239 above (except subsection (6) thereof), section 240 above or section 246 above, then in assessing the compensation payable in respect of the acquisition the [<sup>F44</sup>Upper Tribunal]—
- (a) shall have regard to the extent to which the land over which the right in question is, or is to be, acquired, or any contiguous land belonging to the same person, may be benefited by the purpose for which the right may be authorised to be acquired;
  - (b) shall, in the case of a right acquired, or to be acquired, in connection with the widening of a highway, take into account as abatement of compensation any increase in the value of the land, or of other land belonging to the same person,

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which will accrue by reason of the creation of a frontage to the highway as widened; and

- (c) shall take into account, and embody in its award, any undertaking given by the highway authority as to the manner in which the right will be exercised.
- (4) Where by a compulsory purchase order made in the exercise of a relevant power a highway authority acquire two or more rights over land belonging to the same person, or acquire not only rights (one or more) but also adjoining or adjacent land so belonging, then in applying subsection (1) or subsection (3) above the [<sup>F44</sup>Upper Tribunal] shall consider together the compensation payable in respect of both or all of the rights or, as the case may be, in respect of the right or rights and also the adjoining or adjacent land.

In this subsection “relevant power” means a power under any provision of this Act to which subsection (1) or (3) above relates.

- (5) In assessing the compensation payable in respect of the compulsory acquisition by a highway authority under section 241 above of land lying between an improvement line and the boundary of a street, the [<sup>F44</sup>Upper Tribunal] shall take into account any benefit accruing to the vendor by reason of the improvement of the street except in so far as it may have been previously taken into account in the assessment of compensation payable under section 73(9) above.
- (6) Section 5 of the <sup>M2</sup>Land Compensation Act 1961 shall, in its application to compulsory acquisition by a highway authority under a provision to which subsection (1), (3) or (5) above relates, have effect subject to subsection (1), (3) or (5) as the case may be.

#### Textual Amendments

**F44** Words in s. 261(1)(2)(3)(4)(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 134** (with art. 5(6), Sch. 5)

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

- C16** S. 261 modified by [Dartford–Thurrock Crossing Act 1988 \(c. 20, SIF 59\)](#), ss. 2, 19, **Sch. 2 Pt. II para. 7**
- C17** S. 261 modified (13.2.1992) by [Severn Bridges Act 1992 \(c. 3\)](#), s. 2(6), **Sch. 2 Pt. II para. 6**
- C18** S. 261(2) modified by [Dartford–Thurrock Crossing Act 1988 \(c. 20, SIF 59\)](#), ss. 2, 19, **Sch. 2 Pt. II para. 2(3)(c)**

#### Marginal Citations

**M2** 1961 c. 33.

## 262 Assumptions to be made in assessing compensation on certain compulsory acquisitions of land for service stations etc. and lorry areas for special roads.

- (1) Where land is compulsorily acquired—
- (a) under section 239(4)(c) above in a case where the acquisition is authorised by a compulsory purchase order which does not also authorise the acquisition of land required for the provision of the adjacent length of special road, or
- (b) in pursuance of a notice under [<sup>F45</sup>section 137 of the Town and Country Planning Act 1990] (protection of owners of land affected by certain planning decisions) in a case where the [<sup>F46</sup>Upper Tribunal] is satisfied that there are

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proposals for using the whole or part of the relevant land for such purposes in connection with the special road as are mentioned in section 239(4)(c) above and that the amount of compensation would apart from this section be affected by the provision or proposed provision of the special road, or

- (c) in pursuance of a notice under [<sup>F47</sup>section 150 or 161 of that Act] (protection of owner-occupiers in respect of planning blight) in a case where the appropriate enactment for the purposes of [<sup>F47</sup>section 154 of that Act] is or includes section 239(4)(c) above,

then subsection (3) below applies for the purpose of assessing compensation in respect of the compulsory acquisition.

- (2) Where there are proposals for the provision of a lorry area on land adjoining, or in the vicinity of, a special road or proposed special road then, if that land, or any land of which that land forms part, is compulsorily acquired—

- (a) under section 240(5) above in a case where the acquisition is authorised by a compulsory purchase order which does not also authorise the acquisition of land required for the provision of the adjacent length of special road, or
- (b) in pursuance of a notice under [<sup>F48</sup>section 137 of the Town and Country Planning Act 1990], in a case where the [<sup>F46</sup>Upper Tribunal] is satisfied that there are proposals for using the whole or part of the relevant land for the purpose of providing a lorry area, in connection with the special road, and that the amount of the compensation would apart from this section be affected by the provision or proposed provision of the special road, or
- (c) in pursuance of a notice under [<sup>F49</sup>section 150 or 161 of that Act] in a case where the appropriate enactment for the purposes of [<sup>F50</sup>section 154 of that Act] is or includes section 240(5) above,

subsection (3) below applies for the purpose of assessing compensation in respect of the compulsory acquisition.

- (3) In any such case as is mentioned in subsection (1) or (2) above the value of the relevant interest shall be ascertained—

- (a) so far as it is attributable to any relevant planning permission, on the assumption that traffic carried by the special road will not have direct or indirect access to the relevant land; and
- (b) so far as it is not attributable to any such planning permission, on the assumption that traffic carried by the special road will not have direct access to the relevant land.

- (4) In this section—

“direct access” means access otherwise than by means of a highway which is not a special road and “indirect access” means access by means of a highway which is not a special road;

“lorry area development” means development for the purpose of providing a lorry area for use in connection with a special road or proposed special road;

“relevant planning permission” means any planning permission for service area development or, as the case may be, lorry area development, which is in force on the date of service of the notice to treat, or as to the grant of which any assumption is required to be made by virtue of [<sup>F51</sup>section 15] of the <sup>M3</sup>Land Compensation Act 1961, or the possibility of the grant of which is taken into account in assessing the compensation;

“service area development” means development of the relevant land, or of any part of it, for the purpose of providing such service stations or other

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buildings or facilities as are mentioned in section 239(4)(c) above or of providing any other buildings or facilities designed to cater to a significant extent for traffic carried or to be carried by the special road;  
and any expression which is also used in the <sup>M4</sup>Land Compensation Act 1961 has the same meaning as in that Act.

#### Textual Amendments

- F45** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 45(15)(a)(i)**
- F46** Words in s. 262(1)(b)(2)(b) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 135** (with art. 5(6), Sch. 5)
- F47** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 45(15)(a)(ii)**
- F48** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 45(15)(b)(i)**
- F49** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 45(15)(b)(ii)**
- F50** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 45(15)(b)(ii)**
- F51** Words in s. 262(4) substituted (6.4.2012) by The Localism Act 2011 (Consequential Amendments) Order 2012 (S.I. 2012/961), art. 1(2), **Sch. 2 para. 3(2)** (with Sch. 2 para. 3(3))

#### Marginal Citations

- M3** 1961 c. 33.  
**M4** 1961 c. 33.

*Vesting of highways etc.*

### 263 Vesting of highways maintainable at public expense.

- (1) Subject to the provisions of this section, every highway maintainable at the public expense, together with the materials and scrapings of it, vests in the authority who are for the time being the highway authority for the highway.
- (2) Subsection (1) above does not apply—
  - (a) to a highway with respect to the vesting of which, on its becoming or ceasing to be a trunk road, provision is made by section 265 below, or
  - (b) to a part of a trunk road with respect to the vesting of which provision is made by section 266 below, or
  - (c) to a part of a special road with respect to the vesting of which provision is made by section 267 below.
- (3) Where a scheme submitted to the Minister jointly by two or more <sup>F52</sup>... highway authorities under section 16 above determines which of those authorities are to be the special road authority for the special road or any part of it (“the designated authority”) and the designated authority are not the highway authority for the road or that part of it, the road or that part of it vests in the designated authority.
- (4) Where—

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- (a) the responsibility for the maintenance of a bridge or other part of a highway is transferred to a highway authority by means of an order under section 93 above, but the property in it is not so transferred, or
- (b) the responsibility for the maintenance of a part of a highway is transferred to a highway authority in pursuance of an agreement made under section 94 above, but the property in that part is not so transferred,

the part of the highway in question does not by virtue of subsection (1) above vest in that highway authority.

- (5) Notwithstanding anything in subsection (1) above, any such material as is referred to in that subsection which is removed from a highway by a [<sup>F53</sup>non-metropolitan] district council in exercise of their powers under section 42, 50 or 230(7) above vests in the district council and not in the highway authority.

#### Textual Amendments

**F52** Word in s. 263(3) omitted (5.3.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), s. 57(1), [Sch. 1 para. 51](#); [S.I. 2015/481](#), reg. 2(a)

**F53** Word inserted by [Local Government Act 1985 \(c. 51\)](#), SIF 81:1), s. 8, [Sch. 4 para. 37](#)

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

**C19** S. 263: certain rights and liabilities transferred by [S.I. 1986/148](#), [art. 9\(1\)\(2\)](#)

### 264 Vesting of drains etc. of certain roads.

- (1) The drains belonging to a road for which the council of a county [<sup>F54</sup>or metropolitan district] are the highway authority vest in the council of the county [<sup>F54</sup>or metropolitan district] in which the road is situated and where any other drain or any sewer was at the material date used for any purpose in connection with the drainage of such a road, that council continue to have the right of using the drain or sewer for that purpose.

For the purposes of this subsection the material date is—

- (a) in the case of any highway which first became maintainable at the public expense before the commencement of this Act, the date on which it first became so maintainable or 1st April 1974, whichever date was later; and
- (b) in the case of any highway which first becomes maintainable at the public expense after the commencement of this Act, the date on which it first becomes so maintainable.

[<sup>F55</sup>(2) The drains belonging to a highway—

- (a) which immediately before the date of the abolition of the Greater London Council under the Local Government Act 1985 was a metropolitan road; and
- (b) which did not become a trunk road on that date by virtue of an order made under paragraph 53 of Schedule 4 to that Act,

vest in the council of the London borough in which the highway is situated or, if it is situated in the City in the Common Council, and where any other drain or sewer was, at the date when the highway became a metropolitan road, used for any purpose in connection with the drainage of that highway, that council shall have the right of using the drain or sewer for that purpose.]

- (3) Any difference arising under this section—



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- (a) between a county council and a [<sup>F56</sup>non-metropolitan] district council—
  - (i) as to the council in whom a drain is vested, or
  - (ii) as to the use of a drain or sewer;
- (b) .....<sup>F57</sup>
- (c) between a county council [<sup>F58</sup>, metropolitan district council or London borough council or the Common Council], on the one hand, and a [<sup>F59</sup>sewerage undertaker], on the other, as to the use of a sewer;

shall, if either party to the dispute so elect, be referred to and determined by the Secretary of State.

[<sup>F60</sup>(4) Subsection (3)(a) above does not apply in Wales.]

#### Textual Amendments

- F54** Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 38(a)**
- F55** S. 264(2) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 38(b)**
- F56** Word inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para 38(c)**
- F57** S. 264(3)(b) repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F58** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 38(c)**
- F59** 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(10), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F60** S. 264(4) inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para.24** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.1**.

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

- C20** S. 264 saved (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 115, 117(5), 219(3)(7), 223(2)** (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)

*Transfer of property and liabilities on change of status of highway etc.*

## 265 Transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road.

- (1) Where a highway becomes a trunk road, then, subject to the provisions of this section, as from the date on which the highway becomes a trunk road (“the operative date”), there are transferred to the Minister [<sup>F61</sup>or the strategic highways company, whichever is highway authority for the trunk road, ] by virtue of this section—
  - (a) the highway, in so far as, immediately before the operative date, it was vested in the former highway authority,
  - (b) the property mentioned in subsection (3) below, in so far as, immediately before the operative date, it was vested—
    - (i) in the former highway authority for the purposes of their functions in relation to the highway, or
    - (ii) in a council for the purposes of functions in relation to the highway under any enactment to which this section applies, and
  - (c) all liabilities incurred by any such authority or council for the purposes of their functions in relation to the highway and not discharged before the operative date, other than loans and loan charges,

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- and the highway and other property so transferred vest, by virtue of this section, in the Minister<sup>F62</sup> or the company].
- (2) There is not transferred to the Minister<sup>F63</sup> or a strategic highways company] by virtue of this section any right or liability in respect of—
- (a) work done, services rendered, goods delivered, or money due for payment, before the operative date, or
  - (b) damages or compensation for any act or omission before that date, or
  - (c) the price of, or compensation for, any land purchased, or for which a contract to purchase has been concluded, before that date.
- (3) The property referred to in subsection (1)(b) above is—
- (a) land, other than land—
    - (i) vested in the former highway authority for the purpose of being used for the storage of materials required wholly or mainly for the maintenance and improvement of other highways, or
    - (ii) acquired for the improvement or development of frontages to the highway, or of land adjoining or adjacent to the highway, and
  - (b) all other property (including the unexpended balances of any grants paid by the Minister to the former highway authority, or to any council for the purposes of their functions in relation to the highway), other than—
    - (i) materials to be used for the maintenance or improvement of the highway, and
    - (ii) the unexpended balances of any loans raised by the former highway authority, or by any council for the purposes of their functions in relation to the highway.
- (4) Any property vested in the Minister<sup>F64</sup> or a strategic highways company] by virtue of this section shall be held by him<sup>F65</sup> or the company ] subject to all covenants, conditions and restrictions subject to which the property was held by the authority or council from whom it was transferred and to all liabilities affecting the property, except liabilities referred to in subsection (2) above.
- (5) The Minister<sup>F66</sup> or the strategic highways company] and the former highway authority may agree, on such terms as they think fit—
- (a) that any property or liabilities (except loans and loan charges) acquired or incurred by the former highway authority for the purposes of their functions in relation to a highway which has become a trunk road, other than property or liabilities transferred to the Minister<sup>F66</sup> or the strategic highways company] by virtue of this section, shall be transferred to him<sup>F67</sup> or the company], or
  - (b) that any property or liabilities transferred to the Minister<sup>F66</sup> or the strategic highways company] by virtue of this section shall be re-transferred to the authority.
- (6) Any dispute between the Minister<sup>F68</sup> or a strategic highways company] and any person as to the property or liabilities transferred by virtue of this section shall be determined by arbitration.
- (7) The foregoing provisions of this section apply in a case where a trunk road ceases to be a trunk road (otherwise than by virtue of section 10(8) above) in like manner as they apply where a highway becomes a trunk road, with the substitution—
- (a) for the references to the former highway authority and to a council, of references to the Minister<sup>F69</sup> or a strategic highways company], and

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- (b) for references to the Minister<sup>F69</sup> or a strategic highways company], of references to the council who become the highway authority for the road or, so far as relates to property and liabilities vested in or incurred by the Minister<sup>F69</sup> or a strategic highways company] for the purposes of any functions under any enactment to which this section applies, to the council who are to exercise those functions in relation to the road.
- (8) The former highway authority shall produce to the Minister<sup>F70</sup> or the strategic highways company] such documents relating to their functions, property and liabilities in respect of a highway which has become a trunk road, and furnish to him<sup>F71</sup> or it ] such other information relating to those matters, as he<sup>F72</sup> or it ] may require.
- (9) Schedule 21 to this Act has effect for the purpose of providing for transitional matters arising where a highway becomes a trunk road or a trunk road ceases to be a trunk road.
- (10) The enactments to which this section applies are sections 42, 50, 230(7) and 271 of this Act and sections 1, <sup>F73</sup>23 and 85 of the Road Traffic Regulation Act 1984].
- (11) For the purposes of this section—  
“former highway authority” means, in relation to a highway which has become a trunk road, the council in whom the highway was vested immediately before it became a trunk road; and  
“property” includes property, rights and powers of every description.

#### Textual Amendments

- F61** Words in s. 265(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(2\)\(a\)](#); S.I. 2015/481, reg. 2(a)
- F62** Words in s. 265(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(2\)\(b\)](#); S.I. 2015/481, reg. 2(a)
- F63** Words in s. 265(2) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(3\)](#); S.I. 2015/481, reg. 2(a)
- F64** Words in s. 265(4) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(4\)\(a\)](#); S.I. 2015/481, reg. 2(a)
- F65** Words in s. 265(4) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(4\)\(b\)](#); S.I. 2015/481, reg. 2(a)
- F66** Words in s. 265(5) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(5\)\(a\)](#); S.I. 2015/481, reg. 2(a)
- F67** Words in s. 265(5)(a) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(5\)\(b\)](#); S.I. 2015/481, reg. 2(a)
- F68** Words in s. 265(6) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(6\)](#); S.I. 2015/481, reg. 2(a)
- F69** Words in s. 265(7) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(6\)](#); S.I. 2015/481, reg. 2(a)
- F70** Words in s. 265(8) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(7\)\(a\)](#); S.I. 2015/481, reg. 2(a)
- F71** Words in s. 265(8) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(7\)\(b\)](#); S.I. 2015/481, reg. 2(a)
- F72** Words in s. 265(8) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 52\(7\)\(c\)](#); S.I. 2015/481, reg. 2(a)
- F73** Words substituted by [Road Traffic Regulation Act 1984 \(c. 27, SIF 107:1\), s. 146, Sch. 3, para. 45](#)

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

- C21** S. 265 excluded by Dartford–Thurrock Crossing Act 1988 (c. 20, SIF 59), ss. 6(1), 19
- C22** S. 265 applied (18.9.2014) by The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 (S.I. 2014/2269), arts. 1, 9(3)
- C23** S. 265 applied (25.2.2015) by The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 (S.I. 2015/129), art. 1s. 10(3)(a)

#### **266 Transfer to Minister<sup>[F74]</sup> or a strategic highways company ] of privately maintainable bridges carrying trunk roads.**

- (1) Where a highway comprising a bridge to which this section applies becomes a trunk road, the bridge by which that highway is carried is, subject to subsection (2) below, transferred to the Minister<sup>[F75]</sup> or a strategic highways company, whichever is highway authority for the trunk road (“the trunk road authority”), ] by virtue of this section on the date on which the highway becomes a trunk road (“the transfer date”).
- (2) If on the transfer date a part of the highway carried by the bridge is not a trunk road, the bridge is not transferred to the <sup>[F76]</sup>trunk road authority ] by virtue of this section unless and until that part becomes a trunk road.
- (3) Where a bridge is transferred to the <sup>[F77]</sup>trunk road authority] by virtue of this section, then, subject to subsection (4) below—
  - (a) the bridge, including any building or structure comprised in it and the highway carried by it, vests by virtue of this section in the <sup>[F78]</sup> authority] for all the estate or interest of the owners therein, and
  - (b) any statutory provision in force, in relation to the bridge, for the protection or benefit of statutory undertakers has effect, subject to any necessary modifications, as if for any reference therein to the owners of the bridge there were substituted a reference to the <sup>[F78]</sup> authority].
- (4) The <sup>[F79]</sup>trunk road authority] and the owners may, by agreement in writing made either before or after the transfer date, agree that the provisions of subsection (3) above with respect to the transfer of property shall not apply or, as the case may be, shall be deemed not to have applied, to such property comprised in the bridge as may be specified in the agreement.
- (5) In respect of any bridge which is transferred to the <sup>[F80]</sup>trunk road authority ] by virtue of this section, the <sup>[F81]</sup> authority ] shall pay to the owners such sum as may be agreed between the <sup>[F81]</sup> authority ] and the owners, or in default of agreement such sum as may be determined by arbitration to represent the value to the owners of the bridge as an asset productive of revenue.

For the purposes of this subsection a bridge is not to be treated as an asset productive of revenue unless at the time when the bridge is transferred by virtue of this section—

- (a) a contract is in force under which payments have been made or will accrue to the owners in respect of the use of the bridge; or
  - (b) the bridge includes a building constructed or adapted for use by the owners for the purposes of their undertaking or for letting to some other person.
- (6) Where a bridge transferred to the <sup>[F82]</sup>trunk road authority] by virtue of this section carries the highway over a railway, canal, way or other works used for the purposes of an undertaking carried on by the owners, then, so long as those works are so used—

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- (a) the [<sup>F83</sup>authority] shall, before entering on any land of the owners for the purpose of executing works for the maintenance, improvement or alteration of the bridge, give notice to the owners specifying the general nature of the works proposed to be executed;
  - (b) except with the consent of the owners, the [<sup>F83</sup>authority] shall not reduce the headway or any span of the bridge; and
  - (c) if the headway of the bridge is reduced in consequence of subsidence due to mining operations, or of works carried out by the owners for the purpose of raising the railway, canal, way or other works to a level not higher than their level before the subsidence occurred, the [<sup>F83</sup>authority] shall, if so required by the owners, raise the bridge so far as may be necessary to give the same headway as before the subsidence occurred.
- (7) A consent required for the execution of works by the [<sup>F84</sup>trunk road authority] under subsection (6) above shall not be unreasonably withheld, and any question whether the withholding of such a consent is unreasonable shall be determined by arbitration.
- (8) Any dispute between the [<sup>F85</sup>trunk road authority] and any person as to the property or liabilities transferred by virtue of this section, or as to the liability imposed on the [<sup>F85</sup>trunk road authority] by subsection (6)(c) above to carry out works, shall be determined by arbitration.
- (9) This section applies to all bridges (not being highways maintainable at the public expense) which carry the highway over a railway or highway or over a canal, river, watercourse, marsh or other place where water flows or is collected or over a ravine or other depression, other than—
- (a) swing bridges,
  - (b) bridges which carry a railway as well as a highway, and
  - (c) bridges to which a right to levy tolls is attached;
- but this section does not apply to Rochester Bridge.
- (10) In this section—
- “bridge” includes so much of the approaches thereto as supports or protects the surface of the trunk road;
- “owners”, in relation to a bridge, means the persons who immediately before the transfer of the bridge to the [<sup>F86</sup>trunk road authority] were responsible for the maintenance of it, and includes any persons who, in pursuance of any agreement with the persons so responsible, were then discharging that responsibility on their behalf.

#### Textual Amendments

- F74** Words in s. 266 heading inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(8\)](#); S.I. 2015/481, reg. 2(a)
- F75** Words in s. 266(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(2\)](#); S.I. 2015/481, reg. 2(a)
- F76** Words in s. 266(2) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(3\)](#); S.I. 2015/481, reg. 2(a)
- F77** Words in s. 266(3) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(4\)\(a\)](#); S.I. 2015/481, reg. 2(a)
- F78** Word in s. 266(3) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(4\)\(b\)](#); S.I. 2015/481, reg. 2(a)

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- F79** Words in s. 266(4) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(5\)](#); S.I. 2015/481, reg. 2(a)
- F80** Words in s. 266(5) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(6\)\(a\)](#); S.I. 2015/481, reg. 2(a)
- F81** Words in s. 266(5) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(6\)\(b\)](#); S.I. 2015/481, reg. 2(a)
- F82** Word in s. 266(6) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(6\)\(a\)](#); S.I. 2015/481, reg. 2(a)
- F83** Word in s. 266(6) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(6\)\(b\)](#); S.I. 2015/481, reg. 2(a)
- F84** Words in s. 266(7) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(7\)](#); S.I. 2015/481, reg. 2(a)
- F85** Words in s. 266(8) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(7\)](#); S.I. 2015/481, reg. 2(a)
- F86** Words in s. 266(10) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 53\(7\)](#); S.I. 2015/481, reg. 2(a)

**[<sup>F87</sup>266A Transfer of property and liabilities upon a highway becoming or ceasing to be a GLA road.**

- (1) This section applies where, by virtue of an order made by the Greater London Authority under section 14B(2) above, a highway or proposed highway becomes, or ceases to be, a GLA road.
- (2) As from the operative date there are transferred to the new highway authority by virtue of this section—
  - (a) the property mentioned in subsection (4) below, in so far as, immediately before the operative date, it was vested in the former highway authority for the purposes of their functions in relation to the transferred highway, and
  - (b) all liabilities incurred by any such authority for the purposes of its functions in relation to the transferred highway and not discharged before the operative date, other than loans and loan charges,
 and the property and liabilities so transferred vest, by virtue of this section, in the new highway authority.
- (3) There is not transferred to the new highway authority by virtue of this section any right or liability in respect of—
  - (a) work done, services rendered, goods delivered, or money due for payment, before the operative date, or
  - (b) damages or compensation for any act or omission before that date, or
  - (c) the price of, or compensation for, any land purchased, or for which a contract to purchase has been concluded, before that date.
- (4) The property referred to in subsection (2)(a) above is—
  - (a) land, other than land—
    - (i) vested in the former highway authority for the purpose of being used for the storage of materials required wholly or mainly for the maintenance and improvement of other highways, or
    - (ii) acquired for the improvement or development of frontages to the highway, or of land adjoining or adjacent to the highway, and

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- (b) all other property (including unexpended balances of any grants paid by the Minister to the former highway authority), other than—
- (i) materials to be used for the maintenance or improvement of the highway, and
  - (ii) the unexpended balances of any loans raised by the former highway authority.
- (5) Any property vested in the new highway authority by virtue of this section shall be held by it subject to all covenants, conditions and restrictions subject to which the property was held by the former highway authority and to all liabilities affecting the property, except liabilities referred to in subsection (3) above.
- (6) The new highway authority and the former highway authority may agree, on such terms as they think fit—
- (a) that any property or liabilities (except loans and loan charges) acquired or incurred by the former highway authority for the purposes of their functions in relation to the transferred highway, other than property or liabilities transferred to the new highway authority by virtue of this section, shall be transferred to the new highway authority, or
  - (b) that any property or liabilities transferred to the new highway authority by virtue of this section shall be re-transferred to the former highway authority.
- (7) Any dispute between the new highway authority and any other person as to the property or liabilities transferred by virtue of this section shall be determined by arbitration.
- (8) Paragraphs 1 and 3 to 8 of Schedule 21 to this Act shall have effect for the purpose of providing for transitional matters arising where a highway or proposed highway becomes, or ceases to be, a GLA road as it applies where a highway becomes, or ceases to be, a trunk road; but in having such effect those paragraphs shall be treated as if—
- (a) for the references to a trunk road there were substituted references to a GLA road, and
  - (b) for the references to the Minister<sup>F88</sup> or a strategic highways company] there were substituted references to the new highway authority (within the meaning of this section).
- (9) For the purposes of this section—
- “ former highway authority ” means the highway authority for the transferred highway immediately before the operative date;
  - “ new highway authority ” means the highway authority for the transferred highway immediately after the operative date;
  - “ operative date ” means the date on which the highway or proposed highway becomes, or ceases to be, a GLA road;
  - “ property ” includes property, rights and powers of every description; and
  - “ transferred highway ” means the highway or proposed highway which is the subject of the order under section 14B(2) above. ]

#### Textual Amendments

**F87** S. 266A inserted (3.7.2000) by 1999 c. 29, s.264 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(c), Sch. Pt. 3

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**F88** Words in s. 266A(8)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 54; S.I. 2015/481, reg. 2\(a\)](#)

**[<sup>F89</sup>266B Transfer of employees upon a highway becoming or ceasing to be a GLA road.**

- (1) This section applies where, by virtue of an order made by the Greater London Authority under section 14B(2) above, a highway or proposed highway becomes, or ceases to be, a GLA road.
- (2) The Greater London Authority may, if it is necessary in connection with the highway becoming, or ceasing to be, a GLA road, by order make schemes containing provision for or in connection with the transfer from the former highway authority to the new highway authority of rights and liabilities under contracts of employment.
- (3) The rights and liabilities which may be transferred by such a scheme include rights and liabilities which would not otherwise be capable of being transferred or assigned.
- (4) Subsections (5) to (7) below apply where any rights or liabilities under a contract of employment are transferred by virtue of this Act.
- (5) Anything done by or in relation to the former highway authority in respect of the employee before the day on which the transfer of the rights and liabilities takes effect shall be treated on and after that day as done by or in relation to the new highway authority.
- (6) For the purposes of Part XI of the <sup>M5</sup>Employment Rights Act 1996 (redundancy payments etc) the employee shall not be regarded as having been dismissed by virtue of the transfer.
- (7) For the purposes of that Act, the employee's period of employment with the former highway authority shall count as a period of employment with the new highway authority, and the change of employment shall not break the continuity of the period of employment.
- (8) An order under this section shall be of no effect unless—
  - (a) it is made with the consent of the relevant highway authority; or
  - (b) if that consent is refused, it is confirmed (with or without modification) by the Secretary of State.
- (9) For the purposes of subsection (8) above, the relevant highway authority is—
  - (a) in a case where the order under section 14B above directs that a highway or proposed highway shall become a GLA road, the former highway authority; and
  - (b) in a case where the order directs that a GLA road shall cease to be such a road, the new highway authority.
- (10) Section 266A(9) above also applies for the purposes of this section.]

**Textual Amendments**

**F89** S. 266B inserted (3.7.2000) by [1999 c. 29, s.265](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801, art. 2\(2\)\(c\), Sch. Pt. 3](#)



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#### Marginal Citations

M5 1996 c. 18.

### 267 Transfer to local highway authorities of privately maintainable bridges carrying special roads.

- (1) Where the route prescribed by a scheme under section 16 above authorising the provision of a special road by a local highway authority includes a highway carried by a bridge which, if the special road were a trunk road, would be transferred to the Minister<sup>[F90]</sup> or a strategic highways company,] by virtue of section 266 above, any order under section 18 above by which the highway is appropriated by or transferred to the special road authority may provide for the transfer of the bridge to that authority.
- (2) Where a bridge is so transferred to a special road authority, subsections (3) to (8) of section 266 above apply as they apply in relation to a bridge transferred by virtue of that section and accordingly have effect as if, for references therein to the <sup>[F91]</sup>trunk road authority] and to the trunk road there were substituted references to the special road authority and to the special road; and no order shall be made by virtue of section 268 below in respect of liabilities of the owners of the bridge.
- (3) In this section “bridge” and “owners” are to be construed in accordance with section 266(10) above, but with the substitution, in the definition of “owners”, of a reference to the special road authority for the reference to the <sup>[F92]</sup>trunk road authority].

#### Textual Amendments

- F90** Words in s. 267(1) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 55\(2\); S.I. 2015/481, reg. 2\(a\)](#)
- F91** Words in s. 267(2) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 55\(3\); S.I. 2015/481, reg. 2\(a\)](#)
- F92** Words in s. 267(3) substituted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\), s. 57\(1\), Sch. 1 para. 55\(3\); S.I. 2015/481, reg. 2\(a\)](#)

### 268 Transfer of property and liabilities in connection with special roads etc.

- (1) Where provision is made by an order under section 14 or 18 above—
  - (a) for transferring a highway from one highway authority to another,
  - (b) for enabling a highway authority to alter a highway vested in another, or
  - (c) in the case of an order under section 18 above, for authorising or requiring any functions of a local authority (within the meaning of that section) to be exercised by a highway authority,the order may, subject to section 267(2) above, transfer to the highway authority to whom the highway is transferred, or in whom it is vested, or by whom those functions are to be exercised, any property, rights or liabilities (other than loans or loan charges) vested in or incurred by the other authority in connection with the highway or the alteration, or for the purposes of those functions, as the case may be.
- (2) An order transferring property, rights or liabilities under subsection (1) above may for that purpose (whether or not the highway in question is a trunk road) apply any of the provisions of section 265 above, subject to such modifications as may be specified in the order.

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- (3) No order relating to a trunk road under section 14 above shall provide for transferring to any authority (except by agreement with that authority) any bridge over or tunnel under the trunk road, as distinct from the highway carried by the bridge or through the tunnel, and from any approaches to the bridge or tunnel.
- (4) No order relating to a classified road under section 14 above and no order under section 18 above shall provide for transferring to any authority (except by agreement with that authority) any bridge over or tunnel under a classified road or, as the case may be, a special road, as distinct from the highway carried by the bridge or through the tunnel, and from any approaches to the bridge or tunnel.

269 ..... F93

**Textual Amendments**  
**F93** S. 269 repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

**270 Transfer of lighting systems.**

- (1) In this section—
  - “footway lighting system” means a system of lighting, provided for a highway, which satisfies the following conditions, namely, that either—
    - (a) no lamp is mounted more than 13 feet above ground level, or
    - (b) no lamp is mounted more than 20 feet above ground level and there is at least one interval of more than 50 yards between adjacent lamps in the system.

or such other conditions as may be prescribed by order of the Minister in substitution for the above-mentioned conditions;

  - “road lighting system” means a lighting system that is not a footway lighting system;

and references in this section, as respects a transfer from a lighting authority to a highway authority, to “the agreed date” are references to such date as may be determined by agreement between the two authorities or, in default of such agreement, as the Minister may direct.
- (2) Subsections (3) to (6) below have effect where a road lighting system is at any time provided by a lighting authority for the purposes of a highway for which they are not the highway authority, and this includes cases where a footway lighting system maintained by a lighting authority other than the highway authority becomes a road lighting system—
  - (a) in consequence of any order made by the Minister under subsection (1) above (as respects the conditions referred to in the definition of “footway lighting system”), or
  - (b) in consequence of any alterations effected by the lighting authority.
- (3) On the agreed date there are transferred to the highway authority—
  - (a) all lamps, lamp-posts and other apparatus which, immediately before the agreed date, were vested in the lighting authority as part of the road lighting system; and

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- (b) except as provided by subsection (4) below, all other property or rights which, immediately before the agreed date, were vested in the lighting authority for the purposes of that system, and all liabilities incurred by that authority for those purposes and not discharged before that date;
- and any property or rights so transferred vest, by virtue of this section, in the highway authority.
- (4) There is not transferred to a highway authority by virtue of this section any right or liability of a lighting authority in respect of work done, services rendered, goods (including gas and electricity) supplied or money due for payment before the agreed date, and there is not transferred to the Minister by virtue of this section any liability of a lighting authority in respect of loans or loan charges.
- (5) A highway authority and a lighting authority, or any two or more highway authorities, may make agreements with respect to the transfer of property, rights and liabilities under this section, including agreements—
- (a) for defining the property, rights and liabilities thereby transferred to the highway authority or any of those authorities, and
- (b) for the transfer or retention of property, rights or liabilities held or incurred for the purposes of two or more road lighting systems, or partly for the purposes of such a lighting system and partly for other purposes.
- (6) Any dispute between the authorities concerned as to the property, rights or liabilities transferred by this section shall be determined—
- (a) where the Minister is one of those authorities, by arbitration;
- (b) in any other case, by the Minister.
- (7) If in the case of a road or part of a road in which a footway lighting system is maintained by a lighting authority other than a highway authority the highway authority propose to provide a road lighting system (either as a separate system or by means of alterations of the footway lighting system), they may give notice to that effect to the lighting authority; and where such notice is given subsections (2) to (6) above apply in relation to the footway lighting system as if for the references in subsections (3) and (4) to the agreed date there were substituted references to such date as may be specified for the purpose in the notice.

## **271 Provisions with respect to transfer of toll highways to highway authorities.**

- (1) Where a person has by virtue of a charter or special Act the right to charge tolls in respect of the use of a highway, then, an appropriate authority—
- (a) may agree with that person that he shall, on such terms as may be agreed, or
- (b) subject to the provisions of this section, may by a notice to treat require that person to,
- transfer that right to the appropriate authority, together with the property in the highway and all his other property, rights and obligations under the charter or special Act (being property, rights and obligations connected with the highway), or such of them as may be specified in the agreement or, as the case may be, the notice to treat.

For the purposes of this section the following are appropriate authorities:—

- (i) in the case of a trunk road<sup>F94</sup> for which he is the highway authority ], the Minister;

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- [<sup>F95</sup>(ia) in the case of a trunk road for which it is the highway authority, a strategic highways company;]
- (ii) in the case of any other highway, except a highway in a London borough or the City, the council of the county [<sup>F96</sup>or metropolitan district] in which the highway is situated;
- (iii) in the case of a highway in a London borough or the City, other than a trunk road, the council of the borough or the Common Council, as the case may be. . . <sup>F97</sup>.
- (2) Upon the making of the transfer under subsection (1) above the right to charge tolls and any other property, rights or obligations transferred vest in and are exercisable by and imposed upon the appropriate authority.
- (3) The consideration to be paid to any person for a compulsory transfer under this section shall, in default of agreement, be determined by the [<sup>F98</sup>Upper Tribunal], and the rules in section 5 of the <sup>M6</sup>Land Compensation Act 1961 apply to the calculation of any such consideration.
- (4) Subject to any agreement with respect to the date of transfer, the person on whom a notice to treat is served under this section shall, on payment to him of the consideration determined as provided by subsection (3) above, transfer to the appropriate authority all such property, rights and obligations vested in or imposed upon him as are required by the notice to treat to be so transferred.
- (5) A council in whose area part only of the highway is situated have in relation to that highway the same powers as they would have under subsection (1) above if the highway were wholly situated within their area, but shall not exercise those powers except in pursuance of an agreement made under subsection (6) below.
- (6) Any two or more councils having under either subsection (1) or subsection (5) above powers in relation to a highway may enter into agreements with respect to the exercise of those powers by one council on behalf of the other or others of them and with respect to the making of contributions by any of them towards the expenses of any action so taken; and where those powers are exercised in pursuance of any such agreement the transfer of the highway and any other property, rights and obligations to be transferred shall be made to such council or councils as may be provided by the agreement.
- (7) The provisions of this section with respect to compulsory transfers shall not apply in relation to—
- (a) a highway vested in dock undertakers as such,
  - (b) a highway vested in harbour undertakers as such, or
  - (c) the property in a bridge vested in railway undertakers.

#### **Textual Amendments**

- F94** Words in s. 271(1)(i) inserted (5.3.2015) by *Infrastructure Act 2015 (c. 7)*, s. 57(1), **Sch. 1 para. 56(2)**; S.I. 2015/481, reg. 2(a)
- F95** S. 271(1)(ia) inserted (5.3.2015) by *Infrastructure Act 2015 (c. 7)*, s. 57(1), **Sch. 1 para. 56(3)**; S.I. 2015/481, reg. 2(a)
- F96** Words inserted by *Local Government Act 1985 (c. 51, SIF 81:1)*, s. 8, **Sch. 4 para. 19**
- F97** Words repealed by *Local Government Act 1985 (c. 51, SIF 81:1)*, s. 102, **Sch. 17**
- F98** Words in s. 271(3) substituted (1.6.2009) by *The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307)*, art. 5(1)(2), **Sch. 1 para. 136** (with art. 5(6), Sch. 5)

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**Marginal Citations**

**M6** 1961 c. 33.

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