

Status: Point in time view as at 31/01/1993.

Changes to legislation: Highways Act 1980, Cross Heading: Private Street Works Code is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 23

TRANSITIONAL PROVISIONS

Subordinate Legislation Made

P1 [Sch. 23](#): for earlier exercises of power under Sch. 23, see Index to Government Orders

Private Street Works Code

- 12 (1) Sub-paragraph (2) below has effect where—
- (a) before 1st January 1960 street works were executed under any of the relevant street works enactments with respect to part only of a private street, being a part consisting of the whole or part of a footway on one side only of the street, and those works were executed only by, or at the expense only of, the owners or occupiers of the premises fronting the footway or part of the footway, as the case may be; and
 - (b) the street works authority resolve under section 205(1) of this Act to execute street works with respect to any part of the street constituting or comprising the whole or a part of the footway on the side of the street other than that in which street works were executed as mentioned in paragraph (a) above.

In this paragraph “the relevant street works enactments” means section 150 of the ^{M1}Public Health Act 1875, the ^{M2}Private Street Works Act 1892 and any local Act making provision corresponding to the provisions of that section or of the said Act of 1892.

- (2) In the circumstances mentioned in sub-paragraph (1) above, the expenses incurred by the authority in executing the works mentioned in sub-paragraph (1)(b) above with respect to the footway or part of the footway there mentioned shall (notwithstanding anything in section 205(1) or (2) of this Act but subject to the other provisions of the private street works code) be apportioned only between the premises fronting that footway or part, as the case may be, and references in Part XI of this Act to the premises liable to be charged with the expenses of street works under the private street works code are to be construed in accordance with this sub-paragraph.
- (3) References in this paragraph to a footway include references to any roadside waste, and to any channel by the side of a footway.

Marginal Citations

M1 1875 c. 55.
M2 1892 c. 57.

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- 13 (1) ^{M3}Subject to sub-paragraph (3) below, where a highway in existence on 16th December 1949 (the date of the coming into force of the National Parks and Access to the Countryside Act 1949, referred to below as “the 1949 Act”)—
- (a) was immediately before 1st January 1960 a highway repairable by the inhabitants at large by virtue only of section 47(1) of the 1949 Act (which extended to all public paths the then rule of law whereby a highway was repairable by the inhabitants at large), and
 - (b) would, if the said section 47 had not been enacted, be a private street for the purposes of the private street works code,
- the fact that the highway is a highway maintainable at the public expense by virtue of section 36(1) of this Act shall not prevent its being treated for the purposes of the private street works code as a private street.

This sub-paragraph does not apply to a highway in Greater London other than the outer London boroughs.

- (2) ^{M4}Subject to sub-paragraph (3) below, where a highway in existence on 3rd August 1968 (the date of the coming into force of the Countryside Act 1968) would, if paragraph 9(2)(a) of Schedule 3 to that Act (which provides that as from the date of publication of the definitive map and statement in a review carried out by an authority under Part III of that Schedule certain ways shown on the map are to be highways maintainable at the public expense) had not been enacted, be a private street, the fact that the highway is a highway so maintainable by virtue of the said paragraph 9(2) shall not prevent its being treated for the purposes of the private street works code as a private street.
- (3) Where the street works authority exercise the powers exercisable by them by virtue of sub-paragraph (1) or (2) above in relation to a highway or part of it, the sub-paragraph in question shall not thereafter apply to that highway or to that part, as the case may be, so as to enable the authority to exercise those powers in relation to it on any subsequent occasion.

Likewise, where before the commencement of this Act the street works authority exercised the powers exercisable by them by virtue of—

- (a) paragraph 24 of Schedule 24 to the ^{M5}Highways Act 1959 (from which sub-paragraph (1) above is derived) or section 50 of the 1949 Act (from which the said paragraph 24 was derived), or
- (b) section 76(1) of the ^{M6}Highways Act 1971 (from which sub-paragraph (2) above is derived),

in relation to a highway or part of it, sub-paragraph (1) or, as the case may be, (2) above shall not apply to that highway or part, as the case may be, so as to enable the authority to exercise the powers exercisable by virtue of sub-paragraph (1) or (2) above in relation to it.

Marginal Citations

- M3** 1949 c. 97.
M4 1968 c. 41.
M5 1959 c. 25.
M6 1971 c. 41.

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