Highways Act 1980

1980 CHAPTER 66

PART IX

LAWFUL AND UNLAWFUL INTERFERENCE WITH HIGHWAYS AND STREETS

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

171 Control of deposit of building materials and making of excavations in streets.

(1) A person may, with the consent of the highway authority for a street that is a highway maintainable at the public expense, temporarily deposit building materials, rubbish or other things in the street or make a temporary excavation in it.

(2) A highway authority may give their consent under subsection (1) above subject to such conditions as they think fit including in particular, without prejudice to the generality of the foregoing, conditions for preventing damage or ensuring access to apparatus of statutory undertakers.

In this subsection “statutory undertakers” has the meaning provided by section 169(4) above.

(3) A person aggrieved by the refusal of consent under subsection (1) above, and a person to whom such a consent is given subject to conditions, may appeal to a magistrates’ court against the refusal or, as the case may be, the conditions.

(4) It is the duty of a person who makes such a deposit or excavation as is mentioned in subsection (1) above to comply with any directions given to him in writing by the highway authority with respect to the erection and maintenance of traffic signs in connection with the deposit or excavation.

(5) Where a person places any building materials, rubbish or other thing in, or makes an excavation in, a street he shall—

(a) cause the obstruction or excavation to be properly fenced and during the hours of darkness to be properly lighted, and
(b) if required so to do by the highway authority for the street or, in the case of a street that is not a highway, by the local authority in whose area the street is situated, remove the obstruction or, as the case may be, fill in the excavation; and in any case he shall not allow the obstruction or excavation to remain in the street longer than is necessary.

(6) A person who—

(a) without reasonable excuse contravenes any condition subject to which a consent is given to him under subsection (1) above, or

(b) without reasonable excuse fails to perform the duty imposed on him by subsection (4) above, or

(c) fails to perform a duty imposed on him by subsection (5) above,

is guilty of an offence and liable to a fine not exceeding £10 in respect of each day on which the contravention or failure occurs.

The liability of any person to a fine under this subsection by virtue of paragraph (b) or (c) above is without prejudice to any other liability to which he may be subject apart from this subsection.

(7) Where an offence under this section by virtue of subsection (6)(c) above is committed in a street, the highway authority for the street or, in the case of a street that is not a highway, the local authority in whose area the street is situated, may remove the obstruction or, as the case may be, fill in the excavation and recover the expenses reasonably incurred by them in so doing from the person convicted of the offence.
Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Highways Act 1980. Any changes that have already been made by the team appear in the content and are referenced with annotations.

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- s. 87(6A) inserted by 2018 No. 8 Sch. 1 para. 17(3)
- s. 90B(1A) inserted by 2015 c. 20 Sch. 10 para. 15(3)
- s. 90C(2)(2A) substituted for s. 90C(2) by 2015 c. 20 Sch. 10 para. 16(3)
- s. 90FA inserted by 2015 c. 20 Sch. 10 para. 20
- s. 118ZA(5)(a) words inserted by 2015 c. 20 s. 25(3)
- s. 120(3ZA) inserted by 2000 c. 37 Sch. 6 para. 13(6)
- s. 121E(1A)(1B) inserted by 2015 c. 20 s. 23(5)
- s. 146(6) inserted by 2015 c. 20 s. 24(6)(d)
- s. 147(1A) inserted by 2015 c. 20 s. 24(3)
- s. 147(5A) inserted by 2015 c. 20 s. 24(5)
- s. 322(5)(ab) inserted by 2004 c. 18 s. 64(2)
- s. 325(2B) inserted by 2015 c. 20 Sch. 10 para. 21
- Sch. 6 para. 1(3ZA) inserted by 2015 c. 20 Sch. 7 para. 8(2)(b)
- Sch. 6 para. 2(2ZA)-2ZE inserted by 2015 c. 20 Sch. 7 para. 8(3)
- Sch. 6 para. 2(4) inserted by 2015 c. 20 Sch. 7 para. 8(4)
- Sch. 6 para. 2(5)(6) inserted by 2015 c. 20 Sch. 7 para. 8(5)
- Sch. 6 para. 2ZZA inserted by 2015 c. 20 Sch. 7 para. 8(6)
- Sch. 6 para. 4A(2) inserted by 2015 c. 20 Sch. 7 para. 8(7)(c)
- Sch. 6 para. 5(6a) inserted by 2015 c. 20 Sch. 7 para. 8(8)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by 2015 c. 20 Sch. 7 para. 8(7)(a)
- Sch. 6 para. 4A(1) words substituted by 2015 c. 20 Sch. 7 para. 8(7)(b)