



# Transport and Works Act 1992

## 1992 CHAPTER 42

### PART II

#### SAFETY OF RAILWAYS ETC

### CHAPTER II

#### OTHER SAFETY PROVISIONS

##### *Signs and barriers at private crossings*

#### **52 Placing of signs and barriers**

- (1) Subject to any directions under subsection (2) below, the operator of a railway or tramway which is crossed in any place by a private road or path may cause or permit crossing signs or barriers of a character—
  - (a) prescribed in regulations made by the Secretary of State, or
  - (b) otherwise authorised by him,to be placed on or near the road or path near the crossing.
- (2) The Secretary of State may give directions to the operator of a railway or tramway which is crossed in any place by a private road or path for the placing of crossing signs or barriers of a character specified in the directions on or near the road or path near the crossing.
- (3) For the purposes of this section—
  - (a) the size and colour of a crossing sign and whether or not it is illuminated (by lighting or the use of reflectors or reflecting material), and
  - (b) the nature of the warnings, information, requirements, restrictions or prohibitions conveyed by it,shall be regarded as part of the sign's character.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Regulations under this section may make different provision for different cases.

### **53 Rights to enter land**

- (1) The operator of a railway or tramway shall not enter or do anything on any land for the purpose of exercising his powers under section 52(1) above except—
- (a) with the consent of every owner of the land, or
  - (b) in accordance with an authorisation given by the Secretary of State under subsection (4) below.
- (2) Where the operator of a railway or tramway proposes to enter or do anything on any land for the purpose of exercising his powers under section 52(1) above but has not obtained the consent of every owner of the land to his proposals (after making reasonable efforts to do so), he shall serve on every owner whose consent he has not obtained a notice giving details of the proposals and stating that—
- (a) he is referring the proposals to the Secretary of State for a decision as to whether or not they should be carried out, and
  - (b) in making that decision, the Secretary of State will consider any written representations made to him by the owner within the period of forty-two days beginning with the date of the notice.
- (3) Where subsection (2) above applies, the operator shall—
- (a) submit a copy of every notice served by him under that subsection to the Secretary of State, and
  - (b) provide the Secretary of State with such further information about the proposals as he may require.
- (4) Where proposals are referred to the Secretary of State under this section, he shall after the expiry of the period of forty-two days beginning with the date of the latest notice served under subsection (2) above and after considering any representations made to him in accordance with that subsection—
- (a) authorise the operator to carry out the proposals (either without modifications or with such modifications as the Secretary of State may specify), or
  - (b) direct him not to carry out the proposals,
- and shall serve notice of his decision on every owner served with a notice under subsection (2) above.
- (5) Any authorisation under subsection (4) above may be given subject to such conditions as the Secretary of State may specify, including conditions that compensation shall be payable by the operator.
- (6) Any dispute as to the amount of any compensation payable by virtue of subsection (5) above shall be referred to and determined by the Lands Tribunal or, in relation to land in Scotland, the Lands Tribunal for Scotland.
- (7) The operator of a railway or tramway may enter any land and do anything necessary on it (without the consent of the owners of the land) for the purpose of—
- (a) complying with any directions given under section 52(2) above, or

- (b) maintaining a crossing sign or barrier lawfully placed on or near a private road or path near a place where it crosses the railway or tramway.
- (8) The Secretary of State may enter any land and do anything necessary on it (without the consent of the owners of the land) for the purpose of exercising his powers under section 54(1) below.
- (9) In this section “owner”—
- (a) in relation to any land in England and Wales, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple (whether in possession or reversion) and includes also a person holding, or entitled to the rents and profits of, the land under a tenancy, other than a tenancy for a month or any period less than a month;
  - (b) in relation to any land in Scotland, means a person who, under the Land Clauses Acts, would be entitled to sell and convey land to the promoters of an undertaking and includes also a person who is or would be entitled to receive the rent of the land under a tenancy, other than a tenancy for a month or any period less than a month.

#### **54 Default powers of Secretary of State**

- (1) If the operator of a railway or tramway fails—
- (a) to comply with a direction given under section 52(2) above, or
  - (b) to maintain a crossing sign or barrier lawfully placed on or near a private road or path near a place where it crosses the railway or tramway,
- the Secretary of State may himself carry out the work required by the direction or necessary to maintain the crossing sign or barrier.
- (2) Any expenses incurred by the Secretary of State in doing so shall be recoverable by him from the operator.
- (3) A direction given under section 52(2) above—
- (a) if relating to a private road or path in England and Wales, shall be enforceable on the application of the Secretary of State by an order of mandamus;
  - (b) if relating to a private road or path in Scotland, shall be enforceable by order of the Court of Session on an application by the Lord Advocate under section 45 of the Court of Session Act 1988.

#### **55 Offence of failing to comply with sign**

- (1) A person who fails to comply with any requirement, restriction or prohibition conveyed by a crossing sign lawfully placed on or near a private road or path near a place where it crosses a railway or tramway shall be guilty of an offence.
- (2) In any proceedings for an offence under this section, a crossing sign on or near a private road or path near a place where it crosses a railway or tramway shall be taken to have been lawfully placed there unless the contrary is proved.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**56 Interpretation of sections 52 to 55**

(1) In sections 52 to 55 above (and this section)—

“barrier” includes gate;

“cross” means cross otherwise than by tunnel or bridge;

“crossing sign”, in relation to a private road or path and any place where it crosses a railway or tramway, means—

(a) any object or device (whether fixed or portable), or

(b) any line or mark on the road or path,

for conveying to users of the road or path warnings, information, requirements, restrictions or prohibitions relating to the crossing;

“fail” includes refuse;

“lawfully placed” means placed in accordance with sections 52 to 54 above;

“maintain” includes repair and replace;

“place” includes erect and (in relation to a sign) display;

“private road or path” means any length of road or path to which the public does not have access.

(2) In the case of a railway or tramway which has more than one operator, the powers conferred by sections 52 to 54 above shall only be exercisable by or in relation to the operator carrying on the undertaking which includes maintaining the permanent way.