



Public Utilities Street Works Act 1950 (repealed 1.1.1993)

1950 CHAPTER 39 14 Geo 6

PART II

CODE TO HAVE EFFECT WHERE APPARATUS IS
AFFECTED BY ROAD, BRIDGE OR TRANSPORT WORKS

Modifications etc. (not altering text)

- C1** Pt. II extended (E.W.) by [Highways Act 1980](#) (c. 66, SIF 59), s. **184(9)(14)**; extended with modifications (S.) by [Roads \(Scotland\) Act 1984](#) (c. 54, SIF 108), s. **39(4)**
- C2** Pt. II applied by [Channel Tunnel Act 1987](#) (c. 53, SIF 102), ss. 6, 45, Sch. 2 Pt. I para. 1, **Sch. 7 Pt. VI para. 2**
- C3** Pt. II (ss. 21–25) applied (E.W.) by [Dartford-Thurrock Crossing Act 1988](#) (c. 20, SIF 59), ss. **19, 39**
- C4** Pt. II (ss. 21–25) extended (16.3.1992) by [Midland Metro Act 1992](#) (c. vii), s. **8(3)**.

Cases in which the code in this Part of this Act is to have effect

21 Cases in which the code in this Part is to have effect.

(1) The two next succeeding sections and the Fourth Schedule to this Act (in this Act referred to as “the code in this Part of this Act”) shall have effect, subject to the provisions of section twenty-four of this Act as to time of operation, in cases in which undertakers’ apparatus to which this section applies in a street, or in controlled land abutting on a street, is affected by—

- (a) any of the following works executed for road purposes by, or on behalf of, the ^[F1]highway authority], that is to say—

reconstruction or widening of the street,
substantial alteration of the level thereof,

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Utilities Street Works Act 1950 (repealed 1.1.1993), Part II. (See end of Document for details)

provision, alteration of the position or width, or substantial alteration of the level, of a carriageway, footpath, or cycle track in the street,

provision of a cattle-grid in the street or works ancillary thereto, or

tunnelling of boring under the street; or

- (b) replacing, reconstruction or substantial alteration of a bridge which carries or goes over the street, if the street is one for the maintenance or repair of which the [^{F2}highway authority] is liable or is one which is under the control or management of a transport authority; or
- (c) substantial works (other than replacing, reconstruction or substantial alteration of a bridge) required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking which the street crosses or is crossed by, if the street is one such as is mentioned in the last preceding paragraph;

with a view to providing a uniform code for regulating the relations between the promoting authority and the undertakers in such cases.

- (2) This section applies to apparatus in a street which was placed (whether before or after the passing of this Act) in exercise of a power to which section one of this Act applies or over which such a power is exercisable, and to apparatus in controlled land which was placed in exercise of such a power together with an authorisation under the First Schedule to this Act.

- (3) In this Part of this Act and in the Fourth Schedule thereto—

such works as are mentioned in paragraph (a), (b) or (c) of subsection (1) of this section are referred to respectively as “a road alteration”, “a bridge alteration” and “transport works”, and the expression “authority’s works” means such works as are mentioned in any of those paragraphs; and the expression “promoting authority” means for the purposes of the operation of this Part of this Act and the Fourth Schedule thereto in relation to a road alteration, to a bridge alteration or to transport works, the following respectively, that is to say the [^{F3}highway authority] executing the road alteration, the bridge authority or managers (including any authority, body or person who are or is such an authority or managers by virtue of functions exercised on behalf of the Crown), or the transport authority (including as aforesaid):

Provided that this Part of this Act and Part I of the Fourth Schedule thereto shall have effect subject to the provisions of Part II of that Schedule where two or more operations each being authority’s works are executed in connection with each other on the same occasion by different authorities.

- (4) “^{F4}In so far as any works carried out in a street by a district council by virtue of their powers under section 187(2) of the ^{M1}Local Government Act 1972 constitute a road alteration, the references in subsections (1)(a) and (3) of this section to the highway authority, and in the Table in Schedule 6 to this Act to the local highway authority, shall be construed, in relation to those works, as references to the district council.”

Textual Amendments

- F1** Words substituted (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 21 para. 98\(3\)](#)
- F2** Words substituted (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 21 para. 98\(3\)](#)
- F3** Words substituted (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 21 para. 98\(3\)](#)
- F4** [S. 21\(4\)](#) added (E.W.) by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 21 para. 98\(3\)](#)

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Modifications etc. (not altering text)

- C5** S. 21 as it appears here is in the form in which it extends to England and Wales. Next following s. 21 is in the form in which it extends to Scotland.

Marginal Citations

- M1** 1972 c. 70(81:1).

21 Cases in which the code in this Part is to have effect.

- (1) The two next succeeding sections and the Fourth Schedule to this Act (in this Act referred to as “the code in this Part of this Act”) shall have effect, subject to the provisions of section twenty-four of this Act as to time of operation, in cases in which undertakers’ apparatus to which this section applies in a [^{F5}road], or in controlled land abutting on a [^{F5}road], is affected by—
- (a) any of the following works executed for road purposes by, or on behalf of, the [^{F6}roads authority]—
- reconstruction or widening of the [^{F5}road],
- substantial alteration of the level thereof,
- provision, alteration of the position or width, or substantial alteration of the level, of a carriageway, [^{F7}footway,] footpath, or cycle track in the [^{F5}road],
- provision of a cattle-grid in the [^{F5}road] or works ancillary thereto, or
- tunnelling or boring under the [^{F5}road]; or
- [^{F8}(aa) any works constructed, whether or not for road purposes, under section 27 of the ^{M2}Roads (Scotland) Act 1984; or
- (b) replacing, reconstruction or substantial alteration of a bridge which carries or goes over the [^{F5}road], if the [^{F5}road] is [^{F9}a public road] or is one which is under the control or management of a transport authority; or
- (c) substantial works (other than replacing, reconstruction or substantial alteration of a bridge) required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking which the [^{F5}road] crosses or is crossed by, if the [^{F5}road] is one such as is mentioned in the last preceding paragraph;
- with a view to providing a uniform code for regulating the relations between the promoting authority and the undertakers in such cases.
- (2) This section applies to apparatus in a [^{F10}road] which was placed (whether before or after the passing of this Act) in exercise of a power to which section one of this Act applies or over which such a power is exercisable, and to apparatus in controlled land which was placed in exercise of such a power together with an authorisation under the First Schedule to this Act.
- (3) In this Part of this Act and in the Fourth Schedule thereto—
- such works as are mentioned in paragraph (a), (b) or (c) of subsection (1) of this section are referred to respectively as “a road alteration”, “a bridge alteration” and “transport works”, and the expression “authority’s works” means such works as are mentioned in any of those paragraphs; and

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the expression “promoting authority” means for the purposes of the operation of this Part of this Act and the Fourth Schedule thereto in relation to a road alteration, to a bridge alteration or to transport works, the following respectively [^{F11}: the roads authority] executing the road alteration, the bridge authority or managers (including any authority, body or person who are or is such an authority or managers by virtue of functions exercised on behalf of the Crown), or the transport authority (including as aforesaid):

Provided that this Part of this Act and Part I of the Fourth Schedule thereto shall have effect subject to the provisions of Part II of that Schedule where two or more operations each being authority’s works are executed in connection with each other on the same occasion by different authorities.

Textual Amendments

- F5** Word substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(20)(a)(i)**
- F6** Words substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(20)(a)(ii)**
- F7** Word inserted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(20)(a)(ii)**
- F8** [S. 21\(1\)\(aa\)](#) inserted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(20)(a)(iii)**
- F9** Words substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(20)(a)(iv)**
- F10** Word substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(20)(b)**
- F11** Words substituted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(20)(c)**

Modifications etc. (not altering text)

- C6** [S. 21](#) as it appears here is in the form in which it extends to Scotland. The preceding version of s. 21 is in the form in which it extends to England and Wales.

Marginal Citations

- M2** [1984 c. 54\(108\)](#).

The code in this Part of this Act

22 Undertakers’ right to payment for works made necessary by, and obligation to facilitate, road, etc. works.

- (1) Where in any such case as is mentioned in subsection (1) of the last preceding section the authority’s works render necessary for the purposes of the supply or service for which the undertakers’ apparatus is used the execution by the undertakers of any undertakers’ works or the taking by them of any other measures, whether consisting of a change in the position of apparatus, of works or measures for the protection of apparatus from damage or for preventing any undue interruption or restriction of the supply or service or of other works or measures, the promoting authority shall pay to the undertakers an amount equal to the cost reasonably incurred by the undertakers of the execution of those works or of the taking of those measures, subject however to the provisions of the next succeeding section.
- (2) In any such case as is mentioned in subsection (1) of the last preceding section the promoting authority may require the undertakers to execute any undertakers’ works which are necessary for the purposes of the carrying out of the authority’s works with reasonable facility and which the undertakers have power to execute, and—

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- (a) the undertakers shall be under obligation to execute any such undertakers' works which the promoting authority require them to execute, and, if the undertakers fail to execute them in accordance with their obligation, they shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten pounds in respect of each day of such failure; and
- (b) the promoting authority shall pay to the undertakers an amount equal to the cost reasonably incurred by the undertakers of the execution of those works, subject however to the provisions of the next succeeding section:

Provided that the promoting authority shall not be entitled—

- (i) to require the undertakers to remove any of their apparatus permanently from the [F12street][F12road] or controlled land in which it is; or
 - (ii) to require the undertakers to remove any of their apparatus therefrom temporarily, except that, in a case in which such a removal can be arranged consistently with the maintenance of the supply or service for which the apparatus is used without undue interruption or restriction, the promoting authority may require a temporary removal of apparatus to any adjacent land in which the undertakers have power to place it, or, in the case of apparatus in a [F12street][F12road] carried by a bridge, to the side or other part of the bridge if the bridge authority or managers consent (or are themselves the promoting authority); or
 - (iii) to require, otherwise than with the consent of a Minister within the meaning of that section, any lateral diversion of a line to which section twelve of the M³Requisitioned Land and War Works Act 1948 (which relates to government oil pipe-lines and works accessory thereto) applies, or any such change of the site of accessory works to which that section applies as would necessitate such a diversion.
- (3) Where works necessary as aforesaid are code-regulated works, the promoting authority may waive observance by the undertakers of any of the requirements of section three or six of this Act so far as they concern that authority.
- (4) The provisions of Part I of the Fourth Schedule to this Act shall have effect as to the settlement at the instance of the undertakers or of the promoting authority, as the case may be, of a specification of works or measures to be treated in operating the code in this Part of this Act as necessary for the purposes mentioned in subsection (1) of this section, or of works to be so treated as necessary for the purposes mentioned in subsection (2) thereof, and, save in so far as may be otherwise agreed between the promoting authority and the undertakers, such works and measures only as are included in a specification settled under that Schedule shall be so treated.
- (5) Any question arising under proviso (ii) to subsection (2) of this section, on a requirement by a promoting authority for a temporary removal of apparatus, whether the circumstances in which such a requirement may be made exist shall be determined by arbitration.

Textual Amendments

F12 Word “road” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(21\)](#)

Modifications etc. (not altering text)

C7 [S. 22](#) amended by [Pipe-lines Act 1962 \(c. 58, SIF 102\)](#), s. 17

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Changes to legislation: There are currently no known outstanding effects for the Public Utilities Street Works Act 1950 (repealed 1.1.1993), Part II. (See end of Document for details)

C8 S. 22(2) proviso (iii) extended by [Land Powers \(Defence\) Act 1958 \(c. 30, SIF 28:3\)](#), s. 16(5)(b)

Marginal Citations

M3 1948 c. 17(28:3).

23 Limitations on undertakers' right to payment for works, and county contribution towards such a payment.

- (1) Undertakers shall not be entitled to payment by virtue of the last preceding section in respect of works or measures of theirs if the authority's works in question consist only of works executed after a subsidence for reinstating and making good the area of subsidence to its level immediately before the subsidence occurred, unless the undertakers prove that the subsidence was attributable to matters for which the promoting authority were to blame.
- (2) Subsection (1) of the last preceding section or paragraph (b) of subsection (2) thereof, as the case may be, shall have effect subject to the provisions of this subsection in a case in which the following conditions as to notice of the authority's works were satisfied before the apparatus in question was placed (whether by way of an original placing or by way of renewal of other apparatus), that is to say—
- (a) where the placing of the apparatus was a code-regulated work, if notice of the authority's works being intended was given by the promoting authority or predecessors of theirs to the undertakers or predecessors of theirs within eight days from the date on which the intention to place the apparatus was signified to the authority or their predecessors by the submission of a plan and section if the placing thereof was a work to which section three of this Act applied or by notice under section six of this Act if it was not, and within twenty-nine days from that date a plan and section of the authority's works were furnished to the undertakers or their predecessors; or
 - (b) where the placing of the apparatus was not a code-regulated work, if notice of the authority's works being intended and particulars as to their works were given by the promoting authority or predecessors of theirs to the undertakers or predecessors of theirs in accordance with provisions corresponding to this subsection of any corresponding enactment within the meaning of the next succeeding section.

In any case the undertakers shall not be entitled to payment by virtue of the last preceding section if the authority's works were—

- (i) substantially begun within two years from the date on which the notice was given, and
- (ii) executed in accordance with the plan and section thereof furnished as mentioned in paragraph (a) of this subsection, or with the particulars thereof given as mentioned in paragraph (b) of this subsection, or without any departure therefrom materially affecting the undertakers:

Provided that the Minister may, if he considers it requisite to do so having regard to any general economic circumstances affecting such works as are mentioned in subsection (1) of section twenty-one of this Act, by order (which shall be a statutory instrument, and shall be revocable or variable by him) substitute any longer period not exceeding four years for the period of two years mentioned in paragraph (i) of this subsection, and that paragraph shall, in relation to the authority's works if they were substantially begun at a time when such an order was in force, have effect with the substitution prescribed by the order as in force at that time.

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- (3) If in the course of undertakers' works necessary as mentioned in the last preceding section apparatus of better type, of greater dimensions or of greater capacity is placed in substitution for existing apparatus of worse type, of smaller dimensions or of smaller capacity, or apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was, and the placing of apparatus of that type, dimensions or capacity, or the placing of apparatus at that depth, as the case may be, had not been specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority, then—
- (a) if it involves cost in the execution of the undertakers' works exceeding that which would have been involved if the apparatus placed had been of the existing type, dimensions or capacity, or at the existing depth, as the case may be, the amount which apart from this subsection would be payable to the undertakers in respect of their works by virtue of the last preceding section shall be reduced by the amount of that excess; and
 - (b) if it involves cost in the execution of the authority's works exceeding that which would have been involved in that case, the undertakers shall pay to the promoting authority an amount equal to that excess.

For the purposes of this subsection—

- (i) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
 - (ii) where the provision of a joint in a cable is specified or agreed as necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been so specified or agreed.
- (4) An amount which apart from this subsection would be payable to undertakers in respect of works of theirs by virtue of the last preceding section (and having regard, where relevant, to the last preceding subsection) shall, if the works include the placing of apparatus by way of renewal of apparatus placed more than seven-and-a-half years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.
- (5) Any question arising under either of the two last preceding subsections shall, in default of agreement between the promoting authority and the undertakers, be determined by arbitration.

- (6) F13

Textual Amendments

F13 S. 23(6) repealed (E.W.) by [Highways Act 1959 \(c. 25\)](#), **Sch. 25** and repealed (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), **Sch. 11**

Modifications etc. (not altering text)

C9 S. 23(3)(4) applied with modifications by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), s. 45, **Sch. 7 Pt. VI paras. 2, 12(2)**

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Utilities Street Works Act 1950 (repealed 1.1.1993), Part II. (See end of Document for details)

Transition to the code in this Part of this Act and exclusion of other regulative provisions

24 Time for taking effect of the code in this Part, and exclusion of other statutory provisions.

(1) The code in this Part of this Act shall have effect, in such a case as is mentioned in subsection (1) of section twenty-one of this Act, if the authority's works were substantially begun after, but not if they were so begun before, the following time, that is to say—

- (a) the expiration of six months from the passing of this Act unless some corresponding enactment within the meaning of this section, being special legislation making provision in respect of that case, was then in force; or
- (b) such time, not being earlier than the expiration of six months from the passing of this Act, as the Minister may by order appoint (if the preceding paragraph does not apply by reason of there being some such corresponding enactment as therein mentioned in force at the expiration of the said six months).

The references in this section to a corresponding enactment are to any enactment in so far as it makes provision extending to any such case as is mentioned in subsection (1) of section twenty-one of this Act for regulating in any respect the relations between the promoting authority and the undertakers, whether by enabling the promoting authority to execute undertakers' works in relation to apparatus affected by the authority's works, by enabling them to require the undertakers to execute any such works, by rendering them liable for the expense of such works, or otherwise howsoever.

(2) No corresponding enactment passed or made before the passing of this Act, and, unless the contrary intention appears therein, no corresponding enactment passed thereafter, whether being a public general enactment or a special enactment, shall have effect in a case in which the code in this Part of this Act is to have effect, and accordingly—

- (a) the provisions specified in the Fifth Schedule to this Act as being consequential on the said code (being provisions for the express modification of public general enactments therein specified in accordance with the preceding general provisions of this subsection) shall have effect as from the expiration of six months from the passing of this Act, so however that the said provisions of that Schedule shall not apply for the purposes of the operation of any of those enactments in relation to any authority's works begun before the expiration of the said six months or for the purposes of the operation of any of those enactments as incorporated or applied in or by a special enactment in a case falling within paragraph (b) of the preceding subsection; and
- (b) paragraph 1 of the Sixth Schedule to this Act shall have effect as to making provision for the express modification, in accordance with the preceding general provisions of this subsection, of special enactments and of public general enactments for the purposes of their operation as incorporated or applied as aforesaid.

(3) Paragraph 2 of the Sixth Schedule to this Act shall have effect as to certain protective provisions affected by the operation of subsections (1) and (2) of this section.

(4) The power conferred on the Minister by paragraph (b) of subsection (1) of this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament, and different times may be appointed thereunder in relation to different cases, or cases in respect of which provision is made by different corresponding enactments or other different classes of cases.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Utilities Street Works Act 1950 (repealed 1.1.1993), Part II. (See end of Document for details)

Modifications etc. (not altering text)

C10 26.10.1951 appointed under s. 24(1)(b) by [S.I. 1951/1555](#) (1951 II, p. 318), art. 2

25 Agreements inconsistent with the code in this Part to be invalid.

An agreement, whether made before or after the passing of this Act, which makes provision extending to such a case as is mentioned in subsection (1) of section twenty-one of this Act for regulating in any respect the relations between the promoting authority and the undertakers shall be of no effect in a case in which the code in this Part of this Act has effect, in so far as the effect of the agreement apart from this section would be inconsistent with any provision of that code:

Provided that this section shall not affect the operation of any agreement for the waiver or variation of a right conferred on any authority, body or person by the said code if the agreement is made after the right has accrued and is not inconsistent with the future operation of that code.

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Public Utilities Street Works Act 1950 (repealed 1.1.1993), Part II.