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STATUTORY INSTRUMENTS

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**2024 No. 60**

The A12 Chelmsford to A120 Widening  
Development Consent Order 2024

PART 3  
STREETS

**Construction and maintenance of new, altered or diverted streets and other structures**

**13.**—(1) Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the relevant local highway authority in whose area the highway lies and, unless otherwise agreed in writing with the relevant local highway authority, the highway must be maintained by and at the expense of the relevant local highway authority from its completion.

(2) Where a highway (other than a trunk road) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the relevant local highway authority and, unless otherwise agreed in writing with the relevant local highway authority, that part of the highway must be maintained by and at the expense of the relevant local highway authority from its completion.

(3) Where a highway is de-trunked under this Order—

- (a) section 265(1) (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the relevant local highway authority, be maintained by and at the expense of the relevant local highway authority from the date of de-trunking.

(4) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over a trunk road, the highway surface (being those elements over the waterproofing membrane) must be maintained by and at the expense of the relevant local highway authority unless otherwise agreed in writing between the undertaker and the relevant local highway authority, and the remainder of the bridge, including the waterproofing membrane, the structure below the waterproof membrane and the parapets must be maintained by and at the expense of the undertaker.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

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(1) Section 265 was amended by paragraph 52 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and the competent person had carried out those instructions.