



# Highways Act 1980

## 1980 CHAPTER 66

### PART IV

#### MAINTENANCE OF HIGHWAYS

##### *Maintenance of highways maintainable at public expense*

#### **41 Duty to maintain highways maintainable at public expense.**

- (1) The authority who are for the time being the highway authority for a highway maintainable at the public expense are under a duty, subject to subsections (2) and (4) below, to maintain the highway.

[<sup>F1</sup>(1A) In particular, a highway authority are under a duty to ensure, so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice.]

- (2) An order made by the Minister under section 10 above directing that a highway proposed to be constructed by him [<sup>F2</sup>or a strategic highways company] shall become a trunk road may, as regards—

- (a) a highway to which this subsection applies which becomes a trunk road by virtue of the order, or
- (b) a part of a highway to which this subsection applies, being a part which crosses the route of the highway to be so constructed,

contain such a direction as is specified in subsection (4) below.

- (3) Subsection (2) above applies to—

- (a) any highway maintainable at the public expense by a local highway authority, and
- (b) any highway other than a highway falling within paragraph (a) above or a highway maintainable under a special enactment or by reason of tenure, enclosure or prescription.

- (4) The direction referred to in subsection (2) above is—

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*Changes to legislation: Highways Act 1980, Section 41 is up to date with all changes known to be in force on or before 24 May 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) View outstanding changes*

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- (a) in a case where the highway or part of a highway falls within subsection (3) (a) above, a direction that, notwithstanding subsection (1) above, it shall be maintained by the highway authority for that highway until such date, not being later than the date on which the new route is opened for the purposes of through traffic, as may be specified in a notice given by the Minister to that authority; and
- (b) in a case where the highway or part of a highway falls within subsection (3) (b) above, a direction that, notwithstanding subsection (1) above, the Minister<sup>F3</sup> or the strategic highways company ] is to be under no duty to maintain it until such date as aforesaid.
- (5) Where an order under section 10 above contains a direction made in pursuance of subsections (2) to (4) above, then, until the date specified in the notice given by the Minister pursuant to the direction, in accordance with subsection (4) above, the powers of a highway authority under sections 97, 98, 270 and 301 below as respects the highway to which the direction relates are exercisable by the highway authority to whom the notice is required to be given, as well as by the Minister<sup>F4</sup> or the strategic highways company ].

#### Textual Amendments

- F1** S. 41(1A) inserted (31.10.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), [s. 111](#); S.I. 2003/2681, [art. 2\(a\)](#)
- F2** Words in s. 41(2) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), [s. 57\(1\)](#), [Sch. 1 para. 20\(2\)](#); S.I. 2015/481, [reg. 2\(a\)](#)
- F3** Words in s. 41(4)(b) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), [s. 57\(1\)](#), [Sch. 1 para. 20\(3\)](#); S.I. 2015/481, [reg. 2\(a\)](#)
- F4** Words in s. 41(5) inserted (5.3.2015) by [Infrastructure Act 2015 \(c. 7\)](#), [s. 57\(1\)](#), [Sch. 1 para. 20\(4\)](#); S.I. 2015/481, [reg. 2\(a\)](#)

**Changes to legislation:**

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**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. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- 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. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- 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(ba) 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\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)