



# Highways Act 1980

## 1980 CHAPTER 66

### PART IV

#### MAINTENANCE OF HIGHWAYS

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

#### **45 Power to get materials for repair of publicly maintainable highways.**

- (1) For the purpose of repairing highways maintainable at the public expense by them, a highway authority may exercise such powers with respect to the getting of materials as are mentioned in this section.
- (2) Subject to subsection (3) below, the authority may search for, dig, get and carry away gravel, sand, stone and other materials in and from any waste or common land (including the bed of any river or brook flowing through such land).
- (3) The authority—
  - (a) shall not in the exercise of their powers under subsection (2) above divert or interrupt the course of any river or brook, or dig or get materials out of any river or brook within 50 yards above or below a bridge, dam or weir;
  - (b) shall not in the exercise of those powers remove such quantity of stones or other materials from any sea beach as to cause damage by inundation or increased danger of encroachment by the sea; and
  - (c) shall not exercise those powers in any land forming part of a common to which section 20 of the <sup>M1</sup>Commons Act 1876 applies, except in accordance with that section.
- (4) Subject to subsection (5) below, the authority may gather and carry away stones lying upon any land in the [<sup>F1</sup>non-metropolitan county, metropolitan district] or London borough within which the stones are to be used.
- (5) The authority—

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*Changes to legislation: Highways Act 1980, Section 45 is up to date with all changes known to be in force on or before 25 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) shall not exercise the powers conferred by subsection (4) above in a garden, yard, avenue to a house, lawn, park, paddock or inclosed plantation, or in an inclosed wood not exceeding 100 acres in extent;
  - (b) shall not in the case of any other inclosed land exercise those powers unless either they have obtained the consent of the owner and of the occupier of that land, or a magistrates' court has made an order authorising them to exercise those powers in the case of that land; and
  - (c) shall not in the exercise of those powers remove such quantity of stones or other materials from any sea beach as to cause damage by inundation or increased danger of encroachment by the sea.
- (6) If the authority cannot get sufficient materials by the exercise of their powers under the foregoing provisions of this section, a magistrates' court may make an order authorising them to search for, dig, get and carry away materials in and from any inclosed land in the [<sup>F1</sup>non-metropolitan county, metropolitan district] or London borough within which the materials are to be used, other than any such land as is mentioned in subsection (5)(a) above.
- (7) For the purpose of repairing a bridge maintainable at the public expense and so much of a highway so maintainable as is carried by the bridge or forms the approaches to the bridge up to 100 yards from each end of the bridge, the authority may take and carry away the rubbish or refuse stones from any quarry in the [<sup>F2</sup>non-metropolitan county or metropolitan district] within which the materials are to be used or, if the materials are to be used in Greater London, from any quarry in Greater London.
- (8) Subject to subsection (9) below, for the purpose of repairing or reconstructing a bridge maintainable at the public expense, the authority may be authorised by an order of a magistrates' court to quarry stone from any quarry in the [<sup>F2</sup>non-metropolitan county or metropolitan district] in which the bridge is or, if the bridge is in Greater London, from any quarry in Greater London.
- (9) No order shall be made under subsection (8) above in relation to a quarry which has not been worked at any time during the 3 years immediately preceding the date on which a complaint for such an order is made; and no stone shall be taken from a quarry situated in a garden, yard, avenue to a house, lawn, paddock or inclosed plantation, or in land on which ornamental timber trees are growing, except with the consent of the owner of the quarry.
- (10) An authority who exercise any of the powers conferred by this section shall pay compensation to persons interested in any land for any damage done thereto by the carriage of the materials obtained by the authority and also, in cases falling within subsection (6) or subsection (8) above, for the value of those materials.
- (11) At least one month before making a complaint to a magistrates' court for an order under subsection (5) or subsection (6) above the authority shall give notice of their intention to make such a complaint to the owner, and to the occupier, of the land from which they propose to get materials.
- (12) In relation to highways in respect of which a [<sup>F3</sup>non-metropolitan] district council's powers of maintenance under section 42 above are exercisable, references in this section and section 46 below to a highway authority include references to the district council; and for the purposes of this section—

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“inclosed land” includes any land in the exclusive occupation of one or more persons for agricultural purposes, though not separated by a fence or otherwise from adjoining land of another person, or from a highway; and  
“London borough” includes the City of London.

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**Textual Amendments**

- F1** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 13(a)**  
**F2** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 13(b)**  
**F3** Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 13(c)**
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**Marginal Citations**

- M1** [1876 c. 56.](#)

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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\(6\)](#)