

## Highways Act 1980 c. 66

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



Law In Force

Version 3 of 3

12 February 2015 - Present

#### Subjects

Road traffic

#### Keywords

Highway authorities' powers and duties; Highway maintenance; Ice; Public expenditure; Snow

#### 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.

[

(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.

] <sup>1</sup>

(2) An order made by the Minister under [section 10](#) above directing that a highway proposed to be constructed by him [ or a strategic highways company] <sup>2</sup> 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—

- (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 [ or the strategic highways company]<sup>3</sup> 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 [ or the strategic highways company]<sup>4</sup>.

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## Notes

- [1](#) Added by Railways and Transport Safety Act 2003 c. 20 [Pt 6 s.111](#) (October 31, 2003)
- [2](#) Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.20\(2\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- [3](#) Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.20\(3\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
- [4](#) Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.20\(4\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)

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*Part IV MAINTENANCE OF HIGHWAYS > Maintenance of highways maintainable at public expense > s. 41 Duty to maintain highways maintainable at public expense.*

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## s. 102 Provision of works for protecting highways against hazards of nature.

**Law In Force****Version 1 of 1**

1 January 1981 - Present

**Subjects**

Road traffic

**Keywords**

Highway authorities' powers and duties; Highway improvement; Highway maintenance; Natural hazards; Risk management

**102.— Provision of works for protecting highways against hazards of nature.**

- (1) The highway authority for a highway maintainable at the public expense may provide and maintain such barriers or other works as they consider necessary for the purpose of affording to the highway protection against snow, flood, landslide or other hazards of nature; and those works may be provided on the highway or on land which, or rights over which, has or have been acquired by the highway authority in the exercise of highway land acquisition powers for that purpose.
- (2) The powers conferred by subsection (1) above to provide any works shall include power to alter or remove them.
- (3) A highway authority shall pay compensation to any person who suffers damage by reason of the execution by them under this section of any works on a highway.

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### Notes

- 1 Act amended by Town and Country Planning Act 1990 (c.8), s. 54(1) Power to apply Act conferred by Town and Country Planning Act 1990 (c.8), s. 247(3) Power to exclude Act conferred by Town and Country Planning Act 1990 (c.8), s. 61(3)(b) Act modified by Town and Country Planning Act 1990 (c.8), ss. 28, 54, Sch. 2 Pt. I para. 1(2), Pt. III para. 2, Dartford-Thurrock Crossing Act 1988 (c.20), ss. 3, 19, Sch. 3 para. 9, Channel Tunnel Act 1987 (c.53), s. 35, Sch. 4 paras. 7(1), 10(1) Act amended (in part) by Town and Country Planning Act 1990 (c.8), ss. 27, 28 (1)(2) Act extended by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(2)(xxv)(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58, Electricity Act 1989 (c.29), ss. 112(1)(3), Sch. 16 para. 2(4)(d)(6)(9), Sch. 17 paras. 33, 35(1), Gas Act 1986 (c.44), s. 67(1)(3), Sch. 7 para. 2(1)(xl), Sch. 8 para. 33 Functions of Minister of Transport, except those exercisable jointly with Secretary of State under ss. 258, 300(2), Sch. 1 paras. 7, 8, 14, 15, 18, 19, 21, now exercisable by Secretary of State: S.I. 1981/238, arts. 2(2), 3(2)(3)

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*Part V IMPROVEMENT OF HIGHWAYS > Miscellaneous improvements >  
s. 102 Provision of works for protecting highways against hazards of nature.*

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## s. 239 Acquisition of land for construction, improvement etc. of highway: general powers.



Law In Force

Version 2 of 2

12 February 2015 - Present

### Subjects

Real property; Road traffic

### Keywords

Acquisition of land; Highway authorities' powers and duties; Highway improvement; Trunk roads

### 239.— Acquisition of land for construction, improvement etc. of highway: general powers.

- (1) Subject to [section 249](#) below, the Minister [ or a strategic highways company]<sup>1</sup> may acquire land required for the construction of a trunk road, and any highway authority may acquire land required for the construction of a highway which is to be a highway maintainable at the public expense, other than a trunk road.
- (2) Subject to [section 249](#) below, the Minister [ or a strategic highways company]<sup>2</sup> may acquire land which in his [ or its]<sup>3</sup> opinion is required—
- (a) for the carrying out of any works authorised by an order relating to a trunk road under [section 14](#) above, or
  - (b) for the provision of buildings or facilities to be used in connection with the construction or maintenance of a trunk road other than a special road.
- (3) Subject to [section 249](#) below, a highway authority may acquire land required for the improvement of a highway, being an improvement which they are authorised by this Act to carry out in relation to the highway.
- (4) Subject to [section 249](#) below, a special road authority may acquire land which in the opinion of the authority is required—
- (a) for the improvement of a highway which is included in the route of the special road but has not been transferred to the authority by means of an order under [section 18](#) above,
  - (b) for the purposes of any order made in relation to the special road under [section 18](#) above, or
  - (c) for the provision of service stations or other buildings or facilities to be used in connection with the construction of the special road or with the use or maintenance of it.
- (5) Where a highway authority have acquired, or propose to acquire, in exercise of any of the powers conferred by subsections (1) to (4) above, land forming part of a common, open space, or fuel or field garden allotment, and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land under the subsection in question as if it were land required for the construction or improvement of a highway, and nothing in [section 249](#) below applies to an acquisition by virtue of this subsection.
- (6) A highway authority may acquire land required for the improvement or development of frontages to a highway for which they are the highway authority or of the land adjoining or adjacent to that highway.

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## Notes

- 1 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.45\(2\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
  - 2 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.45\(3\)\(a\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
  - 3 Words inserted by Infrastructure Act 2015 c. 7 [Sch.1\(1\) para.45\(3\)\(b\)](#) (February 12, 2015 in so far as it confers power to make regulations; March 5, 2015 otherwise)
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*Part XII ACQUISITION, VESTING AND TRANSFER OF LAND ETC. > Acquisition of land generally > s. 239 Acquisition of land for construction, improvement etc. of highway: general powers.*

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## s. 249 Distance limits from highway applicable to compulsory acquisition.



Law In Force

Version 1 of 1

1 January 1981 - Present

### Subjects

Real property; Road traffic

### Keywords

Acquisition of land; Compulsory purchase; Highway authorities' powers and duties; Limitations

### 249.— Distance limits from highway applicable to compulsory acquisition.

- (1) Subject to subsection (3) below, a highway authority shall not in the exercise of a power to acquire land under any of the provisions of this Act specified in [column 1 of Part I of Schedule 18](#) to this Act acquire compulsorily land lying beyond the limit specified in relation to that power in column 2 of that Schedule.
- (2) [Part II of Schedule 18](#) has effect with respect to limits specified in [Part I](#) of that Schedule.
- (3) Nothing in this section applies to land required for purposes connected with the drainage of a highway or proposed highway, or of a maintenance compound, service area, trunk road picnic area or lorry area, or required for the purpose—
  - (a) of the diversion of a navigable watercourse,
  - (b) of the carrying out of works authorised by [section 110](#) above, or
  - (c) of providing protection for a highway or proposed highway against snow, flood, landslide or other hazards of nature.

[1](#) [2](#)

## Notes

- [1](#) Act amended by Town and Country Planning Act 1990 (c.8), s. 54(1) Power to apply Act conferred by Town and Country Planning Act 1990 (c.8), s. 247(3) Power to exclude Act conferred by Town and Country Planning Act 1990 (c.8), s. 61(3)(b) Act modified by Town and Country Planning Act 1990 (c.8), ss. 28, 54, Sch. 2 Pt. I para. 1(2), Pt. III para. 2, Dartford-Thurrock Crossing Act 1988 (c.20), ss. 3, 19, Sch. 3 para. 9, Channel Tunnel Act 1987 (c.53), s. 35, Sch. 4 paras. 7(1), 10(1) Act amended (in part) by Town and Country Planning Act 1990 (c.8), ss. 27, 28 (1)(2) Act extended by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(2)(xxv)(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58, Electricity Act 1989 (c.29), ss. 112(1)(3), Sch. 16 para. 2(4)(d)(6)(9), Sch. 17 paras. 33, 35(1), Gas Act 1986 (c.44), s. 67(1)(3), Sch. 7 para. 2(1)(xl), Sch. 8 para. 33 Functions of Minister of Transport, except those exercisable jointly with Secretary of State under ss. 258, 300(2), Sch. 1 paras. 7, 8, 14, 15, 18, 19, 21, now exercisable by Secretary of State: S.I. 1981/238, arts. 2(2), 3(2)(3)
- [2](#) Part XII applied by S.I. 1986/564, art. 4(2)(a)

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*Part XII ACQUISITION, VESTING AND TRANSFER OF LAND ETC. > Acquisition of  
land generally > s. 249 Distance limits from highway applicable to compulsory acquisition.*

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## s. 250 Land acquisition powers to extend to creation as well as acquisition of rights.



Law In Force With Amendments Pending

[View proposed draft amended version](#)

Version 1 of 1

Date not available - Present

### Subjects

Real property; Road traffic

### Keywords

Acquisition of land; Compulsory purchase; Highway authorities' powers and duties; Vesting

### 250.— Land acquisition powers to extend to creation as well as acquisition of rights.

(1) A compulsory purchase order made in the exercise of highway land acquisition powers may provide for the acquisition of rights over land by creating them as well as for the acquisition of rights already in existence. In this Act “*highway land acquisition powers*” means powers in respect of acquisition of land which are exercisable by a highway authority under any of the following provisions of this Act, namely, [sections 239, 240, 242 to 246](#) and [250\(2\)](#).

(2) Where rights over land are, or are to be, acquired by a highway authority by means of a compulsory purchase order made in the exercise of highway land acquisition powers, and the land forms part of a common, open space or fuel or field garden allotment and other land is required for the purpose of being given in exchange for those rights, the authority may acquire by agreement or compulsorily that other land; and [subsections \(1\) to \(3\) of section 247](#) above apply in relation to this subsection as they apply in relation to the provisions there mentioned.

(3) In [section 247\(1\) to \(4\)](#) above references to acquisition of land include references to compulsory acquisition of rights by virtue of this section.

[

(3A) [Schedule 3](#) to the [Acquisition of Land Act 1981](#) shall apply to the compulsory purchase of a right by virtue of this section.

] <sup>1</sup>

(4) The Acts of [...] <sup>2</sup> 1965 have effect with the modifications necessary to make them apply to the compulsory acquisition of a right by virtue of this section as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those Acts to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is, or is to be, exercisable, according to the requirements of the particular context.

(5) For the purpose of giving effect to this section, and without prejudice to the general adaptation of enactments under subsection (4) above—[

(a) [Part II of Schedule 19](#) to this Act has effect for the adaptation of [Part I](#) of the Act of 1965 to cases of compulsory acquisition of rights; and

] <sup>3</sup>



(c) as respects compensation in such cases, the enactments relating to compensation for the compulsory purchase of land apply, with the necessary modifications, as they apply to compensation on the compulsory purchase of land and interests in land.

(6) References in any enactment or instrument to the acquisition of land, in a context relating to compulsory acquisition under highway land acquisition powers, are to be construed (except in so far as the context otherwise requires) as including references to the compulsory acquisition of a right or rights by virtue of this section.

(7) The provisions of this section are without prejudice to [section 242\(3\)](#) above, [sections 254](#) and [255](#) below and any other provision of this Act which, by virtue of the definition of “*land*” in [section 329\(1\)](#) below, authorises the acquisition of interests in or rights over land.

(8) References in this section and in [sections 251](#) and [252](#) below to rights over land include references to the right to do, or to place and maintain, any thing in, on or under land, or in the air-space above its surface.

[4](#) [5](#) [6](#) [7](#)

## Notes

- [1](#) S. 250(3A) inserted by Acquisition of Land Act 1981 (c.67), s. 34, Sch. 4 para. 31(6)
- [2](#) Words repealed by Acquisition of Land Act 1981 (c.67), s. 34, Sch. 6 Pt. I
- [3](#) S. 250(5)(a) substituted for s. 250(a) and (b) by Acquisition of Land Act 1981 (c.67), s. 34, Sch. 4 para. 31(7)
- [4](#) Act amended by Town and Country Planning Act 1990 (c.8), s. 54(1) Power to apply Act conferred by Town and Country Planning Act 1990 (c.8), s. 247(3) Power to exclude Act conferred by Town and Country Planning Act 1990 (c.8), s. 61(3)(b) Act modified by Town and Country Planning Act 1990 (c.8), ss. 28, 54, Sch. 2 Pt. I para. 1(2), Pt. III para. 2, Dartford-Thurrock Crossing Act 1988 (c.20), ss. 3, 19, Sch. 3 para. 9, Channel Tunnel Act 1987 (c.53), s. 35, Sch. 4 paras. 7(1), 10(1) Act amended (in part) by Town and Country Planning Act 1990 (c.8), ss. 27, 28 (1)(2) Act extended by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(2)(xxv)(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58, Electricity Act 1989 (c.29), ss. 112(1)(3), Sch. 16 para. 2(4)(d)(6)(9), Sch. 17 paras. 33, 35(1), Gas Act 1986 (c.44), s. 67(1)(3), Sch. 7 para. 2(1)(xl), Sch. 8 para. 33 Functions of Minister of Transport, except those exercisable jointly with Secretary of State under ss. 258, 300(2), Sch. 1 paras. 7, 8, 14, 15, 18, 19, 21, now exercisable by Secretary of State: S.I. 1981/238, arts. 2(2), 3(2)(3)
- [5](#) Part XII applied by S.I. 1986/564, art. 4(2)(a)
- [6](#) S. 250(4) modified by Dartford-Thurrock Crossing Act 1988 (c.20), ss. 2, 19, Sch. 2, Pt. II para. 2(3)(a)
- [7](#) S. 250(5) modified by Dartford-Thurrock Crossing Act 1988 (c.20), ss. 2, 19, Sch. 2, Pt. II para. 2(3)(a)

*Part XII ACQUISITION, VESTING AND TRANSFER OF LAND ETC. > Additional provisions with respect to acquisition of rights over land > s. 250 Land acquisition powers to extend to creation as well as acquisition of rights.*

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## Highways Act 1980 c. 66

### s. 297 Power of highway authority or council to require information as to ownership of land.



Law In Force

Version 1 of 1

Date not available - Present

#### Subjects

Criminal law; Road traffic

#### Keywords

Highway authorities' powers and duties; Local authorities' powers and duties; Non-compliance; Offences; Penalties; Proprietary interests; Provision of information

#### 297.— Power of highway authority or council to require information as to ownership of land.

(1) A highway authority or a council may, for the purpose of enabling them to discharge or exercise any of their functions under this Act, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.

(2) Any person who, having been required in pursuance of this section to give any information, fails to give that information is guilty of an offence and liable to a fine not exceeding [level 3 on the standard scale]<sup>1</sup>.

(3) Any person who, having been so required to give any information, knowingly makes any mis-statement in respect thereof is guilty of an offence and liable—

(a) on summary conviction to a fine not exceeding the prescribed sum within the meaning of [section 32\(9\)](#) of the [Magistrates' Courts Act 1980](#) (£1,000 or such other sum as may be fixed by order under [section 143\(1\)](#) of that Act); or

(b) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine, or both.

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### Notes

<sup>1</sup> Words substituted by Criminal Justice Act 1982 (c.48), ss. 38, 46

<sup>2</sup> Act amended by Town and Country Planning Act 1990 (c.8), s. 54(1) Power to apply Act conferred by Town and Country Planning Act 1990 (c.8), s. 247(3) Power to exclude Act conferred by Town and Country Planning Act 1990 (c.8), s. 61(3)(b) Act modified by Town and Country Planning Act 1990 (c.8), ss. 28, 54, Sch. 2 Pt. I para. 1(2), Pt. III para. 2, Dartford-Thurrock Crossing Act 1988 (c.20), ss. 3, 19, Sch. 3 para. 9, Channel Tunnel Act 1987 (c.53), s. 35, Sch. 4 paras. 7(1), 10(1) Act amended (in part) by Town and Country Planning Act 1990 (c.8), ss. 27, 28 (1)(2) Act extended by Water Act 1989 (c.15), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 1(2)(xxv)(8), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58, Electricity Act 1989 (c.29), ss. 112(1)(3), Sch. 16 para. 2(4)(d)(6)(9), Sch. 17 paras. 33, 35(1), Gas Act 1986 (c.44), s. 67(1)(3), Sch. 7 para. 2(1)(xl), Sch. 8 para. 33

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## Notes

Functions of Minister of Transport, except those exercisable jointly with Secretary of State under ss. 258, 300(2), Sch. 1 paras. 7, 8, 14, 15, 18, 19, 21, now exercisable by Secretary of State: S.I. 1981/238, arts. 2(2), 3(2)(3)

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*Part XIV MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS > Miscellaneous powers etc. of highway authorities and local authorities > s. 297 Power of highway authority or council to require information as to ownership of land.*

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