

APPENDIX A - Legislation concerning highway verge planting

Highways Act 1980

96 Powers of highway and local authorities to plant trees, lay out grass verges, etc.

- (1) Subject to the provisions of this section, a highway authority may, in a highway maintainable at the public expense by them, plant trees and shrubs and lay out grass verges, and may erect and maintain guards or fences and otherwise do anything expedient for the maintenance or protection of trees, shrubs and grass verges planted or laid out, whether or not by them, in such a highway.
- (2) A highway authority may alter or remove any grass verge laid out, whether or not by them, in a highway maintainable at the public expense by them and any guard, fence or other thing provided, whether or not by them, for the maintenance or protection of any tree, shrub or verge in such a highway.
- (3) Subject to the following provisions of this section, a highway authority may exercise the like powers as are conferred by subsections (1) and (2) above on any land acquired in exercise of powers conferred on them by section 239(2) to (4) below, notwithstanding that the land does not form part of a highway.
- (4) A local authority, if they are not the highway authority for a highway maintainable at the public expense in their area, may, with the consent of the highway authority, exercise with respect to that highway any of the powers conferred by subsections (1) and (2) above on the highway authority.
- (5) Subject to the restrictions for the time being imposed by any enactment on their expenditure, the council of a parish or community may, with the consent of the highway authority for a highway maintainable at the public expense in the parish or community, exercise with respect to that highway any of the powers conferred by subsections (1) and (2) above on the highway authority.
- (6) No tree, shrub, grass verge, guard or fence shall be planted, laid out or erected under this section, or, if planted, laid out or erected under this section, allowed to remain, in such a situation as to hinder the reasonable use of the highway by any person entitled to use it, or so as to be a nuisance or injurious to the owner or occupier of premises adjacent to the highway.
- (7) If damage is caused to the property of any person by anything done in exercise of the powers conferred by this section, that person is entitled, subject to subsection (8) below, to recover compensation for it from the authority or parish or community council by whom the powers were exercised.
- (8) A person is not entitled to compensation under subsection (7) above if his negligence caused the damage; and if his negligence contributed to the damage the compensation under that subsection shall be reduced accordingly.

- (9) Any two or more highway authorities on whom powers are conferred by this section may by agreement exercise those powers jointly, and the agreement may provide for the apportionment of any expenses incurred under it.
 - (10) References in this section to trees or shrubs are to be construed as including references to plants of any description.
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142 Licence to plant trees, shrubs, etc., in a highway.

- (1) The highway authority for a highway may by a licence granted under this section permit the occupier or the owner of any premises adjoining the highway to plant and maintain, or to retain and maintain, trees, shrubs, plants or grass in such part of the highway as may be specified in the licence.
- (2) The highway authority may, as they think fit—
 - (a) grant a licence under this section to the person who at the time of the grant is the occupier of such premises and insert in the licence provisions prohibiting assignment of the licence and providing for its duration; or
 - (b) grant such a licence to the owner of such premises and his successors in title and insert in the licence provisions providing for the licence to be annexed to those premises and providing for its duration;

and references in this section to the licensee are references to the person who is for the time being entitled by virtue of such a licence to do anything permitted by it to be done.

- (3) No fine, rent or other sum of money is payable in respect of such a licence except—
 - (a) a reasonable sum in respect of legal or other expenses incurred in connection with the grant of the licence; and
 - (b) an annual charge of a reasonable amount for administering the licence;and any such sum is recoverable from the licensee.
- (4) It shall be a condition of every licence granted by virtue of subsection (2)(b) above that within one month after any change in the ownership of the premises in question takes place the licensee is to inform the highway authority of it.
- (5) A highway authority may attach to any such licence such conditions as they consider necessary to ensure the safety and convenience of passengers in the highway and to prevent traffic therein being delayed, to prevent any nuisance or annoyance being caused to the owners or occupiers of other premises adjoining the highway and to protect the apparatus of statutory undertakers and the operators of electronic communications code networks or driver information systems.

- (6) A highway authority may by notice served on the licensee withdraw a licence granted by them under this section—
- (a) on the expiration of such period as may be specified in the notice, being a period of not less than 7 days beginning with the date of service of the notice on the licensee, if any condition of the licence is contravened by the licensee;
 - (b) on the expiration of such period as may be so specified, being a period of not less than 3 months beginning with the said date, if the authority consider the withdrawal of the licence is necessary for the purpose of the exercise of their functions as a highway authority.
- (7) Where a licence under this section expires or is withdrawn or surrendered, the highway authority by whom it was granted—
- (a) may remove all or any of the trees, shrubs, plants or grass to which the licence relates and reinstate the highway and may recover the expenses reasonably incurred by them in so doing from the last licensee; or
 - (b) if satisfied that the last licensee can, within such reasonable time as they may specify, remove such trees, shrubs, plants or grass or such of them as they may specify and reinstate the highway, may authorise him to do so at his own expense.

In this subsection “the last licensee” means the person who immediately before the expiration, withdrawal or surrender of the licence in question was the licensee or, if that person has died, his personal representatives.

- (8) The licensee and the person who immediately before the expiration, withdrawal or surrender of a licence under this section was the licensee or, if that person has died, his personal representatives shall indemnify the highway authority against any claim in respect of injury, damage or loss arising out of—
- (a) the planting or presence in a highway of trees, shrubs, plants or grass to which the licence relates, or
 - (b) the execution by any person of any works authorised by the licence or by the highway authority under subsection (7) above, or
 - (c) the execution by or on behalf of the highway authority of any works under subsection (7) above;

but this subsection is not to be taken as requiring any person to indemnify the highway authority against any claim in respect of injury, damage or loss which is attributable to the negligence of that authority.

- (9) If any person plants a tree or shrub in a highway otherwise than in pursuance of a licence granted under this section, the tree or shrub is to be deemed, for the purposes of section 141 above, to have been planted in contravention of that section.

- (10) Where the land on which a highway is situated is owned by the highway authority for the highway, nothing in subsection (3) above is to be taken as affecting the rights of that authority as the owner of that land to grant to any person, for such consideration as they think fit, the right to plant any thing in that land.