

Highways Act 1980 – Section 169

Control of Scaffolding on Highways

- 1 Subject to subsection (6) below no person shall, in connection with any building or demolition work or the alteration, repair, maintenance or cleaning of any building, erect or retain on or over a highway any scaffolding or other structure which obstructs the highway (hereafter in this section referred to as a “ relevant structure ”) unless he is authorised to do so by a licence in writing issued for the purposes of this section by the highway authority (hereafter in this section referred to as “a licence”) and complies with the terms of the licence ; and a licence may contain such terms as the authority issuing it thinks fit.
- 2 If a person applies to a highway authority for a licence in respect of any relevant structure and furnishes the authority with such particulars in connection with the structure as the authority reasonably demand. it is the duty of the authority to issue a licence to him in respect of the structure unless the authority consider-
 - (a) that the structure would cause unreasonable obstruction of a highway; or
 - (b) that a relevant structure erected otherwise than as proposed by the applicant would cause less obstruction of a highway than the structure proposed by him and could conveniently be used for the work in question.
- 3 If on an application for a licence in connection with a highway the highway authority refuse to issue a licence or issue a licence containing terms to which the applicant objects, the applicant may appeal to a magistrates’ court against the refusal or terms ; and on such an appeal the court may-
 - (a) in the case of an appeal against a refusal. direct the highway authority to issue a licence in pursuance of the application;
 - (b) in the case of an appeal against the terms of the licence, alter the terms.
- 4 Subject to subsection (6) below, it is the duty of a person to whom a licence is issued by a highway authority in respect of a relevant structure –
 - (a) to ensure that the structure is adequately lit at all times between half an hour after sunset and half an hour before sunrise;
 - (b) to comply with any directions given to him in writing by the authority with respect to the erection and maintenance of traffic signs in connection with the structure; and
 - (c) to do such things in connection with the structure as any statutory undertakers reasonably request him to do for the purpose of protecting or giving access to any apparatus belonging to or used or maintained by the undertakers.

In this subsection and in section 171(2) below “statutory undertakers” means any of the following, namely, any body who are statutory undertakers within the meaning provided by section 329(1) below, the Post Office, any public authority exercising functions by virtue of any provision of sections 14 and 15 of the Water Act 1973 (which relate to sewerage) and any person entitled to the benefit of a licence in respect of the highway in question under section 181 below.

- 5 A person who contravenes the provisions of subsection (1) above otherwise than by failing to comply with the terms of a licence or who fails without reasonable excuse to comply with the terms of a licence or to perform a duty imposed on him by subsection (4) above, is guilty of an offence and liable to a fine not exceeding (the current level).

- 6 Nothing in the preceding provisions of this section applies to a relevant structure erected before 14th February 1977 or erected or retained by the British Railways Board, the British Waterways Board or the London Transport Executive in the exercise of powers conferred on the body in question by any enactment; and nothing in paragraph (a) or (b) of subsection (4) above applies to a relevant structure if no part of it is less than 18 inches in a horizontal direction from a carriageway of the relevant highway and no part of it over a footway of the relevant highway is less than 8 feet in a vertical direction above the footway.
- 7 No civil or criminal proceedings lie in respect of any obstruction of a highway which is caused by a relevant structure if the structure is on or over the highway in accordance with a licence and the person to whom the licence is issued performs the duties imposed on him in respect of the structure by subsection (4) above; and a highway authority by whom a licence is issued does not incur any liability by reason of the issue of the licence.