



Isle of Man

Ellan Vannin

AT 14 of 2016

HIGHWAYS (AMENDMENT) ACT 2016



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HIGHWAYS (AMENDMENT) ACT 2016

Signed in Tynwald: 19 July 2016
Received Royal Assent: 19 July 2016
Announced to Tynwald: 19 July 2016

AN ACT to amend the Highways Act 1986 and to repeal the Highway Act, 1927.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Highways (Amendment) Act 2016.

2 Commencement

- (1) Except for Part 1, this Act comes into operation on a day or on days appointed by order of the Department of Infrastructure.
- (2) Different days may be appointed for different provisions and for different purposes.
- (3) An order under subsection (1) may include necessary or expedient transitional or saving provisions.

PART 2 - AMENDMENTS TO THE HIGHWAYS ACT 1986

3 Highways Act 1986 amended

- (1) This Part amends the *Highways Act 1986*.
- (2) Accordingly, a reference to a section or Schedule in this Part is a reference to a section of, or a Schedule to, that Act.

4 Section 3 amended – duty to maintain certain highways

- (1) Section 3 is amended as follows.
- (2) In subsection (2)—
 - (a) for paragraph (ja) substitute —
 - ▮(ja) a bridle-path created by a public path order or an order under section 91A;▮;
 - (b) after paragraph (k) insert —
 - ▮(ka) any cycle track or cycle-path, whether coming into existence before or after the commencement of this Act;▮.
- (3) After subsection (4) insert —
 - ▮(4A) Without prejudice to the duty of the Department under subsection (1), a local authority may, within its area, undertake the maintenance of a bridle-path, cycle-path, cycle track or footpath that is a highway maintainable by the Department and, if it does, the Department may provide that the whole or part of the expenditure incurred by the local authority in doing so is to be defrayed by the Department.▮.

5 Section 4 substituted — agreements for the adoption of roads

For section 4 substitute —

▮4 Agreements for the adoptions of roads

- (1) The Department may enter into an agreement (“a road adoption agreement”) with any person to undertake the maintenance of —
 - (a) a private road, or
 - (b) a road which is to be constructed by that person, or by the Department on behalf of that person,
 which that person is willing and able to dedicate as a highway.
- (2) A road adoption agreement must provide for the road to which it relates to become a highway maintainable at the public expense.
- (3) A road adoption agreement may —
 - (a) include, or provide for the imposition of, conditions to be satisfied in connection with the road’s becoming a highway,
 - (b) provide for the bearing of the expenses of the construction, maintenance or improvement of any highway, road, bridge or viaduct to which the agreement relates, and
 - (c) include provision dealing with such ancillary, consequential or incidental matters,

as the Department thinks fit.

- (4) In order to ensure that the other party to a proposed road adoption agreement performs that party's obligations under it, the Department may require the other party to provide security in such a form and for such an amount of money as the Department may specify. **22**."

6 Section 9A inserted — incidental powers

Immediately after section 9 insert —

9A Incidental powers

The Department may develop or redevelop any of its land to improve the surroundings of a highway in any manner that it thinks desirable by reason of its construction, improvement, existence or use. **22**.

7 Section 16A inserted - power to designate improvement lines for widening highways

After section 16 insert —

16A Power to designate improvement lines for widening highways

- (1) Subsection (2) applies if the Department is satisfied that a highway maintainable at the public expense —
- (a) is too narrow, is inconvenient, or is without a sufficiently regular boundary line; or
 - (b) should be widened.
- (2) The Department may designate —
- (a) in relation to either one side of the highway or both; or
 - (b) at or within a distance of 15 metres from a corner of the highway,
- a line to which the highway is to be widened (in this section and in Schedule 1B referred to as an "improvement line").
- (3) The Department may at any time revoke the designation of an improvement line or any part of it.
- (4) Schedule 1B has effect in relation to the designation of an improvement line or the revocation of the designation of the whole or any part of an improvement line.
- (5) While an improvement line exists in respect of a highway, a person must not, without the consent of the Department —
- (a) erect or retain a new building; or

- (b) make a permanent excavation below the level of the highway,
nearer to the centre line of the highway than the improvement line.
- (6) The Department may give its consent under subsection (5) subject to such conditions as it considers appropriate, including a condition, in respect of the retention of a new building, that it must be demolished on the direction of the Department.
- (7) Subsection (5)(b) is without prejudice to any right a statutory undertaker has to make an excavation for the purpose of its undertaking.
- (8) A condition imposed on a consent given under subsection (5) in respect of land binds the owner of the land, each successor in title to the owner of the land and any lessee or occupier of the land.
- (9) If the Department designates an improvement line under this section, a person aggrieved by —
- (a) the decision to designate the line;
 - (b) the refusal of consent under subsection (5); or
 - (c) the period for which the consent is given or any conditions attached to it,
- may appeal to High Bailiff.
- (10) A person whose property is injuriously affected by the designation of an improvement line may recover from the Department compensation for the injury sustained.
- (11) Any question arising as to the amount of that compensation is to be determined, if the parties so agree, by a single arbitrator appointed by them or, in default of agreement, by the High Bailiff.
- (12) However, a person is not entitled to compensation on account of any building erected, contract made, or other thing done, after the date on which a plan showing the improvement line was deposited in accordance with the provisions of paragraph 3 of Schedule 1B, except as regards work done for the purpose of finishing a building the erection of which had begun before that date or of carrying out a contract made before that date.
- (13) A person is guilty of an offence if the person contravenes —
- (a) subsection (5); or
 - (b) a condition subject to which consent was given under that subsection.
- (14) A person convicted of an offence under subsection (13) who continues to offend after conviction, is guilty of a further offence under that subsection and may be convicted of the offence in

respect of any period of contravention after the previous conviction.

(15) Subsections (13) and (14) are without prejudice to any other proceedings that may be available against the person in respect of the contravention.

(16) In this section —

“building” includes any erection however, and with whatever material, it is constructed and any part of a building;

“new building” includes any addition to an existing building. **22**.

8 Section 22 repealed and replaced - prevention of obstruction to view at corners

For section 22 substitute —

22 Prevention of obstruction to view at corners

(1) This section applies if the Department considers that to prevent danger arising from an obstruction to the view of persons using a highway maintainable at the public expense it is necessary to impose restrictions on land at or near —

(a) a corner or bend in the highway; or

(b) a junction of the highway with a highway or road to which the public has access.

(2) The Department may serve a notice, together with a plan showing the land to which the notice relates —

(a) on the occupier of the land, requiring him or her to alter or remove a wall, other than a wall forming part of the structure of a permanent building, a bank, a fence, a hoarding, a paling, a tree, a shrub or any other vegetation on the land so that it conforms with the requirement specified in the notice; or

(b) on each owner, lessee and occupier of the land, restraining him or her either absolutely or subject to such conditions as may be specified in the notice from causing or permitting a building, a wall, a bank, a fence, a hoarding, a paling, a tree, a shrub or any other vegetation to be erected or planted on the land near the highway.

(3) If a building is to be erected on the land, the Department may serve a notice on the occupier of the land, together with a plan showing the land to which the notice relates, requiring the corner of the building to be rounded or splayed off as specified in the notice.

- (4) A notice under subsection (2) or (3) may at any time be withdrawn by the Department.
- (5) The Department must serve a copy of a notice under subsection (2)(a) or (3) on the owner of the land if the owner is not the occupier of the land.
- (6) A notice under subsection (2)(b) does not prevent the repair of any building that was on the land before the service of the notice provided it is done in such a manner as not to create a new obstruction to the view of persons using the adjacent highways.
- (7) A requirement of, or a restraint imposed by, a notice under subsection (2) or (3) comes into operation on the service of the notice and while the notice is in operation is binding on the owner, the successor in title to every owner and on every lessee and every occupier of the land to which the notice relates.
- (8) A person aggrieved by a requirement of, or a restraint imposed by, a notice under subsection (2) or (3) may, within 14 days from the date of service of the notice, appeal to the High Bailiff.
- (9) In determining an appeal under subsection (8) the High Bailiff may order that the requirement or restraint objected to is to have effect subject to such modifications, if any, as the High Bailiff may direct.
- (10) A person upon whom a notice has been served under subsection (2) or (3) may do all such things as may be necessary for complying with the requirements of the notice despite anything in any conveyance, lease or other deed or instrument.
- (11) Anything done by a person under subsection (10) is not a contravention of the *Town and Country Planning Act 1999* or the *Tree Preservation Act 1993*.
- (12) A person upon whom a notice has been served under subsection (2) or (3) is guilty of an offence if he or she contravenes the provisions of the notice.
- (13) A continuing contravention of the provisions of the notice after conviction for an offence under subsection (12) constitutes a new offence and may be punished accordingly.
- (14) Subsections (12) and (13) do not prejudice any other proceedings that may be available against the person.
- (15) A person upon whom a notice has been served under subsection (2) or (3) may recover from the Department compensation for any damages he or she suffers, and any expenses he or she reasonably incurs, as a result of the service of the notice or in carrying out a direction contained in the notice.

- (16) Any question arising as to those damages or expenses is to be determined, if the parties so agree, by a single arbitrator appointed by them or, in default of agreement, by the High Bailiff.
- (17) Despite any other provision of this section, the Department may not serve a notice under this section in respect of —
- (a) a wall that forms part of an ancient monument to which a preservation order under section 11 of the *Manx Museum and National Trust Act 1959* relates;
 - (b) a wall that forms part of an ancient monument that is in the ownership or under the guardianship of the Manx Museum and National Trust; or
 - (c) a wall that belongs to the Department and forms part of or is necessary for the maintenance of a railway.
- (18) In subsection (17) “ancient monument” has the same meaning as in the *Manx Museum and National Trust Act 1959*. **22**.

9 Section 32A repealed and replaced — equipment for detecting and preventing offences

For section 32A substitute —

32A Equipment for detecting and preventing offences

- (1) The Department or the Chief Constable may install and maintain on, in, over or near a highway structures, apparatus and equipment, including automatic number-plate recognition equipment and systems, for the detection and prevention of traffic and other offences.
- (2) No act of the Department or of the Chief Constable, or of their servants or agents, carried out in good faith under subsection (1) is a contravention of the *Town and Country Planning Act 1999*. **22**.

10 Section 45 — removal of obstructions

After section 45(1)(a) insert —

- 32A** (ab) erects a gate or stile across a footpath or bridle-path; **22**.

11 New section 45A – Department may remove obstructions without notice

After section 45 insert —

45A Department may remove obstructions without notice

- (1) This section applies if the Department is satisfied that a structure or object placed, fixed or displayed at the side of, over or within a highway is causing an immediate danger to persons using the highway.
- (2) The Department may, without giving notice of its intention, remove the structure or object.
- (3) If the Department does so, it may recover the expenses reasonably incurred by it in doing so from —
 - (a) the person having control or possession of the structure or object;
 - (b) the person who placed, fixed or displayed the structure or object; or
 - (c) the person on whose behalf the structure or object was placed, fixed or displayed.
- (4) Section 83(4) applies to anything removed under subsection (2) as it applies to anything removed in carrying out works under section 83(2)(b).
- (5) The Department may remove a structure or object under subsection (2) despite the fact that no offence may have been committed under section 45.
- (6) In this section —

“advertisement” has the same meaning as in the *Town and Country Planning Act 1999*;

“structure” includes a structure on wheels, a booth, a stall, a stand, a machine or other similar structure;

“object” includes a banner, a balloon, a decoration, advertisement or other similar object. **22**.

12 Section 55A amended – vehicles for sale on highways

Omit section 55A(2).

13 Sections 55B to 55E inserted – gates and other works

Immediately after section 55A insert —

55B Approval of gate or stile on footpath or bridle-path

- (1) If —
 - (a) a person owns, leases or occupies agricultural or forestry land or land used to breed or keep animals or land that is to be brought into use for any of those purposes; and

(b) a footpath or bridle-path crosses the land,

the person may, with the approval of the local authority, erect a gate, stile or similar structure on the path to allow the land to be effectively used for agriculture or forestry or for breeding or keeping animals.

(2) A local authority, when considering an application for approval under subsection (1), must consider any guidelines issued by the Department.

55C Duties of land owners for gates and stiles

(1) This section applies if —

(a) a person owns land;

(b) a footpath or bridle-path crosses the land; and

(c) there is a gate, stile or a similar structure on the footpath or bridle-path.

(2) The owner of the land must ensure that the gate, stile or structure is safe and to the standard of repair needed to prevent unreasonable interference with the rights of those using the path.

(3) If it appears to the local authority that the duty imposed by subsection (2) is not being complied with, it may, after giving to the owner reasonable notice of its intention, take all necessary steps for repairing and making good the stile, gate or structure.

(4) Any cost and expenses reasonably incurred by the local authority in and in connection with the exercise of its functions under subsection (3) is a debt due to it from the owner of the land.

55D Power of local authorities to erect decorative works

(1) With the Department's approval, a local authority may on or in a highway in its district erect a flagpole, pylon or other structure to display decorations.

(2) The Department may give its approval subject to conditions.

(3) The local authority must ensure that anything erected under subsection (1) is erected in a way that —

(a) minimises the obstruction of the highway as much as reasonably possible;

(b) does not obscure or conflict with the highway's traffic signs; and

(c) interferes as little as is reasonably possible with the enjoyment of premises adjacent to the highway and with

access to apparatus in, on, over or under the highway owned, used or maintained by statutory undertakers.

- (4) The local authority must ensure that anything erected under subsection (1) —
- (a) is properly maintained; and
 - (b) is lit in so far as it is necessary to be so in order to obviate danger to users of the highway.
- (5) The local authority must pay to the Department any reasonable expenses the Department incurs because of the decorative works.
- (6) If it appears to the Department that a condition imposed by virtue of subsection (2) is not being complied with, it may, after giving to the local authority reasonable notice of its intention, take all necessary steps to ensure compliance with the condition.
- (7) The Department may recover from the local authority any expenses it reasonably incurs in and in connection with the exercise of its powers under subsection (6).
- (8) A person who without lawful authority interferes with or removes anything erected under subsection (1) commits an offence.

55E Offence: mixing or depositing of mortar, etc. on highway

- (1) A person commits an offence if he or she mixes or deposits on a highway cement, mortar or any other substance that is likely to stick to the highway's surface or to solidify in a drain or sewer connected to the highway if it enters the drain or sewer.
- (2) However, subsection (1) does not apply if the mixing or depositing is —
- (a) in a receptacle or on a plate that prevents the substance from touching the highway and from entering a drain or sewer connected to the highway;
 - (b) by the Department or a local authority in order to maintain or alter the highway or a bridge over which, or a tunnel through which, the highway passes;
 - (c) by a body with functions under an enactment to maintain a bridge over which, or a tunnel through which, the highway passes or works or materials protecting the highway where the highway forms part of the approaches to the bridge or tunnel; or
 - (d) by a statutory undertaker in order to place, maintain or alter structures, apparatus or equipment in, on, over or under the highway. **22**.

14 Section 56 repealed and replaced – regulation of undertakers’ works

For section 56 substitute –

56 Regulation of undertakers’ works

- (1) The Department may make regulations regulating the carrying out of undertakers’ works in, on, over or under highways.
- (2) The regulations may provide for ancillary, consequential or incidental matters.
- (3) The regulations may provide that it is an offence not to comply with any specified provision of the regulations.
- (4) In this section –

“highway” includes any bridge over which the highway passes and any tunnel that it passes through;

“undertakers’ works” means any of the following kinds of works carried out by or on behalf of a statutory undertaker –

- (a) placing or removing apparatus;
- (b) inspecting, maintaining, adjusting, repairing, altering or reinstating apparatus;
- (c) changing the position of or renewing apparatus;
- (d) breaking up or opening of, or tunnelling or boring under, any highway or breaking up or opening of any sewer, drain or tunnel in or under any highway for any of the purposes mentioned in paragraphs (a) to (c);

and any other works requisite for or incidental to those purposes. **22**.

15 Section 63A inserted – power to make regulations to prevent nuisances on highways

Immediately after section 63 insert –

63A Power to make regulations to prevent nuisances on highways

- (1) The Department may make regulations for the purpose of preventing the commission of nuisances on highways or the distribution of handbills, papers or other articles.
- (2) A person who contravenes a provision of regulations made under subsection (1) is guilty of an offence. **22**.

16 Section 73A amended - new means of access from highways

In section 73A –

- (a) after subsection (2) insert —
- 73** (2A) If a person has carried out works referred to in subsection (1) (with or without the consent of the Department) and the Department considers that additional works need to be executed to ensure the access is properly and safely constructed, the Department may serve on the person, or, if he or she is not the current owner or occupier of the land in question, on the owner and occupier, a notice stating that it proposes to execute the additional works.
- (2B) Schedule 5 has effect with respect to the making of objections to a notice under subsection (2A) and to the date on which such a notice becomes effective as it applies to notices under section 73.
- (2C) Where a notice under subsection (2A) has become effective, the Department may execute such works as are specified in the notice and may recover the expenses reasonably incurred by it in so doing from a person upon whom the notice was served.
- (2D) A notice under subsection (2A) must, in addition to informing a person upon whom it is served of the person’s right to appeal against the notice, state the effect of subsection (2C). **74**;
- and
- (b) in subsection (3), for “this section” where it first appears substitute “subsections (1) and (2)” and where it appears in paragraph (b) substitute “those subsections”.

17 Section 78 repealed and replaced — provision of cafes, kiosks, etc. in highways

For section 78 substitute —

78 Provision of cafes, kiosks, etc. in highways

- (1) A local authority may grant a licence (“licence”) to a person —
- (a) to provide on any part of a highway facilities for refreshment, and for that purpose to place there any necessary furniture; or
- (b) to place on any part of a highway kiosks, showcases or other similar structures for the sale of articles, the display of articles for sale or the display of posters.
- (2) A local authority must not grant a licence that permits facilities to be provided, or any furniture or structure to be placed, in a highway so as —
- (a) to obstruct a carriageway forming part of the highway;

- (b) to prevent access to any land or premises or any other highway from the highway;
 - (c) to prevent the passage of pedestrians along any footway forming part of the highway;
 - (d) to prevent the Department from carrying out any works of maintenance of the highway;
 - (e) to prevent a statutory undertaker from having access to its apparatus under, in, on, over, along or across the highway; or
 - (f) to interfere with any such apparatus.
- (3) Before granting a licence, a local authority must —
- (a) consult any statutory undertakers whose apparatus is under, in, on, over, along or across the part of the highway affected by the proposal; and
 - (b) publish in a manner likely to bring it to the attention of those affected by it a notice that gives particulars of the licence sought.
- (4) A notice published under subsection (3)(b) in respect of a proposed licence must state that objections or representations —
- (a) as to the grant of the licence; or
 - (b) as to any condition to be included in the licence,
- may be made in writing to the local authority within 28 days of the first publication of the notice or, if the licence applied for is for a period of 4 weeks or less, within 7 days of the first publication of the notice.
- (5) A local authority must make a licence subject to conditions —
- (a) that ensure that the provisions specified in subsection (2) are not breached; and
 - (b) if the licence authorises advertisements to be displayed, that regulate or restrict the advertisements that may be displayed,
- and may make the licence subject to such other conditions as the local authority considers appropriate.
- (6) However, a local authority must not provide for a fine, rent or other sum of money payable in respect of a licence except —
- (a) a reasonable sum in respect of its legal or other expenses incurred in connection with the grant of the licence; and
 - (b) an annual charge of a reasonable amount for its administration of the licence.

- (7) If the local authority is the owner of the land on which a highway is situated, nothing in subsection (6) affects the rights of the authority as such, including the right to charge rent for anything placed in, on or over the land.
- (8) A local authority may grant a licence subject to a condition prohibiting its assignment or to a condition permitting its assignment subject to such conditions as may be specified in the licence.
- (9) A local authority may grant a licence to a person as owner of premises fronting the highway and his or her successors in title, being a licence that provides for it to be annexed to the premises and for any conditions of the licence to bind the owner for the time being of the premises.
- (10) A local authority may not grant a licence for a period exceeding 3 years.
- (11) If a condition contained in a licence, is contravened, the local authority or any statutory undertaker affected may carry out any works necessary to remedy the contravention and may recover from the licensee any expenses reasonably incurred by it in so doing.
- (12) In subsection (11) “licensee” means the person to whom the licence was granted and includes any person to whom the licence is assigned pursuant to subsection (8) or the owner for the time being of premises to which the licence is annexed pursuant to subsection (9).
- (13) Planning approval under the *Town and Country Planning Act 1999* is not required for, and sections 7 and 23 of that Act do not apply to, development authorised by a licence.
- (14) Sections 22 and 35 of the *Town and Country Planning Act 1999* do not apply to the display of an advertisement authorised by a licence.
- (15) The *Control of Advertising Act 1981* does not apply to anything authorised by a licence.
- (16) Section 57 (selling liquor without licence) of the *Licensing Act 1995* does not apply to the sale or exposure for sale by retail of liquor within the meaning of that Act at a place the subject of a licence if the sale or exposure for sale is authorised by the licence.
- (17) In this section “advertisement” and “development” have the same meanings as in the *Town and Country Planning Act 1999*. .

18 Sections 85A and 85B inserted – acquisition of land by the Department

After section 85 insert –

“85A Acquisition of land between improvement line and boundary of highway

- (1) The Department may acquire, by agreement or compulsorily, land (including any premises) lying between an improvement line it has designated in respect of a highway under section 16A and the boundary of the highway.
- (2) The Department may, at such time or times as it may determine, add to and make good as part of the highway land acquired under subsection (1).
- (3) Until the land is so added, the occupier of the land from which it was severed and other persons with the occupier’s permission have, in respect of the land so acquired —
 - (a) the right to reasonable access across the land to and from the highway; and
 - (b) the same right to lay, alter, maintain and remove a sewer, drain, main, pipe or electric line in the land as they would have were the land part of the highway.

85B Acquisition of land for mitigating adverse effects of highway

- (1) The Department may acquire, by agreement or compulsorily, land to mitigate adverse effects that the existence or use of a highway constructed or improved by it or proposed to be constructed or improved by it has or may have on the highway’s surroundings.
- (2) The Department may acquire by agreement land the enjoyment of which is seriously affected by —
 - (a) the carrying out of works by the Department for the construction or improvement of a highway; or
 - (b) the use of a highway that it has constructed or improved.
- (3) For the purpose of assessing the compensation payable on the compulsory acquisition of land under subsection (1) the land is to be treated as if it were being acquired for the construction of the highway or, as the case may be, the improvement in question. **22**.

19 Section 91A repealed and replaced - conversion of footways and footpaths into cycle tracks, cycle-paths or bridle-paths

For section 91A substitute —

22 91A Conversion of footways and footpaths into cycle tracks, cycle-paths or bridle-paths

- (1) The Department may by order designate a footpath or part of a footpath as a cycle-path, so that, on such date as the order takes

- effect, the footpath or part of the footpath to which the order relates becomes a highway over which the public have a right of way on pedal cycles and a right of way on foot.
- (2) The Department may by order designate a footway or part of a footway as a cycle track, so that, on such date as the order takes effect, the footway or part of the footway to which the order relates becomes a highway over which the public have a right of way on pedal cycles and a right of way on foot.
- (3) The Department may by order designate a footpath or part of a footpath as a bridle-path, so that, on such date as the order takes effect, the footpath or part of the footpath to which the order relates becomes a highway over which (subject to section 91B) the public have a right of way on horseback or leading a horse and a right of way on foot.
- (4) Schedule 2 to the *Road Traffic Regulation Act 1985* has effect as to the procedure for making orders under this section. **22**.

20 Substitution of section 92: Definitive maps – rights of way

For section 92 substitute—

92 Rights of way: definitive maps and statement

- (1) The definitive maps and statement prepared, before the coming into operation of this section as originally enacted, under section 6(1) of the *Public Rights of Way Act 1961*, shall continue to be deposited in the General Registry.
- (2) The Department may prepare copies of definitive maps (whether in the form in which they were first deposited as mentioned in subsection (1) or in a form which reflects amendments under section 92A and any rectifications under section 92B which have been made to the definitive map and associated statement on the date which the copy in question was prepared) and keep those copies in electronic or physical form provided that —
- (a) they show the land to which they relate at the scale of 1:10560; and
- (b) they identify, or are associated with a statement which enables a user to identify—
- (i) the relevant date in respect of a right of way;
- (ii) the nature of that right, including whether it is subject to conditions or limitations; and
- (iii) the route and width of the route over which the right of way is exercisable.

- (3) Maps prepared as mentioned in subsection (1) or (2) are referred to elsewhere in this Act as “**definitive maps**”.
- (4) In this Act references to a “**statement**” associated with a definitive map are references to —
- (a) a statement associated with a definitive map prepared under sections 5 and 6 of the *Public Rights of Way Act 1961*¹ by the former Isle of Man Highway and Transport Board; or
 - (b) a statement associated with any subsequent definitive map prepared by the Department of Infrastructure.
- (5) A definitive map, and any statement associated with it, is conclusive evidence of the particulars which it contains to the following extent —
- (a) if the map shows a public footpath, the map is conclusive evidence that there was at 29th May 1973 a footpath as shown on the map;
 - (b) if the map shows a road used as a public path, the map —
 - (i) is conclusive evidence that at 29th May 1973 there was a highway as shown on the map over which the public had a right of way on foot; but
 - (ii) is not conclusive evidence that at that date the public had any other form of right of way over that road.

This subsection is subject to section 92C(2).

- (6) If, by virtue of subsection (5)(a) or (b), a map is conclusive evidence at 29th May 1973 of the public footpath or road used as a public path shown in it—
- (a) any particulars contained in a statement associated with it about the position or width of the public footpath or the road used as a public path are conclusive evidence of its position or width at that date; and
 - (b) any particulars contained in that statement about the limitations and conditions (if any) affecting the right of way are conclusive evidence that those limitations and conditions applied to the right at that date.

For the sake of clarity paragraph (b) does not affect the question of whether the right of way was subject to any other right, limitation or condition at 29th May 1973 (or the date on which that right of way came into existence, if later).

¹ Repealed by the relevant entry in Schedule 9 to the Highways Act 1986.

- (7) A document which purports to be authenticated by the Chief Registrar as a copy of a definitive map or a statement associated with it—
 - (a) is receivable in evidence without further proof; and
 - (b) is to be deemed to be such a copy unless the contrary is shown.
- (8) Sections 92A to 92C make further provision about definitive maps.

92A Definitive maps and associated statements: amendment

- (1) For the purpose of this section, the following are relevant events—
 - (a) the coming into operation of any order under section 33, 34 or 91; or
 - (b) the happening of any other event, including an act of dedication (whether under an agreement under section 4 or 87 or otherwise),by reason of which —
 - (i) a footpath, cycle-path or bridle-path particulars of which are given in a definitive map or an associated statement has been widened, extended or extinguished; or
 - (ii) a new footpath, cycle-path or bridle-path has been created.
- (2) The Department must, as soon as practicable after the happening of a relevant event, by order amend a definitive map and associated statement to include particulars of any necessary change to that document resulting from the event, subject to the remaining provisions of this section.
- (3) Before the Department makes any order amending a definitive map or an associated statement the Department must take the steps specified in Schedule 3, subject to subsection (4).
- (4) Subsection (3) does not apply if the proposed amendment arises in connection with —
 - (a) an order under section 33, 34 or 91; or
 - (b) an agreement under section 4 or 87.
- (5) In a case to which subsection (3) applies, if any objection is received within the time permitted for making it and is not withdrawn, the Department must not make the amendment without the leave of the High Court.
- (6) An order under subsection (2) must not come into operation unless approved by Tynwald.

92B Definitive maps and statements: rectification

- (1) This section applies if it appears to the Department that details of a footpath, bridle-path or cycle-path shown or recorded in the definitive map or statement –
 - (a) do not reflect the route or width of the footpath, bridle-path or cycle-path on the ground; and
 - (b) have not reflected that matter since 29th May 1973 or, if later, the date on which the footpath, bridle-path or cycle-path was recorded on the definitive map.
- (2) If this section applies, the Department must take the same steps to rectify the definitive map or associated statement as it would take if it were proposing to amend the map or associated statement under section 92A (references in that section to amendment being read as references to rectification).

92C Definitive maps and statements: supplemental

- (1) An amendment to, or a rectification of, a definitive map or associated statement is to be treated as if it had always formed part of the map or statement (as the case requires), subject to what follows.
- (2) In the case of an amendment to a definitive map or statement associated with it section 92 has effect as if, instead of referring to 29th May 1973, it referred to the date when the event giving rise to the amendment occurred.
- (3) The width of a public footpath, or a road used as a public path, shown on a definitive map shall, unless the contrary is shown in the associated statement, be deemed to be not less than 3 feet.
- (4) The width of a cycle-path or bridle-path shown on a definitive map shall, unless the contrary is shown in the associated statement, be deemed to be not less than 6 feet.
- (5) The validity of the definitive maps and associated statement may not be questioned in legal proceedings of any description except proceedings for a declaration under the *Human Rights Act 2001*. **22**.

21 New cross heading - the private street works code

Immediately before section 94 insert –

▣ The private street works code ▣

22 Section 94 amended – making up unadopted roads

In section 94(1), for “to do any works of making up with respect to such road (in this Part called “street works”)” substitute **▣** to do street works in respect of the road **▣**.

23 Section 98 repealed and replaced - cost of street works in respect of churches etc. to be borne by Department

For section 98 substitute —

▣ 98 Cost of street works in respect of churches etc. to be borne by Department

- (1) The section applies to property that is —
 - (a) land on which there is constructed a war memorial, a church, a chapel, or a place appropriated to public religious worship in respect of which no rates are payable; or
 - (b) land that is a churchyard or burial ground.
- (2) The cost of any street works carried out in respect of property to which this section applies is to be borne by the Department. **▣**.

24 New Division of Part VII - the advance payments code

After section 98 insert —

▣ The advance payments code

98A Payments to be made by owners of new buildings in respect of street works.

- (1) Except as provided by section 98B, this section applies if —
 - (a) it is proposed to erect a building for which plans are required to be deposited with the building authority; and
 - (b) the building will have a frontage on a road in which the Department will have power under the private street works code to execute street works.
- (2) A person must not undertake work to erect the building unless the owner of the land on which it is to be erected or a previous owner of the land has paid to the Department or secured to its satisfaction the payment to it of such sum as may be required under section 98C in respect of the cost of street works in the road.

- (3) If work is undertaken in contravention of subsection (2), the owner of the land on which the building is to be erected and, if he or she is a different person, the person undertaking the erection of the building is guilty of an offence.
- (4) A further contravention in respect of the same building constitutes a new offence and may be punished accordingly.
- (5) If the person undertaking the erection of the building is not the owner of the land on which it is to be erected, it is a defence for him, if charged with an offence under subsection (3) or (4), to prove that he or she had reasonable grounds for believing that the sum required under section 98C had been paid or secured in accordance with subsection (2).

98B Exemptions

- (1) Section 98A does not apply —
 - (a) if the owner of the land on which the building is to be erected will be exempt, by virtue of a provision in the private street works code, from liability for expenses incurred in respect of street works in the road in question;
 - (b) if the building proposed to be erected will be situated in the curtilage of, and be appurtenant to, an existing building;
 - (c) if the plans mentioned in section 98A(1)(a) were deposited before that section came into force.
- (2) Section 98A does not apply if an agreement has been made by a person with the Department under section 4 —
 - (a) providing for the carrying out at the expense of the person of street works in the whole of the road or a part of it comprising the whole of the part on which the frontage of the building will be; and
 - (b) for securing that the road or the part of it, on completion of the works, will become a highway maintainable at the public expense.
- (3) Section 98A does not apply if the Department, by notice served on the owner of the land on which the building is to be built, exempts the building from that section, being satisfied that the whole of the road or a part of it comprising the whole of the part on which the frontage of the building will be is not, and is not likely within a reasonable time to be —
 - (a) substantially built-up; or

- (b) in so unsatisfactory a condition as to justify the use of powers under the private street works code to secure the carrying out of street works in the road or the part of it.
- (4) Section 98A does not apply if the Department, by notice served on the owner of the land on which the building is to be built, exempts the building from that section, being satisfied that the road on which the building is to have a frontage is not, and is not likely within a reasonable time to become, joined to a highway maintainable at the public expense.
- (5) Section 98A does not apply if —
- (a) the whole road, being not less than 100 yards in length; or
- (b) a part of it not less than 100 yards in length and comprising the whole of the part on which the frontage of the building will be,
- was, when section 98A came into force, built-up to such an extent that the aggregate length of the frontages of the buildings on both sides of the road or part constituted at least one half of the aggregate length of all the frontages on both sides of the road or part.
- (6) Section 98A does not apply if (in a case not falling within subsection (5)) the Department, by notice served on the owner of the land on which the building is to be built, exempts the building from this section, being satisfied that the whole of the road on which the building is to have a frontage was, when the section came into force, substantially built-up.
- (7) Section 98A does not apply if the Department, by notice published in a manner likely to bring it to the attention of those affected by it, exempts the road or the relevant part of it from the section, being satisfied —
- (a) that more than three-quarters of the aggregate length of all the frontages on both sides of the road, or of a part of the road not less than 100 yards in length and comprising the whole of the part on which the frontage of the building will be, consists, or is at some future time likely to consist, of the frontages of industrial premises, and
- (b) that its powers under the private street works code are not likely to be exercised in relation to the road or to the part of it, as the case may be, within a reasonable time.
- (8) If a sum has been paid or secured under section 98A in relation to a building proposed to be erected on it, and later —
- (a) a notice is served under subsection (3), (4) or (6) exempting the building from section 98A; or

- (b) a notice is published under subsection (7) exempting from section 98A the road or the part of it on which the building will have a frontage,

the Department must pay the sum to the owner of the land or must release the security, as the case may be.

- (9) If a sum was paid under section 98A, and after the payment but before the service or publishing of the notice mentioned in subsection (3), (4) (6) or (7), the land in respect of which it was paid was divided into 2 or more parts each having a frontage on the road in question, the sum to be paid under subsection (8) must for the purposes of the subsection be apportioned between the owners of the land according to their respective frontages.

98C Determination of payments

- (1) This section applies if section 98A applies.
- (2) The building authority, if it is not the Department, must, within one week of passing plans mentioned in section 98A(1)(a), inform the Department accordingly.
- (3) The Department may, within 6 weeks from the passing of the plans, serve a notice on the owner of the land in respect of which the plans were deposited requiring the payment or the securing under section 98A of a sum specified in the notice.
- (4) The sum to be specified in the notice must be such sum as in the opinion of the Department would be recoverable under the private street works code in respect of the frontage of the proposed building on the road in question if the Department were then to carry out the street works in respect of that road in accordance with that code.
- (5) If after the service of the notice the Department is of the opinion –
- (a) that the sum specified in the notice exceeds the sum that would be recoverable as mentioned in subsection (4) if it were then to carry out the street works in accordance with that code; or
- (b) that no sum would be so recoverable,
- the Department may, by a further notice served on the person who is for the time being the owner of the land on which the building is to be or has been erected substitute a smaller sum for the sum specified in the notice served under subsection (3) or, as the case may be, intimate that no sum falls to be paid or secured.
- (6) Subsection (5) does not apply if a sum has been paid or secured in compliance with a notice served under subsection (3) and the

- Department has the power to make a refund or release under section 98D(1).
- (7) If a notice (not being a notice intimating that no sum falls to be paid or secured) is served under this section, the owner of the land on which the building is to be or has been erected may appeal to the High Bailiff, who may substitute a smaller sum for the sum specified in the notice.
- (8) If a sum has been paid or secured in compliance with a notice served under subsection (3) and a notice is subsequently served under subsection (5) substituting a smaller sum for the sum specified in the first-mentioned notice or intimating that no sum falls to be paid or secured, the Department must —
- (a) if the sum was paid, pay the amount of the excess or, as the case may be, the whole sum to the person who is the owner of the land on which the building is to be or has been erected ;
 - (b) if the sum was secured and the person whose property is security for the payment of it is the owner of the land, release the security to the extent of the excess or, as the case may be, the whole security; or
 - (c) if the sum was secured and the person whose property is security for the payment of it is not the owner of the land, pay to the owner of the land an amount equal to the excess or, as the case may be, the whole sum, and may realise the security to recover the amount so paid.
- (9) If land in respect of which a sum has been paid or secured in compliance with a notice under subsection (3) is subsequently divided into 2 or more parts so that 2 or more owners would, if street works were carried out, incur liability in respect of the works, the sum is to be treated as apportioned between them according to their respective frontages and, if the sum was secured and the security is the property of one only of those owners, the Department —
- (a) is required under subsection (8)(b) to release the security only to the extent of the amount apportioned to that owner, and
 - (b) may realise the security for the purpose of recovering the amount or amounts paid to the other owner or owners under subsection (8)(c).
- (10) If a security is realised for the purpose of recovering an amount paid by the Department under subsection (8)(c), and the sum produced by realising the security exceeds the amount so paid, the amount of the excess must be held by the Department and

dealt with under the advance payments code as if it had been an amount paid under section 98A on the date on which the security was realised.

98D Refunds, etc. if work done otherwise than at expense of the Department

(1) If —

- (a) a sum has been paid or secured under section 98A by the owner of land in respect of the cost of street works to be carried out in the road on which that land has a frontage, and
- (b) street works are subsequently carried out in the road in respect of that frontage to the satisfaction of but otherwise than at the expense of the Department,

the Department may refund to the person at whose expense the works were carried out the whole or the proportion of that sum, or, as the case may be, release the whole or the part of the security, which in its opinion represents the amount by which the liability of the owner of the land in respect of street works has been met or reduced as a result of the carrying out of the street works in question.

(2) If the person at whose expense the works were carried out is not the owner of the land, a payment or release may not be made under subsection (1) unless the owner of the land has been notified of the proposal to make the payment or release and has been afforded an opportunity of making representations to the Department in relation to it.

(3) If land that has a frontage on a road, and in respect of which a sum has been paid or secured under section 98A, is subsequently divided into 2 or more parts each having a frontage on that road, the sum is to be treated as apportioned between the owners of the land according to their respective frontages, and subsection (1) has effect accordingly.

(4) If —

- (a) a sum has been paid or secured under section 98A in respect of the cost of street works to be carried out in the road on which that land has a frontage, and
- (b) later the Department enters into an agreement with a person under section 4, a condition of which provides for the carrying out at the expense of that person of street works in respect of that frontage,

that agreement may also provide for the refund of the sum or a part of it either without interest or with interest at such rate as may be specified in the agreement, or for the release of the whole or a part of the security, as the case may be.

98E Sums paid or secured to be in discharge of further liability for street works

- (1) If a sum has been paid or secured under section 98A by the owner of land in respect of the cost of street works to be carried out in the road on which that land has a frontage, the liability of that owner and any subsequent owner of that land in respect of the carrying out of street works in the road under the private street works code ("the street works liability") is, as respects that frontage, to be taken as having been discharged to the extent of the sum so paid or secured.
- (2) If that sum is found to exceed the total street works liability in respect of the frontage or there is no such liability because the street works were not carried out, the Department must —
 - (a) if the sum was paid, pay the amount of the excess or, as the case may be, the whole sum to the person who is the owner of the land;
 - (b) if the sum was secured and the person whose property is security for the payment of it is the owner of the land, release the security to the extent of the excess or, as the case may be, the whole security;
 - (c) if the sum was secured and the person whose property is security for the payment of it is not the owner of the land, pay to the owner of the land an amount equal to the excess or, as the case may be, the whole sum, and may realise the security to recover the amount so paid.
- (3) If land in respect of which a sum has been paid or secured under section 98A is subsequently divided into 2 or more parts so that 2 or more owners incur or would incur the street works liability, the sum is to be treated as apportioned between those owners according to their respective frontages, and if the sum was secured and the security is the property of one only of those owners, the Department —
 - (a) is required under subsection (2)(b) to release the security only to the extent to which the amount apportioned to that owner exceeds his or her street works liability or, as the case may be, to the extent of the whole of that amount; and
 - (b) may realise the security to recover the amount or amounts paid to the other owner or owners under subsection (2)(c).

- (4) If a refund, release or payment has been made under section 98C(8) or under section 98D, the foregoing provisions of this section have effect as if for references in them to a sum paid or secured there were substituted references to a sum remaining paid or secured.

98F Determination to cease to have effect when building not proceeded with

- (1) If —
- (a) plans for the erection of a building fronting on a road have been passed;
 - (b) the amount to be paid or secured under section 98A has been determined under section 98C; and
 - (c) before any work has been done in or for the purpose of erecting the building the owner gives notice to the building authority of his or her intention not to proceed with the building,

the determination and any payment made or security given in accordance with it are of no effect for the purposes of this Part.

- (2) Subsection (1) does not have effect if there have already been carried out or commenced in the road under the private street works code street works for which the owner of the land on which the building was to be erected is liable.

- (3) If by virtue of subsection (1) a determination is of no effect and a sum was paid or security was given, the Department must —

- (a) if a sum was paid, pay it to the person who is for the time being the owner of the land;
- (b) if the sum was secured and the person whose property is security for the payment of it is the owner of the land, release the security;
- (c) if the sum was secured and the person whose property is security for the payment of it is not the owner of the land, pay to the owner of the land an amount equal to the sum, and may realise the security to recover the amount so paid.

- (4) If land in respect of which a sum has been paid or secured as mentioned in subsection (3) is subsequently divided into 2 or more parts so that 2 or more owners would, if street works were carried out, incur liability in respect of the works, the sum is to be treated as apportioned between those owners according to their respective frontages and, if the sum was secured and the security is the property of one only of those owners, the Department —

- (a) is required under subsection (3)(b) to release the security only to the extent of the amount apportioned to that owner; and
 - (b) may realise the security to recover the amount or amounts paid to the other owner or owners under subsection (3)(c).
- (5) If a refund, release or payment has been made under section 98C(8) or under section 98D, subsections (3) and (4) have effect as if for references in them to a sum paid and security given there were substituted references respectively to any sum remaining paid and any remaining security.
- (6) If —
- (a) a person notifies the building authority in accordance with subsection (1)(c) of his or her intention not to proceed with the building and as a result a determination is of no effect, and
 - (b) subsequently notice is given to the building authority by the owner of the land that he or she intends to proceed with the building in accordance with the plans as originally deposited,
- the notice to be served under section 98C(3) by the Department shall, in lieu of being served as required by that section, be served on him or her within one month from the date of the service of the notice of his or her intention to proceed with the building, and section 98C has effect accordingly.
- (7) If this section applies, the building authority, if it is not the Department, must within one week inform the Department of the happening of any of the following events —
- (a) the giving of any notice by an owner of his or her intention not to proceed with a building; and
 - (b) the giving of any notice by an owner of his or her intention to proceed with a building in accordance with plans as originally deposited.

98G Certain matters to be charges on land

- (1) The matters specified in subsection (2) are charges on land and the Department must register them as such in respect of the relevant land.
- (2) The matters are —
 - (a) notices served by the Department under section 98C(3) or (5);
 - (b) determinations by the High Bailiff under section 98C(7);

- (c) payments made and securities given under section 98A;
- (d) notices served under section 98B(3), (4), or (6) exempting a building from section 98A;
- (e) a notice published under section 98B(7) exempting a road or a part of a road from section 98A; and
- (f) refunds made and releases of securities granted under section 98C, 98D, 98E or 98F .

98H Interest on sums paid under advance payments code

- (1) A sum paid by the owner of land to the Department under section 98A, in so far as it continues to be held by the Department, carries simple interest at 2% above the base rate of the Bank of England from the date of payment until such time as the sum or a part of it remaining so held —
 - (a) falls to be set off against the owner's street works liability; or
 - (b) falls to be refunded in full under the provisions of the advance payments code,
 and the interest must be held by the Department until that time and dealt with under those provisions as if it formed part of the said sum.
- (2) Subsection (1) does not apply to any sum in so far as it is repaid under any such agreement as is referred to in section 98D(4). **22**.

25 Section 99 repealed and replaced - interpretation of Part VII

For section 99 substitute —

22 *Interpretation and amendment of Part VII*

99 Interpretation of Part VII

- (1) In this Part "**the private street works code**" means sections 94 to 98 and "**the advance payments code**" means sections 98A to 98H.
- (2) In this Part —

"**building authority**", in respect of any place, means the building authority for that place for the purposes of the *Building Control Act 1991*;

"**industrial premises**" means premises used or designed for use for the carrying on of any process for or incidental to any of the following purposes, that is to say —

 - (a) the making of an article or of part of an article; or

- (b) the altering, repairing, ornamenting, finishing, cleaning, washing, freezing, packing or canning, or adapting for sale, or breaking up or demolition, of an article; or
 - (c) without prejudice to the preceding paragraphs, the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine,
- or for the carrying on of scientific research;

“made up” means sewered, levelled, paved, metalled, channelled or made good;

“paving, metalling and flagging” includes all methods of making a carriageway or footway;

“road” means a highway or any street, road, lane, path, square, court, alley or passage, whether a thoroughfare or not, not being a highway, and includes any part of a road;

“street works” means works for the sewerage, levelling, paving, metalling, flagging, channelling or the making good or making up of a road, and includes the provision of proper means for lighting a road.

- (3) Where, were it not for section 3(2)(k), a footpath would not be a highway maintainable at the public expense, it is not to be treated as a highway maintainable at the public expense for the purpose of this Part.
- (4) In this Part **“road”** for the purpose of the application of the advance payments code includes any land shown as a proposed road on plans required to be deposited in respect of a building as mentioned in section 98A(1)(a).
- (5) For the purposes of this Part the frontage of a building or proposed building on a road is to be taken to be the frontage that the building itself and any land occupied, or, as the case may be, proposed to be occupied, with the building for the purposes of it has or will have on the road.
- (6) In ascertaining the owner for the purposes of this Part, joint owners are to be treated as one owner.

99A Amendment of Part VII

- (1) The Department may make regulations amending any provision of this Part.
- (2) Any such regulations shall not have effect unless approved by Tynwald.
- (3) In subsection (1) **“amending”** includes modifying, repealing and adding to. .

“**the definitive maps**” has the meaning given by section 92(3) and
 “**associated statement**” in relation to a definitive map has
 the meaning given by section 92(4);

(c) after the definition “**the Local Government Board**” insert —

“**main**” means apparatus through or by means of which a supply or
 service is or is intended to be afforded, for the general supply or
 for the general purposes of a system or service;”;

(d) for the definition “**statutory undertakers**” substitute —

“**statutory undertaker**” means a person authorised by a statutory
 provision —

(a) to carry on a railway, tramway or lighthouse undertaking;

(b) to undertake the supply of gas, water, electricity or
 heating;

(c) to operate a sewerage and sewer system; or

(d) to operate a telecommunications code system (within the
 meaning of the *Telecommunications Act 1984*);

and “**statutory undertaking**” shall be construed accordingly;”;

and

(e) omit the definition “**undertakers’ works**”.

29 Schedule 1B inserted – improvement lines

After Schedule 1A insert —

SCHEDULE 1B

IMPROVEMENT LINES

Section 16A(4)

1. Before an improvement line is designated by the Department it must consult the local authority in whose district the highway in relation to which the line is to be designated is situated.
2. A line that the Department proposes to designate must be shown on a plan to be signed by the Minister.
3. The plan must be deposited at the offices of the Department or at such place as the Department may direct and may be inspected by any person free of charge at all reasonable hours during a period of one month from the day on which it is so deposited.
4. As soon as the plan has been so deposited the Department must give notice to each interested person of the proposal to designate

- the line, of the times and place at which the plan may be inspected, and of the effect of section 16A and of paragraph 5.
5. The Department must consider any objection to the proposed line made within 6 weeks from the date on which the notices were given and may then designate the line.
 6. Not later than 6 weeks after the date on which the Department designates the line it must prepare a plan, duly sealed and authenticated, on which the line must be shown and must give notice of the designation of the line and of the time and place at which the plan may be inspected to each interested person.
 7. If the Department revokes the line or a part of it, it must—
 - (a) give notice of the revocation to each interested person and to the local authority in whose district the land to which the line relates is situated; and
 - (b) indicate on the plan prepared in accordance with paragraph 6 the extent to which the line has been revoked.
 8. When the Department gives notice to interested persons in accordance with paragraph 4, 6 or 7 it must also publish in a newspaper circulating in the Island a notice setting out the information contained in those notices.
 9. If for any reason an interested person fails to receive notice in accordance with paragraph 4, 6 or 7, the interested person is to be taken to have received the notice on the publication of the notice under paragraph 8.
 10. In this Schedule “**interested person**”, in respect of land that may be, is or may have been affected by an improvement line, means each owner, lessee or occupier of the land who may be reasonably ascertained by the Department. **22**”.

30 Schedule 3 amended – orders stopping up and diverting highways and public paths etc and amending definitive maps

- (1) Schedule 3 is amended as follows.
- (2) For the heading to the Schedule substitute —

**23 ORDERS STOPPING UP AND DIVERTING HIGHWAYS
AND PUBLIC PATHS, ETC, AND AMENDING
DEFINITIVE MAPS 22.**

- (3) In Part 1 of the Schedule—
 - (a) in the Table at the end of paragraph 2 add the following entry —
- 24** 4. Any order authorising the (a) Any local authority in whose district

amendment or rectification of a definitive map.

any land affected by the amendment or rectification is situated.

(b) Any statutory undertakers having apparatus under, in, upon or over any land affected by the amendment or rectification.

(c) The owner, lessee and occupier of any land affected by the amendment or rectification. ~~22~~;

(b) after paragraph 3 insert —

~~22~~ 3A. Where the proposed order provides for the amendment or rectification of a right of way on a definitive map, the Department shall, not later than the date on which the notice under paragraph 2 is published or first published, cause a copy of it to be displayed in a prominent position as near as possible to the ends of so much of the right of way as is the subject of the amendment or rectification. ~~22~~;

(c) in paragraph 4 for “2 or 3” substitute ~~22~~ 2, 3 or 3A ~~22~~;

(d) in paragraph 8 after “public path order,” insert ~~22~~ or an order amending or rectifying a definitive map in respect of a right of way, ~~22~~; and

(e) in paragraph 10(2) after paragraph (c) insert —

~~22~~ (d) a definitive map and statement is amended or rectified in respect of a right of way in pursuance of the order; ~~22~~.”.

31 Schedule 4 amended – the road works code

In paragraph 2(10) of Schedule 4 for “In this paragraph a reference to reinstatement and making good in the context of a highway or bridge includes —” substitute —

~~22~~ In this paragraph a reference to reinstatement and making good in the context of a highway or bridge includes, unless the Department otherwise directs — ~~22~~.

32 Schedule 4 further amended

In Schedule 4 —

(a) after paragraph 2 insert —

~~22~~ *Directions as to timing of works*

2A. (1) If it appears to the Department —

(a) that proposed road works are likely to cause serious disruption to traffic, and

(b) that the disruption would be avoided or reduced if the works were to be carried out only at certain times,

the Department may give the undertakers such directions as may be appropriate as to the times when the works may or may not be carried out.

(2) If the undertakers execute works in contravention of a direction under sub-paragraph (1), they shall be guilty of an offence.

(3) Nothing in this paragraph applies to emergency works. ~~22~~; and

(b) after paragraph 9 insert —

~~22~~ *Code of practice*

10. (1) The Department may, after consultation with any undertakers appearing to it to be affected, issue or approve for the purposes of this paragraph a code of practice giving practical guidance as to —

(a) the carrying out by undertakers of road works; and

(b) the arrangements to be made by undertakers for controlling traffic on a highway or bridge during the carrying out of road works.

(2) A code of practice issued or approved under sub-paragraph (1) must be laid before Tynwald.

(3) A failure on the part of undertakers to observe a provision of a code of practice issued or approved under sub-paragraph (1) does not of itself render them liable to any proceedings, but in any proceedings before a court or arbitrator —

(a) any such code is admissible in evidence, and

(b) any provision of the code that appears to the court or arbitrator to be relevant to a question arising in the proceedings must be taken into account in determining the question. ~~22~~.

33 Schedule 4 repealed

Schedule 4 is repealed.

34 Schedule 5 amended – provisions with respect to notices under sections 73 and 73A

In Schedule 5 —

(a) in the heading for “Section 73” substitute ~~22~~ Sections 73 and 73A ~~22~~;

- (b) in paragraph 1 after “section 73(1) or (3)” insert **69** or section 73A(2) or (2A) **72**;
- (c) in paragraph 1(a) for “section 73(1) or (3)” substitute **66** that provision **72**;
- (d) in paragraph 1(e) after “verge” insert **69** or habitually uses the means of access **72**;
- (e) in paragraph 1(f) after “section 73(2)” insert **69** or section 73A(3) **72**.

PART 3 – HIGHWAY ACT, 1927 REPEALED

35 Highway Act, 1927 repealed

The *Highway Act, 1927* is repealed.

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