



Isle of Man
Government

Reiljts Ellan Vannin



Office of the Minister
and Chief Executive

Contact: Phil Gawne
Email: localgovernment@gov.im
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Dear «salu»

Re: Exercise of Certain Functions by «LA» (“the Local Authority”)

Under section 124(3) of the Highways Act 1986 (“the Act”), the Department of Infrastructure (“the Department”) may give its consent to a local authority to exercise certain powers conferred by the provisions specified in subsection 124(2)(a) of the Act.

The Department hereby gives its consent for the Local Authority to carry out the activities provided for in Section 51 of the Act in relation to highways within its district which are highways maintainable at public expense

For ease of reference a copy of Sections 124 and 51 of the Act are appended hereto.

Yours sincerely

Phil Gawne MHK
Minister for Infrastructure

SIGNED on behalf of «LA»

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Highways Act 1986

51 Cutting etc of vegetation

(1) Where a hedge, tree, shrub or other vegetation overhangs a highway or any other road or path to which the public has access so as to endanger or obstruct the passage of any traffic, or so as to obstruct or interfere with the view of drivers of vehicles or the light from a public lamp, the Department may, by notice to the owner of the hedge, tree, shrub or other vegetation, or to the occupier of the land on which it is growing, require him so to lop or cut it as to remove the cause of the danger, obstruction or interference

(2) Where it appears to the Department —

(a) that any hedge, tree or shrub is dead, diseased, damaged or insecurely rooted; and (b) that by reason of its condition it, or part of it, is likely to cause danger by falling on any such highway, road or footpath as is mentioned in subsection (1);

the Department may, by notice to the owner of the hedge, tree or shrub, or to the occupier of the land on which it is growing, require him so to cut or fell it as to remove the likelihood of danger.

(3) However, the Department may instead itself carry out any appropriate cutting, lopping or felling —

(a) if, in the opinion of the Department, the danger is such that it needs to be carried out immediately; or

(b) otherwise at any time after 14 days have elapsed since service of a notice under subsection (1) or subsection (2), if it has not been carried out by the owner or occupier.

(4) Where the Department, in carrying out any works pursuant to subsection (3), removes any thing from a highway, the Department may dispose of it in such manner as it thinks fit, but if the Department sells the thing, it must pay the proceeds of sale, less any expenses of removal and sale, to the owner.

(5) Where the Department carries out any works pursuant to subsection (3) it may recover the cost of doing so from the owner or occupier of the land on which the hedge, tree, shrub or other vegetation is situated.

(6) No act of the Department or of its servants or agents carried out in good faith under this section is a contravention of the *Tree Preservation Act 1993*.

83 Appeals, offences, recovery of expenses, and disposal of things removed

(1) A person aggrieved by a requirement contained in a notice under section 45(2), 46, 47, 48, 49, 50(2), 51, 58, 59, 60, 61(a), 63(4), 71(1), 72(5) or 73A(2) may, within the time for compliance with the requirement, appeal to the High Bailiff, who may uphold, quash or vary the requirement.

(2) Subject to any order made on appeal, if a person on whom any such notice is served fails within such time to comply with any requirement contained therein, —

(a) he shall be guilty of an offence; and

(b) the Department may itself carry out the works thereby required to be carried out.

(3) The Department may recover from a person on whom any such notice is served the expenses reasonably incurred by it in carrying out the works required by the notice to be carried out.

(4) Where the Department, in carrying out any works pursuant to subsection (2)(b), removes any thing from a highway or from any land or premises, the Department —

(a) shall, subject to the payment of the expenses of removal, deliver it to the owner on a claim made by him within 7 days of its removal; or

(b) may, if the thing is not claimed by the owner within that time, or if the Department considers that it is of little or no value or cannot reasonably be kept for that time, dispose of it in such manner as it thinks fit, but if the Department sells the thing, it shall pay the proceeds of sale, less any expenses of removal and sale, to the owner.

124 Exercise of certain powers by local authorities

1. Subject to subsection (3), a local authority may, in relation to any road in its district exercise any of the powers conferred by the provisions specified in subsection (2)(a) on the Department in relation to a highway and the provisions specified in subsection (2)(b) shall apply to the exercise of such powers by a local authority; and accordingly in those provisions as they have effect by virtue of this section —

(i) references to the Department shall be construed as references to a local authority; and

(ii) references to a highway shall be construed as references to a highway or a road to which the public has access.

2. The provisions referred to in subsection (1) are —

(a) sections 47, 48, 49, 50, 51, 58, 60, 61, 62, 63, 64, 71 and 72; and

(b) so far as they apply to the provisions specified in paragraph (a), sections 83, 104, 105, 106, 108, 109, 110, 111, 115 and 116.

3. A local authority shall not without the consent of the Department exercise the powers conferred by the provisions specified in subsection (2)(a) in relation to any highway which is a highway maintainable at the public expense; but no objection shall be taken, otherwise than by or with the consent of the Department, in any proceedings arising out of the exercise or purported exercise of such powers on the ground that such consent was not obtained.