

Joint Circular from the

Department of the Environment
2 Marsham Street London SW1P 3EB

Addendum
to
Circular ROADS 42/74

Welsh Office
Cathays Park
Cardiff CF1 3NQ

and
Welsh Office Circular
191/74

The Chief Executive
County Councils) in England
District Councils) and Wales
London Borough Councils
The Town Clerk City of London
The Director General, The Greater London Council

DOE Ref: TPRE 14/1/017
Welsh Office Ref: R44/6/1
25 March 1975

Dear Sir

WARNING SIGNS ON SLIPPERY ROADS AND INFORMATION GIVEN TO CLAIMANTS OR THEIR REPRESENTATIVES

Please insert the following words after the second word on page of the Circular: "... arranging details for joint inspection as set out in DOE Circular Roads 57/72 and Welsh Office Circular 240/72"

Yours faithfully

J L HAMMOND
Assistant Chief Engineer
Department of the Environment

D A R HALL
Direct of Highways
Welsh Office

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Department of the Environment
2 Marsham Street London SW1P 3EB

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The Town Clerk City of London
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DOE Ref: TPRE 14/1/017
Welsh Office Ref: R44/6/1
4 December 1974

Dear Sir

WARNING SIGNS ON SLIPPERY ROADS AND INFORMATION GIVEN TO CLAIMANTS OR THEIR REPRESENTATIVES

1. In the course of a judgement given recently in the High Court an agent authority was criticised for failing to give warning that a road surface was considered dangerously slippery, although it was aware of the danger and intended to put the defect right. The judge commented that the least the agent authority could have done was to erect warning notices to advise motorists of the risk of skidding on the slippery surface and to maintain such notices until the proper work had been carried out.

2. It is true that warning notices may seem to give a handle to persons seeking damages for skidding accidents, since they can be used as evidence that the road surface was in an unsatisfactory condition and that the agent authority was aware of it. On the other hand, the first duty of the Department is to minimise danger to the public, and if an agent authority has reason to believe that there is a particular danger from a slippery surface, on which urgent work would have to be carried out, some warning should be given. This is clearly envisaged in section 1(3)(e) of the Highways (Miscellaneous Provisions) Act 1961, which provides that where the highway authority could not reasonably have been expected to repair a dangerous part of the highway before a cause of action arose, the court shall have regard to what warning notices had been displayed.

3. Agent authorities should therefore ensure that in the circumstances described above, or when there are other unseen hazards such as an uneven road surface, authorised warning signs, as shown in the Traffic Signs Manual, are displayed until the defect has been repaired.

ADMISSIONS OF LIABILITY

4. Agent authorities' attention is also drawn to paragraph 10 of Circular 630 (issued by the Ministry of Transport on 6 May 1949), which refers to the importance of their making no admission of liability on their own behalf or on behalf of the Secretary of State. Apart from acknowledging receipt of a claim in relation to a trunk road, and intimating that the matter has been referred to the Secretary of State for the Environment or the Secretary of State for Wales (depending on whether the incident giving rise to the claim occurred in England or Wales), agent authorities should not enter into any correspondence with a claimant, or his solicitor or insurance company, without first obtaining clearance from the Department of the Environment or the Welsh Office as appropriate. In cases where the Department asks the agent authority to reply to a claimant

or his representatives, it should be borne in mind that only the barest facts should be reported without comment and avoiding value-judgements.

5. Although this circular is directly addressed only to agent authorities for trunk roads, it is circulated to all highway authorities so that they can consider the position in relation to their own roads.

Yours faithfully

J L HAMMOND
Assistant Chief Engineer
Department of the Environment

D A R HALL
Direct of Highways
Welsh Office

NOTE: Any telephone enquiries about this Circular should be made in England to HM1 Division, 01-212 8492 (distribution enquiries 01-212 4944) and in Wales to the Director of Highways, Roads Division, Graham Buildings, Newport Road, Cardiff (telephone No. Cardiff 40751 Ext 22).