

*County Councils*  
*County Borough Councils*  
*Borough Councils*  
*Urban District Councils*  
*in England and Wales*  
*County Councils*  
*Large Burgh Councils*  
*in Scotland*  
who are Agent Authorities  
under the Trunk Roads Acts,  
1936 and 1946.

MINISTRY OF TRANSPORT

BERKELEY SQUARE HOUSE

LONDON, W.1.

6th May, 1949

SIR,

## **TRUNK ROADS ACT, 1936 and 1946**

### **Claims for damages**

1. I am directed by the Minister of Transport to refer to Circular 507 (Roads) dated 7th December, 1937 and to Circular 507/1 (Roads) dated 31st May, 1940, addressed to agent authorities appointed under the Trunk Roads Act, 1936.

2. Owing to the repeal of the Workmen's Compensation Acts, certain of the instructions contained in those circulars are no longer applicable. There are also a number of points on which experience has shown the need for the instructions to be revised and Councils who act as agent authorities for trunk roads are requested to follow in future the procedure indicated in the following paragraphs, which supersede the instructions in the above mentioned circulars.

#### **I. DAMAGE TO CROWN PROPERTY**

3. In simple cases (e.g. damage to a traffic sign or refuge) where the cost of repair is estimated not to exceed £50, the agent authority should repair the damage and take the steps they would normally have taken, had the damage occurred on a road for which they are the responsible highway authority, to recover the costs from the person causing the damage. The amount recovered should be credited to the maintenance account for trunk roads. If an admission of liability has not been obtained within six weeks or if recovery of the amount has not been effected within six months from the date when application was first made to the person causing the damage, the case should be referred to the Minister, with all particulars necessary to enable him to pursue the claim.

4. Where the sum involved is estimated to exceed £50 or where the claim is complex the case should, within seven days of the damage occurring, be referred to the Minister with sufficient information to enable him to pursue it. A copy of a police report should be sent where available.

5. All claims, irrespective of the amount involved, made under the indemnity given under the Motor Vehicles (Authorisation of Special Types) General Order, 1941, should be dealt with by the agent authority and referred to the Minister only if they raise difficulties or if the agent authority have been unable to recover the full amount of the claim within six months after the date on which the damage occurred. Full information should be furnished, and this should include

- (a) details of the extent and the location of the damage including a plan (if possible) ;
- (b) short statements by any witnesses who saw the damage occur or who can testify to the condition of the road before or after the passage of the vehicle ;
- (c) the original indemnity if available ;
- (d) a police report.

6. The agent authority should in all cases where claims arise, whether under the indemnity or otherwise, notify the person responsible for the damage as early as possible and give him all facilities for inspection.

7. The Minister is unable to accept any liability in respect of damage to the property or plant of an agent authority which is used for trunk road purposes; these costs, whether falling on the agent authority or on their insurers through their insurance policy, are covered by the allowances for administrative expenses and for the use of plant.

## II. CLAIMS FOR DAMAGES BY THIRD PARTIES

8. By agreements entered into under Sections 5 (1) and 6 (1) of the Trunk Roads Act, 1936, as amended by the Trunk Roads Act, 1946, the Minister has given an indemnity to agent authorities in respect of all claims for damages and compensation brought against them in relation to the exercise of their functions as agent authorities, so long as the agent authority shall in carrying out the roadworks take all reasonable precautions for the protection of public and private interests as if the agent authority were themselves the highway authority.

9. In view of his responsibility to Parliament the Minister has felt unable to extend this indemnity to cover claims arising from maladministration, but as he is fully conscious of the careful arrangements which Councils make for proper administration, it appears to him that the question of any liability on the part of the agent authority will seldom arise. In these circumstances, it is desirable that the Minister should arrange for the conduct of the negotiations with the claimant.

10. When an agent authority receive a claim in relation to a trunk road they are requested to send to the claimant, or his solicitor or insurance company, as appropriate, an immediate acknowledgement of receipt, with an intimation that, as the road in question is a trunk road, the matter is being referred to the Minister of Transport. Councils will appreciate the importance of making no admission of liability on their own behalf or on behalf of the Minister.

11. The original of the claim should be submitted immediately after receipt to the Minister, together with form TR.137, on which should be given such information as may be procurable by the Council to enable the Minister to deal with it. As the Minister attaches considerable importance to having before him the views of responsible local officials, and as a precedent may be created in relation to a similar claim on a non-trunk road, he asks Councils to give their observations and express an opinion on the question of liability in answer to Question 15. If it is not possible to complete the form within seven days it should be sent with an intimation that further information will follow as soon as possible.

12. When the claim includes an item for damage to a vehicle, particulars of the claim should also be given immediately to the Area Certifying Officer in order that arrangements may be made for the damaged vehicle to be inspected by a technical officer of the Ministry. A list of Certifying Officers, with addresses and telephone numbers, is appended to this Circular.

13. Although the Minister has given the indemnity to agent authorities, he is aware that the comprehensive insurances affected by them frequently cover risks arising on trunk roads. The Minister appreciates that by reason of the residual liability which rests with Councils as a result of

- (i) the exclusion from the indemnity of claims arising from maladministration ;
- (ii) the Council's liability for a claim arising as the result of an act of misfeasance committed before the road became a trunk road,

Councils may desire to continue their practice of comprehensive insurances so far as trunk roads are concerned. Difficulties have, however, arisen where claims have been referred to insurance companies before the submission of form T.R.137 to the Minister, and I am accordingly to ask that all third party claims may be submitted to the Minister immediately they are received, irrespective of whether an agent authority might regard themselves as not being indemnified by the Minister in regard to a particular claim. No doubt in such a case where an insurance has been effected the agent authority will give provisional notice to the insurance company concerned as a precaution, at the same time telling the insurance company that the claim has been passed to the Minister.

14. Where a claim is made against the Minister and/or the agent authority in respect of which the agent authority are indemnified by a contractor in accordance with Clause 34 of the standard form of Conditions of Contract, the Minister should immediately be informed of the indemnity and of the terms of the contract in which it is contained.

15. Any claim, not exceeding £100, arising from damage, caused in the course of and definitely attributable to trunk road works, to the apparatus of statutory undertakings (e.g. mains, pipes, electric lines, cables, wires, posts, etc.) should be referred to the Divisional Road Engineer and not the Headquarters of the Ministry. Claims of this nature exceeding £100 should be referred to the Minister in accordance with the general instructions set out above.

16. Matters referred to the Minister in accordance with this Circular should be addressed to the Assistant Secretary, Highways (Trunk Roads) Division, Ministry of Transport, Berkeley Square House, London, W.1.

I am, Sir

Your obedient Servant,

C. A.

BIRTCHNELL.  
The Clerk of the Council.  
The Town Clerk.

Copies of this circular letter are transmitted for the information of the Surveyor and Accounting Officer of your Council and in the case of Scottish Councils an additional copy is forwarded for the information of the Auditor.

## Ministry of Transport Area Certifying Officers

No. 1	Northern Area	41-45 Grey Street, Newcastle-on-Tyne, 1	Newcastle 28264-8
No. 2	Yorkshire Area	44 The Headrow, Leeds, 1	Leeds 29181
No. 3	East Midland Area	Castlegate House, Castlegate, Nottingham	Nottingham 44371-3
No. 4	Eastern Area	Sussex House, Hobson Street, Cambridge	Cambridge 3211-2
No. 5	Metropolitan Area	Romney House, Tufton Street, London, S.W.1	Abbey 4333
No. 7	Western Area	Beacon House, Queens Road, Bristol, 8	Bristol 38291
No. 8	South Wales Area	Graham Buildings, Newport Road, Cardiff	Cardiff 24801
No. 9	West Midland Area	York House, Gt. Charles Street, Birmingham, 3	Birmingham Central 7442-4
No. 10	North Western Area	Arkwright House, Parsonage Gardens, Deansgate, Manchester, 3	Manchester Blackfriars 8151
No. 11	Scottish Area	44-48 Palmerston Place, Edinburgh, 12	Edinburgh 22184-5
	Sub-Office	Old Infirmary Buildings, Woolmanhill, Aberdeen	Aberdeen 7900-3