

Lighting: The Legalities

There are a range of statutes that empower authorities to light roads – but remember that road lighting is not a duty.

- **In England and Wales**, Section 97 of the Highways Act 1980 empowers a Highway Authority to provide lighting for any highway or proposed highway for which they are, or will be, the Highway Authority. District, Town and Parish Councils can also provide local lighting under the Public Health Act 1985 or the Parish Councils Act 1957, but need the consent of the Highway Authority to provide lighting on a highway.
- **In Northern Ireland**, the Roads (Northern Ireland) Order 1983, Article 44(5) grants the Department of the Environment the power to provide road lighting, where it considers that any road should be illuminated.
- **In Scotland**, the Roads (Scotland) Act, 1984, Section 35(6) empowers a local roads authority to provide lighting for roads, or proposed roads, which are or will be, maintainable by them and which, in their opinion ought to be lit.

In a case heard in 1921 (*Sheppard v. Glossop Corporation*) it was held that a street lighting authority has no duty to light the highway, even dangerous places on the highway, unless it has itself created the danger – for example by excavating the street and leaving an unlit hole. A street lighting authority acting under permissive powers is not therefore liable for accidents arising from a failure to light.

This case has not been overruled. However, in view of the abolition in 1981 of the rule that a Highway Authority is not liable for non-feasance or omissions to perform its duty to maintain the highway, a similar case might be decided differently today, particularly if it concerned a well – known danger spot.

While the power to provide lighting is a power and not a duty, a Highway Authority has a duty of care to the road user. Therefore a private action might be taken where the wrongful use (or failure to use) a power, resulted in a loss to an individual.

It is reasonable to regard the recommendations in BS 5489 and BS EN 13201 as guides to good practice and to utilised the lighting classes recommended. Each Highway Authority should also publish a clearly defined lighting policy setting out its criteria for selecting a particular lighting classes.

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