



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART II

#### PRIVATE ROADS

#### 13 Making up and maintenance of private roads.

- (1) The local roads authority may by notice to the frontagers of a private road require them to make the road up to, and maintain it at, such reasonable standard as may be specified in the notice.
- (2) Without prejudice to the generality of subsection (1) above there may be required by notice under that subsection work as regards levelling, paving, lighting or drainage.
- (3) A notice under subsection (1) above shall, without prejudice to the generality of section 136 of this Act, specify—
  - (a) the local roads authority's estimate of the cost of the work required by the notice;
  - (b) a scheme whereby the cost is to be apportioned among the frontagers (being a scheme which is equitable in the opinion of the authority and which describes for each frontager the proportion of cost to be paid by him); and
  - (c) the dates by which the work shall be commenced and completed:

Provided that the authority may subsequently by notice allow a postponement of commencement or completion (or both).

- (4) Without prejudice to subsection (5) below, a requirement imposed on frontagers by a notice under subsection (1) above may, if the requisite number of the frontagers so agree, be fulfilled on behalf of the frontagers by the local roads authority.
- (5) Where the date specified in a notice under subsection (1) above for the commencement or, as the case may be, completion of the work specified in the notice expires without the work having been commenced or, as the case may be, completed, the local roads authority may carry out or complete the work.

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- (6) Without prejudice to section 14 of this Act, the expenses incurred by a local roads authority under subsection (4) or (5) above shall be recoverable from the frontagers in accordance with the scheme referred to in the notice mentioned in those subsections.
- (7) A person upon whom a notice has been served under subsection (1) above may within 28 days of such service appeal by summary application to the sheriff; and the sheriff's decision on the matter shall be final.
- (8) In subsection (4) above, “the requisite number” has the same meaning in relation to the private road and the land fronting or abutting the road as it has in section 1(7) of this Act in relation to the road and land mentioned in that section.

#### **14 Power to contribute to, or carry out, work on private roads.**

- (1) A local roads authority may, if they think fit, pay the whole or any part of any expenditure incurred by a person in making up or maintaining a private road; and may, without prejudice to section 15 of this Act, at their own expense carry out any repair which they consider necessary in relation to a private road after giving such notice as is reasonable in the circumstances.
- (2) For the avoidance of doubt—
  - (a) a local roads authority do not incur responsibility for making up or maintenance of the private road by reason only of their acting under subsection (1) above;
  - (b) the carrying out of work by a local roads authority under subsection (1) above does not create any implication that the private road, on completion of the work, is of a standard satisfactory to the authority for the purposes of section 16(1)(b) of this Act.

#### **15 Emergency work in relation to private roads.**

- (1) The local roads authority may, if in their opinion work in relation to a private road is necessary because circumstances constituting an emergency (other than an emergency constituted by such danger as is mentioned in section 91 of this Act) have arisen, carry out that work; and they shall not require to give any notice of their intention in that regard other than such (if any) as those circumstances appear to them to admit.
- (2) The expenses of carrying out work under subsection (1) above shall be borne by the authority.

#### **16 Application for private road to become public road.**

- (1) If a private road—
  - (a) is of such standard as has last been required by relevant notice under section 13(1) of this Act; or
  - (b) where no such standard has been so required, is of a standard satisfactory to the local roads authority,
 then, if application is made to them under this subsection by the requisite number of frontagers for such addition, the authority shall, subject to subsection (4) below, within 12 months of the application add the road to their list of public roads:

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Provided that where the requirement mentioned in paragraph (a) above has been fulfilled by the authority under subsection (4) of the said section 13 or the work specified in the notice has been carried out or completed by them under subsection (5) thereof no such application shall be required and the authority shall add the road to the said list forthwith.

- (2) If, on completion of a private road constructed in accordance with a construction consent granted under section 21(3) of this Act, the person granted such consent applies, as respects the road, under this subsection to the local roads authority they shall within 12 months of the application add the road to their list of public roads.
- (3) Any dispute in relation to—
  - (a) subsection (1) above, between the local roads authority and any frontager; or
  - (b) subsection (2) above, between that authority and a person applying (or purporting to apply) under that subsection,shall be determined by arbitration by a single arbiter appointed in default of agreement by the sheriff on the application of either party.
- (4) Without prejudice to any addition made under subsection (1) or (2) above, the said subsection (1) or as the case may be (2) does not impose a duty as respects a road which within the period there allowed for such addition deteriorates to a standard below that mentioned in the said subsection (1).
- (5) In the foregoing provisions of this section—
  - “road” does not include a footpath; and
  - “the requisite number” has the same meaning in relation to that road and the land fronting or abutting the road as it has in section 1(7) of this Act in relation to the road and land mentioned in that section.

## **17 Security for private road works relating to housing.**

- (1) Subject to subsection (3)(a) below, this section applies where—
  - (a) it is proposed to—
    - (i) erect a building; or
    - (ii) alter an existing building which is not a private dwellinghouse, for use as a private dwellinghouse; and
  - (b) the land comprising the building fronts or abuts or, as the case may be, will front or abut a private road which—
    - (i) has not been constructed; or
    - (ii) is not of a standard mentioned in section 16(1) of this Act.
- (2) The Secretary of State may by regulations make provision for securing that, in a case to which this section applies, the erection or alteration shall not commence until—
  - (a) any construction consent required for the road under section 21(1) of this Act has been obtained; and
  - (b) there has been deposited with the local roads authority, or secured to their satisfaction, a sum sufficient to meet the cost of constructing the road in accordance with the construction consent or, as the case may be, of making the road up to the standard mentioned as aforesaid.

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- (3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may—
- (a) provide that this section—
    - (i) shall not apply to a particular class or particular classes of dwellinghouse; or
    - (ii) shall apply to any such class or classes subject to such modifications as the regulations may specify;
  - (b) provide that in a case to which this section applies a person carrying out works in contravention of, or otherwise than in accordance with, the regulations commits an offence and is liable on summary conviction to a fine not exceeding the statutory maximum and conviction on indictment to a fine;
  - (c) provide that—
    - (i) in a case where circumstances mentioned in provisions made under paragraph (d)(vi) below have arisen the local roads authority shall construct the road or, as the case may be, make it up to the standard mentioned in section 16(1) of this Act; and
    - (ii) subsection (2) of section 20 of this Act shall apply to a road so constructed or made up as that subsection applies to a road constructed under subsection (1) of that section; and
  - (d) make provision as to—
    - (i) such deposit or security as is mentioned in subsection (2)(b) above;
    - (ii) circumstances in which such deposit or security may be dispensed with;
    - (iii) calculation of the amount of the sum mentioned in the said subsection (2)(b) and the apportionment of that amount where more than one person is liable, by virtue of this section, to deposit or secure that sum in respect of the same road;
    - (iv) conditions under which the local roads authority shall hold any such deposit;
    - (v) repayment of such deposit or discharge of such security; and
    - (vi) circumstances in which, and procedure by which, such deposit may be applied or, as the case may be, such security may be called up and the proceeds thereof applied, to meet the cost of the works in respect of which the deposit or security was held.
- (4) Any dispute between a local roads authority and any person as to a matter arising from the foregoing provisions of this section or from regulations made thereunder shall be determined by a single arbiter appointed, in default of agreement, by the sheriff on the application of either party.
- (5) In subsection (3) above, “the statutory maximum” has the meaning ascribed to it by section 74 of the <sup>M1</sup>Criminal Justice Act 1982.

#### Marginal Citations

M1 1982 c. 48.

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## **18 Power of local roads authority to take over footpaths associated with development.**

- (1) A local roads authority may enter into an agreement—
  - (a) with every owner of land which is associated with or forms part of a development and on which there is, or is to be constructed, a footpath so associated; or
  - (b) where a person other than the owner of the land is or will be responsible for the maintenance or construction of the footpath, with that other person, whereby, if the footpath, is made up to the satisfaction of the authority, they shall enter it in their list of public roads; but where the owner or other person fails within such reasonable period as may be specified in the agreement to make up the footpath to the authority's satisfaction, they may themselves carry out the work and recover from him such expenses as are reasonably incurred in so doing.
- (2) Subject to subsection (3) below, where as regards an existing footpath a local roads authority are of the opinion that the obtaining of such agreement as is mentioned in subsection (1) above is not reasonably practicable, they may notwithstanding the absence of such agreement, enter the footpath in their list of public roads.
- (3) A local roads authority shall not exercise the power conferred on them by subsection (2) above unless they have taken all reasonable steps to ascertain the identity of every owner of the land on which the footpath is, or is to be constructed and have obtained the consent to such exercise of a majority of those owners whose identities they have ascertained.
- (4) In the foregoing provisions of this section “development” means residential or commercial building operations which will be, are being, or have been, carried out on land.

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