



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART III

#### NEW ROADS

#### **19 Construction of new roads by Secretary of State as roads authority.**

- (1) Subject to, subsections (2) and (3) below, the Secretary of State, <sup>F1</sup> . . . , may construct new trunk and other roads.
- (2) Without prejudice to section 5(4) and (5) of this Act, before constructing a road other than a trunk road under subsection (1) above, the Secretary of State shall consult every local roads authority in whose area any part of the road will be situated and shall consider any objections to the road which he may receive from them.
- (3) Without prejudice to section 7(3) and (5)(a) of this Act, the “other roads” referred to in subsection (1) above do not include special roads.

#### **Textual Amendments**

- F1** Words in s. 19(1) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I para. 76(1)(3), Pt. IV (with art. 5)

#### **20 Construction of new roads other than special roads by local roads authority; and entry of such new roads and of special roads in list of public roads.**

- (1) Without prejudice to section 7(3) and (5)(a) of this Act, a local roads authority may construct in their area any new road, other than a special road, which they consider requisite.
- (2) When such construction by them as is mentioned in subsection (1) above or in the said section 7(5)(a) is completed, the local roads authority shall enter the road (or as the case may be special road) in their list of public roads.

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**Modifications etc. (not altering text)**

C1 S. 20(2) extended by S.I. 1985/2080, reg. 14(b)

**[20A F<sup>2</sup>Environmental assessment of certain road construction projects**

- (1) If the Scottish Ministers have under consideration the construction of a new road for which they are the roads authority they shall before details of the project are published, determine whether or not it falls within Annex I or II.
- (2) If the Scottish Ministers determine that the project–
  - (a) falls within Annex I, or
  - (b) is a relevant project falling within Annex II and that having regard to the selection criteria contained in Annex III it should be made subject to an environmental impact assessment in accordance with the Directive,
 they shall, not later than the date when details of the project are published, [F<sup>3</sup>prepare an environmental statement and publish notice of it in accordance with subsections (5) and (5A) and paragraph 7(1C) or 13(1C) as the case may be of Schedule 1 to this Act] .
- (3) The Scottish Ministers shall publish any determination made by them in accordance with subsection (2) above.
- F<sup>4</sup>(4) .....
- (5) The Scottish Ministers shall publish [F<sup>5</sup>notice of the] environmental statement so as to ensure that members of the public who are likely to be concerned are given a reasonable opportunity to express an opinion before they decide whether to proceed with the project, and they shall not make any such decision without taking into consideration any opinion so expressed to them within a period of [F<sup>6</sup>6] weeks from the date of publication [F<sup>7</sup>of notice] of the environmental statement.

- [ The notice must state–
- F<sup>8</sup>(5A) (a) that the Scottish Ministers, as the relevant roads authority, are considering implementing the project;
- (b) the proposed location and nature of the project;
- (c) that the project is subject to the environmental impact assessment procedure prescribed by this section and, where relevant, that section 20B applies;
- (d) that a copy of the environmental statement may be inspected at an address in the area in which the project is proposed to be situated during the period specified under paragraph (i);
- (e) the times at which the copy of the environmental statement can be so inspected;
- (f) an address from which copies of the environmental statement may be obtained and from which further information about the project may be requested during the period specified under paragraph (i);
- (g) if a charge is to be made for a copy of the environmental statement, the amount of the charge;
- (h) where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, the address of the website where a copy of the environmental

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- statement will be available for inspection by the public during the period specified under paragraph (i);
- (i) that any person wishing to make any representations about the project and the environmental statement may do so in writing to the Scottish Ministers at a specified address within a specified period, being a period of not less than 42 days commencing with the date of publication of the notice; and
  - (j) that the Scottish Ministers will take into consideration any representations so made before deciding whether or not to proceed with the project with or without modifications.
- (5B) The Scottish Ministers shall ensure that during the period specified under subsection (5A)(i)–
- (a) copies of the environmental statement are available for inspection by any person free of charge at all reasonable hours at the address specified under subsection (5A)(d);
  - (b) copies of the environmental statement are available to be obtained by any person from the address specified under subsection (5A)(f); and
  - (c) where the Scottish Ministers use a website for the purpose of giving information to the public about projects of a category into which the project in question falls, a copy of the environmental statement is available for inspection on that website.
- (5C) A reasonable charge reflecting the costs of printing, copying and distribution may be made by the Scottish Ministers for the supply of a copy of the environmental statement–
- (a) to a person other than a consultation body; or
  - (b) to a consultation body to which one copy has already been supplied free of charge.
- (5D) Where the Scottish Ministers obtain further information relating to the environmental statement and such further information is reasonably required to give proper consideration to the likely environmental effects of the proposed project, except insofar as such further information is required for the purposes of an inquiry held under section 139, subsections (5), (5A), (5B), and (5C) shall apply to such further information as they apply to an environmental statement (subject to any necessary modifications).]
- (6) The Scottish Ministers shall ensure that the consultation bodies are given an opportunity to express an opinion on the <sup>F9</sup>... project and the environmental statement before they decide whether to proceed with the project.
- (7) Subject to subsection (8) below, to the extent to which the Scottish Ministers consider that–
- (a) it is relevant to the specific characteristics of the project and of the environmental features likely to be affected by it, and
  - (b) having regard in particular to current knowledge and methods of assessment, the information may reasonably be gathered,
- the environmental statement published in accordance with subsection (2) above shall contain the information referred to in Annex IV.
- (8) The environmental statement published in accordance with subsection (2) above shall contain at least the following information–

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- (a) a description of the project comprising information on the site, design and size of the project;
  - (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
  - (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
  - (d) an outline of the main alternatives studied by the Scottish Ministers and an indication of the main reason for their choice (taking into account the environmental effects); and
  - (e) a non-technical summary of the information mentioned in paragraphs (a) to (d).
- (9) In this section and section 20B of [F10] and paragraphs 7 and 13 of Schedule 1 to] this Act–

“the Directive” means Council Directive No.85/337/EEC on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive No.97/11/EC[F11] and Council Directive No.2003/35/EC] ;

“Annex” means an Annex to the Directive;

“relevant project” means a project for the construction of a new road where the completed works (together with any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other such facilities or stores required during the period of construction)–

- (a) exceed 1 hectare in area; or
- (b) are situated in whole or in part in a sensitive area;

“sensitive area” shall have the meaning ascribed to that expression in regulation 2(1) of the Environmental Impact Assessment (Scotland) Regulations 1999.]

#### Textual Amendments

- F2** Ss. 20A and 20B substituted for s. 20A (1.8.1999) by S.S.I. 1999/1, **reg. 49**
- F3** Words in s. 20A(2) substituted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(a)**
- F4** S. 20A(4) omitted (1.2.2007) by virtue of [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(b)**
- F5** Words in s. 20A(5) substituted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(c)(i)**
- F6** Word in s. 20A(5) substituted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(c)(ii)**
- F7** Words in s. 20A(5) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(c)(iii)**
- F8** S. 20A(5A)-(5D) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(d)**
- F9** Words in s. 20A(6) omitted (1.2.2007) by virtue of [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(e)**
- F10** Words in s. 20A(9) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(f)(i)**
- F11** Words in s. 20A(9) inserted (1.2.2007) by [The Environmental Impact Assessment \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/614\)](#), regs. 1, **6(1)(f)(ii)**

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## [<sup>F12</sup>20B Projects with significant transboundary effects

- (1) This section applies if—
  - (a) it appears to the Scottish Ministers that a project to which section 20A(2) of this Act applies is likely to have a significant effect on the environment in another EEA State; or
  - (b) an EEA State the environment of which is likely to be significantly affected by such a project asks the Scottish Ministers for information about it.
- (2) The Scottish Ministers shall give to the EEA State—
  - (a) a description of the project together with any information available to them which suggests that it may have a significant effect on the environment in the EEA State;
  - (b) any information which they have about the nature of the decision which may be taken on the project;
  - (c) where they consider it appropriate, information about the environmental impact assessment procedure; and
  - (d) a reasonable period within which to indicate whether the EEA State wishes to participate in that procedure of this Act.
- (3) Subsection (2)(a) and (b) above must be complied with no later than the date of publication of the notice referred to in section 20A(3) of this Act.
- (4) If the EEA State indicates that it wishes to participate in the environmental impact assessment procedure, the Scottish Ministers shall give it—
  - (a) a copy of the environmental statement where that has not already been given to that EEA State; <sup>F13</sup>...
  - [<sup>F14</sup>(b) the information required by subsection (5A) of section 20A to be included in the notice under subsection (5) of that section; and
  - (c) any information about the environmental impact assessment procedure under this Part of this Act which they consider it appropriate to give and has not already been given to the EEA State.]
- (5) The Scottish Ministers shall also—
  - (a) arrange for the information which they have given to the EEA State to be made available within a reasonable time to—
    - (i) the authorities referred to in Article 6(1) of the Directive; and
    - (ii) members of the public in the EEA State who are likely to be concerned; and
  - (b) ensure that those authorities and the members of the public concerned are given a reasonable opportunity to express an opinion before they decide whether to proceed with the project.
- (6) In accordance with Article 7(4) of the Directive, the Scottish Ministers shall—
  - (a) enter into consultation with the EEA State concerned regarding in particular the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate those effects; and
  - (b) agree with the EEA State a reasonable period for that consultation.
- [<sup>F15</sup>(7) Where an EEA State has been consulted in accordance with subsection (4) above, the Scottish Ministers must, after deciding whether to proceed with the project to which the environmental assessment relates, inform the EEA State of the decision and give

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it copies of the documents containing the matters referred to in paragraph 7(1B) or 13(1B) as the case may be of Schedule 1 to this Act.]

- (8) In this section [<sup>F16</sup>and in paragraphs 7(1A) and 13(1A) of Schedule 1 to this Act] “EEA State” means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 <sup>M1</sup> as adjusted by the Protocol signed at Brussels on 17th March 1993 <sup>M2</sup>.]

#### Textual Amendments

- F12** Ss. 20A and 20B substituted for s. 20A (1.8.1999) by S.S.I. 1999/1, reg. 49
- F13** Word in s. 20B(4)(a) omitted (1.2.2007) by virtue of The Environmental Impact Assessment (Scotland) Amendment Regulations 2006 (S.S.I. 2006/614), regs. 1, 6(2)(a)
- F14** S. 20B(4)(b)(c) substituted for s. 20B(4)(b) (1.2.2007) by The Environmental Impact Assessment (Scotland) Amendment Regulations 2006 (S.S.I. 2006/614), regs. 1, 6(2)(a)
- F15** S. 20B(7) substituted (1.2.2007) by The Environmental Impact Assessment (Scotland) Amendment Regulations 2006 (S.S.I. 2006/614), regs. 1, 6(2)(b)
- F16** Words in s. 20B(8) inserted (1.2.2007) by The Environmental Impact Assessment (Scotland) Amendment Regulations 2006 (S.S.I. 2006/614), regs. 1, 6(2)(c)

#### Marginal Citations

- M1** Cm 2073.
- M2** Cm 2183.

## 21 Requirement of consent for new roads built other than by roads authority.

- (1) A person other than a roads authority who wishes to construct a new road or an extension of an existing road shall before commencing such construction obtain the consent (in this section and in sections 22 and 23 of this Act referred to as “construction consent”) thereto of the local roads authority.
- (2) An application for construction consent—
- (a) shall be in writing in such form as the local roads authority may determine; and
  - (b) shall by notice be intimated by the applicant to—
    - (i) the owners of all land which would front, abut or be comprehended in the new road or the extension of the existing road; and
    - (ii) such other persons, if any, as the authority may, for the purposes of the application, specify..
- (3) The local roads authority shall consider any written representations, made to them within 28 days of the date of intimation, by any person to whom an application has been intimated under subsection (2)(b) above, and may thereafter—
- (a) subject to subsection (4) below, grant construction consent, either without conditions or subject to such conditions as they think fit; or
  - (b) refuse construction consent;
- and before granting the consent subject to a condition (other than the condition mentioned in subsection (4) below) or refusing consent, the authority shall allow the person applying for the consent an opportunity to be heard by them as regards his application.
- (4) It shall be a condition of any construction consent that the construction be completed within such period, being a period of not less than three years from the date on which

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the consent is given, as the local roads authority may specify in writing in the consent; but the authority may subsequently by notice extend the period so specified.

- (5) Without prejudice to section 22(b) of this Act, where a condition imposed by a construction consent has been contravened or not complied with, the local roads authority may, by notice served on the person holding the consent, require him to bring the new road into conformity with the construction consent within such reasonable period as they shall specify in the notice.
- (6) An applicant for construction consent may, within 28 days of the date of the intimation to him of a decision of the local roads authority—
  - (a) refusing his application; or
  - (b) granting it subject to conditions other than a condition that the construction be completed within 3 years of the date on which the consent was given,appeal to the Secretary of State in accordance with the procedure prescribed by any regulations under subsection (7) below.
- (7) The Secretary of State may by regulations prescribe the procedure to be followed in relation to an appeal to him under subsection (6) above, and such regulations may, without prejudice to the foregoing generality, make provision for the determination of any such appeal by a person appointed by the Secretary of State and for the powers and duties of such a person in that regard.
- (8) The determination of an appeal under subsection (6) above may allow or dismiss the appeal, may modify any part of the decision of the local roads authority and shall be final.

## **22 Offences in relation to construction of new roads.**

Any person (other than a roads authority)—

- (a) who constructs a new road or an extension of an existing road without construction consent; or
- (b) who contravenes, or fails to comply with, a condition (other than such condition as is mentioned in section 21(4) of this Act) imposed by a construction consent,

commits an offence, which shall be triable either summarily or on indictment.

## **23 Power to stop up or temporarily close new road where construction consent absent or not conformed with.**

- (1) The local roads authority may stop up or temporarily close any new road which another person (other than a roads authority) has constructed—
  - (a) without construction consent; or
  - (b) in contravention of, or non-compliance with, a condition imposed by a construction consent.
- (2) Stopping up or temporary closure under subsection (1) above may take place whether or not proceedings are pending under section 22 of this Act but shall be ended if, in any such proceedings, it is found—
  - (a) in a case where the stopping up or closure took place on the basis that there was no construction consent, that there was such consent; or

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- (b) in any other case, that there was no contravention of, or failure to comply with, the construction consent condition to which the proceedings relate.



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