



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART IV

#### ROAD WORKS IN SCOTLAND

##### *Charges, fees and contributions payable by undertakers*

#### **133 Charge for occupation of the road where works unreasonably prolonged.**

- (1) The Secretary of State may make provision by regulations requiring an undertaker executing road works in a public road to pay a charge to the roads authority where—
- the duration of the works exceeds such period as may be prescribed, and
  - the works are not completed within a reasonable period.

- (2) For this purpose “a reasonable period” means such period as is agreed by the authority and the undertaker to be reasonable or, in default of such agreement, is determined [F1 in the prescribed manner] to be reasonable, for completion of the works in question.

In default of agreement, the authority’s view as to what is a reasonable period shall be acted upon pending the decision of the arbiter.

- (3) The regulations may provide that if an undertaker has reason to believe that the duration of works will exceed the prescribed period he may submit to the authority an estimate of their likely duration—
- in the case of works in connection with the initial placing of apparatus in the road in pursuance of a permission granted under section 109 (permission to execute road works), together with his application for permission,
  - in the case of other works (not being emergency works), together with his notice under section 114 (notice of starting date), or
  - in the case of emergency works, as soon as reasonably practicable after the works are begun,

*Status: Point in time view as at 02/02/2015.*

*Changes to legislation: New Roads and Street Works Act 1991, Section 133 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and that the period stated in an estimate so submitted shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

- (4) The regulations may also provide that if it appears to the undertaker that by reason of matters not previously foreseen or reasonably foreseeable the duration of the works—
- (a) is likely to exceed the prescribed period,
  - (b) is likely to exceed the period stated in his previous estimate, or
  - (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

- (5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the time taken to complete the works and the extent to which the surface of the road is affected by the works.

Different rates of charge may be prescribed according to the place and time at which the works are executed and such other factors as appear to the Secretary of State to be relevant.

- (6) The regulations may make provision as to the time and manner of making payment of any charge.
- (7) The regulations shall provide that a roads authority may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as they may decide or as may be prescribed, or generally.
- (8) The first regulations for the purposes of this section shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Textual Amendments**

- F1** Words in s. 133(2) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. [36\(1\)\(2\)\(d\)](#), [54\(2\)](#); S.S.I. 2008/15, art. 2(2), sch. 1

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