



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART I **S**

#### PUBLIC ROADS

##### *General powers and duties of roads authorities*

#### **1 Powers and duties of local roads authorities. **S****

- (1) Subject to subsection (10) below, a local roads authority shall manage and maintain all such roads in their area as are for the time being entered in a list (in this Act referred to as their “list of public roads”) prepared and kept by them under this section; and for the purposes of such management and maintenance (and without prejudice to this subsection’s generality) they shall, subject to the provisions of this Act, have power to reconstruct, alter, widen, improve or renew any such road or to determine the means by which the public right of passage over it, or over any part of it, may be exercised.
- (2) Subject to subsection (10) below, the list of public roads prepared by the local roads authority shall, at the date of commencement of this section, comprise all public roads which immediately prior to that date were required to be entered by the local highway authority for the area in a list of the roads highways and bridges under their management and control under section 41 of the <sup>M1</sup>Roads and Bridges (Scotland) Act 1878 or in a register of streets under section 5 of the <sup>M2</sup>Burgh Police (Scotland) Act 1903 or any corresponding local enactment.
- (3) The list of public roads shall be open for inspection free of charge at such reasonable times and places as the local roads authority may determine.
- (4) The local roads authority may, subject to the provisions of this Act, add to or delete from their list of public roads; but before any entry for a road which for the time being is a private road is so added or any entry for a public road is so deleted they shall—
  - (a) give notice of their intention in that regard to the frontages of that road; and
  - (b) publish a notice of such intention in at least one newspaper circulating in the area,

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and, where any representation is made within 28 days after the requirements of paragraphs (a) and (b) above have been fulfilled, the authority shall consider that representation and give notice to the person making it and, with a note or copy of the representation, to the frontagers (or to the other frontagers if it was a representation by a frontager) of the authority's decision as regards whether or not to proceed with the addition or deletion following the representation:

Provided that—

- (i) any addition or deletion giving effect to a decision under subsection (5) below;
- (ii) any deletion in consequence of the stopping up of a public road under this Act; or
- (iii) any deletion on transfer of such a road to another roads authority,

shall not require such intimation or publication as is mentioned in paragraphs (a) and (b) above.

- (5) The requisite number of frontagers to whom notice of a decision following a representation is given under subsection (4) above may, within 28 days of such notice, refer the matter by summary application to the sheriff. His decision thereon shall, subject to subsection (8) below, be final and, where that decision requires the addition or deletion to be proceeded with, shall be given effect to forthwith by the local roads authority.
- (6) A decision of which notice is given under subsection (4) above shall not be given effect to until the 28 days mentioned in subsection (5) above have expired or, if the matter has been referred under the said subsection (5) to the sheriff, until the summary application has been disposed of or abandoned.
- (7) In subsection (5) above, “the requisite number” means—
  - (a) a majority; or
  - (b) such number as together owns land which . . . <sup>F1</sup> . . . <sup>F1</sup> includes not less than half of the boundary between the land fronting or abutting the road mentioned in subsection (4)(a) above and that road; . . . <sup>F1</sup> . . . <sup>F1</sup>
- (8) Subsection (5) above is without prejudice to the rights of the local roads authority to proceed again under subsection (4) above as regards the same addition or deletion (or as regards an addition or deletion which comprehends, or is comprehended in, the same addition or deletion) where there has been a material change of circumstances since the publication, in relation to the original proposed addition or deletion, of the notice under subsection (4)(b) above.
- (9) Subject to subsection (10) below, every road which is entered in the list of public roads kept by a local roads authority shall vest in the authority for the purposes of their functions as roads authority: but such vesting shall not confer on an authority any heritable right in relation to a road.
- (10) There shall not vest under subsection (9) above any bridge which both—
  - (a) immediately prior to the commencement of this section was not so managed and controlled as is mentioned in subsection (2) above; and
  - (b) has not since such commencement been acquired (whether compulsorily or by agreement) by the local roads authority,

and without prejudice to sections 79 to 81 of this Act, until such acquisition the authority shall not manage and maintain the bridge (as distinct from any road carried by it) and any entry in their list of public roads in respect of such a road shall include a

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statement to the effect that the road does not, for the purposes of subsection (1) above, comprise the bridge carrying the road.

#### Textual Amendments

- F1** Words “either—(i)”, “or” and subparagraph (ii) repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), ss. 34, 35(2)(3), [Sch. 6](#)

#### Marginal Citations

- M1** 1878 c. 51.  
**M2** 1903 c. 33.

VALID FROM 16/03/1996

## 2 Powers and duties of Secretary of State as roads authority: management and maintenance. **S**

- (1) The Secretary of State shall manage and maintain—
- trunk roads;
  - special roads provided by him; and
  - any other road constructed by him under section 19 of this Act (or section 8 of the <sup>M3</sup>Development and Road Improvement Funds Act 1909) and not entered in a list of public roads by a local roads authority,
- and for the purposes of such management and maintenance (and without prejudice to this subsection’s generality) he shall have power to reconstruct, alter, widen, improve or renew any such road or to determine the means by which the public right of passage over it, or over any part of it, may be exercised.
- (2) The Secretary of State shall prepare and keep a list of roads which he is for the time being liable to manage and maintain under subsection (1) above; and the list shall, at the date of commencement of this section, comprise all roads which immediately prior to that date were managed and maintained by him.
- (3) The list referred to in subsection (2) above shall be open for inspection free of charge at such reasonable times and places as the Secretary of state may determine.
- (4) Every road maintainable by the Secretary of State under subsection (1) above shall vest in him for the purposes of his functions as roads authority; but such vesting shall not confer on him any heritable right in relation to a road.

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

- C1** [S. 2\(1\)](#) power to contract out functions of Secretary of State (16.3.1996) by [S.I. 1996/878](#) art. 2, Sch. para. 5(a)

#### Marginal Citations

- M3** 1909 c. 47.

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### 3 Power of Secretary of State to make advances to local roads authorities etc. **S**

- (1) The Secretary of State with the consent of the Treasury may subject to subsection (2) (b)(iii) below make to a local roads authority—
  - (a) advances (other than advances in respect of the acquisition of land) in respect of the construction of new roads or the maintenance or improvement of roads or make such advances in conjunction with such an authority (whether or not that authority is the roads authority by whom the road is, or as the case may be will be, maintainable) to any person;
  - (b) advances in respect of the acquisition of land by them where he is satisfied that the land has been or is to be acquired by the authority with a view to the construction of a new road or the improvement of a road.
- (2) The advances mentioned—
  - (a) in paragraph (a) of subsection (1) above may include advances for the purpose of carrying out surveys with a view to ascertaining the need for the construction or improvement of roads (whether or not such construction or improvement is thereafter proceeded with); and
  - (b) in paragraphs (a) and (b) of that subsection—
    - (i) may include advances in connection with the exercise of any power conferred on a local roads authority by section 52, 53 or 106 of this Act;
    - (ii) may include advances for any purpose incidental, or conducive, to the purposes mentioned in those paragraphs; and
    - (iii) shall be made only where it appears to the Secretary of State that the whole or any part of the expenditure in respect of which such advances could be made should not fall on the authority.
- (3) Without prejudice to subsection (2)(b)(iii) above, the advances mentioned in paragraph (b) of subsection (1) above may include, where the land is acquired by the authority, either or both of—
  - (a) any amount by which the annual expenditure incurred by the authority in maintaining the land, during the period between its acquisition and the construction or improvement of the road in question, and in the payment of loan charges accruing due during that period in respect of any debt incurred by the authority for the purpose of acquiring the land, exceeds the annual income accruing to the authority from the land during that period; and
  - (b) any loan charges accruing due after the end of that period in respect of any money borrowed by the authority for the purpose of acquiring the land.
- (4) An advance under subsection (1)(a) or (b) above may be either by way of grant or by way of loan, or partly in one way and partly in the other, and shall be upon such terms and subject to such conditions as the Secretary of State thinks fit.
- (5) In subsection (3) above, “loan charges”, in relation to any borrowed money, means the sums required for the payment of interest on that money and for the repayment thereof by instalments or by means of a sinking fund.

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VALID FROM 16/03/1996

#### 4 Agreements between authorities. **S**

- (1) Subject to subsections (2) to (5) below, the Secretary of State may enter into an agreement with a local roads authority or, in relation to cleansing, with a district council, for the carrying out by the authority or council or any of his functions as roads authority—
  - (a) in relation to a trunk or other road or land acquired by him under this Act in connection with, but not forming part of, a trunk road;
  - (b) in relation to cattle-grids.
- (2) Subsection (1) above does not apply as regards functions under section 55 of this Act, but subject to subsections (4) and (5) below, the Secretary of State may enter into an agreement with a general or district planning authority for the carrying out by the authority of any of his functions under that section.
- (3) Where an agreement under subsection (1) above affects a trunk road in the area of a local roads authority who are not a party to the agreement, the agreement shall have effect only if the authority consent to it.
- (4) An authority doing anything under an agreement entered into under this section act as agents for the Secretary of State, and nothing in any such agreement affects his status as roads authority.
- (5) The functions of the Secretary of State mentioned in sub-sections (1) and (2) above do not include his functions under Schedules 1 and 2 to this Act.

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

- C2** [S. 4\(1\)](#) power to contract out functions of Secretary of State (as restricted) (16.3.1996) by [S.I. 1996/878](#) arts. 1, 2, Sch., para. 5(b)

#### *Trunk roads*

VALID FROM 27/05/1997

#### 5 Trunk roads. **S**

- (1) Subject to the provisions of this section, all roads which immediately before the commencement of this section were trunk roads within the meaning of the Trunk Roads Acts <sup>M4</sup> 1936 and <sup>M5</sup> 1946 shall continue to be, and to be known as, trunk roads.
- (2) The Secretary of State shall keep under review the national system of routes for through traffic in Scotland, and if he is satisfied, after taking into consideration the requirements of local and national planning, including the requirements of agriculture and industry, that it is expedient for the purpose of extending, improving or reorganising that system either—
  - (a) that any existing road, or any road proposed to be constructed by him, should become a trunk road, or

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- (b) that any trunk road should cease to be a trunk road,  
he may by order direct that the road shall become, or as the case may be shall cease to be, a trunk road as from such date as may be specified in that regard in the order.
- (3) The power of the Secretary of State under subsection (2)(a) above shall include power to direct that a road, or a proposed road, which he considers suitable for the purpose of relieving the trunk road from local traffic shall become part of the trunk road, whether or not there is (or will be) intervening land between those roads.
- (4) Subject to subsection (7)(i) below, Parts I and III of Schedule 1 to this Act shall have effect in connection with the making of an order under this section, and Schedule 2 to this Act shall have effect in connection with the validity and date of operation of any such order.
- (5) If objection to an order under this section is duly made in accordance with Schedule 1 to this Act by the local roads authority who are responsible for the maintenance of any road to which the order relates, or who will become so responsible by virtue of the order, and that objection is not withdrawn, the order shall be subject to special parliamentary procedure, and Part IV of that Schedule shall have effect for the purposes of the application to the order of the <sup>M6</sup> Statutory Orders (Special Procedure) Act 1945.
- (6) Where an order under this section directs that a road shall cease to be a trunk road it may also direct that—
- (a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the road; and
  - (b) the authority shall enter the road in their list of public roads.
- (7) If an order—
- (a) under this section, or
  - (b) under section 1(3) of the <sup>M7</sup> Trunk Roads Act 1936 and continuing in force by virtue of paragraph 5 of Schedule 6 to this Act,
- directing that a road which the Secretary of State proposes to construct shall become a trunk road—
- (i) is revoked by a subsequent order made at any time before the date on which that road is opened for the purposes of through traffic, Schedules 1 and 2 to this Act shall have no effect as regards the revoking order, but within 28 days of the revoking order's having been made notice of the revocation shall be published by the Secretary of State in the Edinburgh Gazette and in such other manner as he thinks best adapted for informing persons affected;
  - (ii) is revoked or varied by a subsequent order made at any such time as aforesaid, the revoking or varying order shall not be deemed for the purposes of subsection (6) above to be an order directing that a road shall cease to be a trunk road.
- (8) Without prejudice to the powers of the Secretary of State under this Act—
- (a) to improve trunk roads by the construction of cycle tracks and footways for use in connection therewith, or
  - (b) to provide such tracks or footways as part of any trunk road which he is authorised to construct,
- the power to make an order under this section directing that a road proposed to be constructed by the Secretary of State shall become a trunk road may be exercised in relation to any cycle track or footpath which the Secretary of State proposes to

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construct upon land separated by intervening land from the trunk road in connection with which it is to be used.

- (9) A local roads authority, if they think fit, may contribute towards costs incurred by the Secretary of State in the construction or improvement of any trunk road.

#### Marginal Citations

**M4** Edw. 8 & 1 Geo. 6 c. 5.

**M5** 9 & 10 Geo. 6 c. 30.

**M6** 9 & 10 Geo. 6 c. 18.

**M7** Edw. 8 & 1 Geo. 6 c.5.

## 6 Local and private Act functions with respect to trunk roads. **S**

As from the date when a road becomes a trunk road, any functions of construction, maintenance or improvement exercisable as respects that road by a local roads authority under any local or private Act shall instead be exercisable by the Secretary of State.

### *Special roads*

## 7 General provision as to special roads. **S**

- (1) Subject to the provisions of this Act, all such roads as immediately before the commencement of this Act were special roads, being roads provided in pursuance of a scheme made under section 1 of the <sup>M8</sup>Special Roads Act 1949, shall continue to be, and to be known as, special roads.
- (2) Roads which continue to be special roads by virtue of subsection (1) above shall continue, subject to the provisions of this Act, to be special roads for the use of traffic of the classes for the use of which they were special roads immediately before the commencement of this Act.
- (3) A roads authority may be authorised by means of a scheme under this section to provide, along a route prescribed by the scheme, a special road for the use of traffic of any class so prescribed.
- (4) Subject to subsection (10) below, a roads authority authorised by a scheme under this section, or by any such scheme as is referred to in subsection (1) above, to provide a special road are in this Act referred to in relation to that road as the “special road authority”.
- (5) A special road authorised by a scheme under this section may be provided by means of—
  - (a) the construction by the special road authority of a new road along the route prescribed by the scheme or along any part of that route;
  - (b) the appropriation under this Act of any road (or proposed road in course of construction) comprised in that route for which the special road authority are the roads authority;



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- (c) the transfer to that authority under this Act of any road (or proposed road in course of construction) comprised in that route for which they are not the roads authority.
- (6) A scheme under this section authorising the provision of a special road shall—
- (a) in the case of a road to be provided by the Secretary of State, be made by the Secretary of State, and
  - (b) in the case of a road to be provided by a local roads authority, be made by that authority and confirmed by the Secretary of State,
- in accordance with the provisions of Parts II and III of Schedule 1 to this Act.
- (7) Before making or confirming a scheme under this section, the Secretary of State shall give due consideration to the requirements of local and national planning, and to the requirements of agriculture and industry.
- (8) If objection to a scheme under this section is duly made in accordance with Schedule 1 to this Act—
- (a) by the roads authority for any road (or proposed road) comprised in the route of the special road authorised by the scheme;
  - (b) by any navigation authority or water authority on whom notice is required to be served under paragraph 3 of that Schedule on the ground that any bridge or tunnel over or under navigable waters for which provision is made by the scheme is likely to obstruct or impede the performance of their functions under any enactment or to interfere with the reasonable requirements of navigation over the waters affected by the scheme,
- and is not withdrawn, the scheme shall be subject to special parliamentary procedure.
- (9) Part IV of Schedule 1 to this Act shall have effect for the purposes of the application to schemes under this section of the <sup>M9</sup> Statutory Orders (Special Procedure) Act 1945; and Schedule 2 to this Act shall have effect with respect to the validity and date of operation of such schemes.
- (10) A scheme under this section may be submitted to the Secretary of State jointly by any two or more local roads authorities, and any such scheme may determine which of those authorities shall be the special road authority for the special road and may provide—
- (a) for the performance by the special road authority, in relation to the road, of any roads functions of another authority who are party to the submission; and
  - (b) for the making of contributions by that other authority to the special road authority in respect of expenditure incurred in the performance of those functions.

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

**C3** S. 7 definition of "special road scheme" applied (21.10.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 47\(1\)](#)(with savings s. 47(4)); [S.I. 1991/2286, art. 2\(1\)](#), [Sch. 1](#)

#### **Marginal Citations**

**M8** 1949 c. 32.

**M9** 9 & 10 Geo. 6 c. 18.



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## 8 Further provision as regards classification of traffic for purposes of special roads. **S**

- (1) Different classes of traffic may be prescribed by a scheme under section 7 of this Act in relation to different parts of the special road to which the scheme relates.
- (2) The classes of traffic prescribed by any such scheme shall be prescribed by reference to the classes set out in Schedule 3 to this Act.
- (3) The Secretary of State may by order vary the classes of traffic specified in the said Schedule 3 and the composition of any such class; <sup>F2</sup> . . .
- <sup>F3</sup>(4) A variation order may contain provision applying the variations made by the order to existing schemes (whether made by the Secretary of State or a local roads authority); and in the absence of such provision a variation order does not affect the classes of traffic prescribed in an existing scheme.
- (5) In subsection (4) above an “existing scheme” means a scheme under section 7 made before the order comes into operation.]

### Textual Amendments

- F2** Words in s. 8(3) omitted (21.10.1991) by virtue of [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 45](#) (with savings [s. 47\(4\)](#)); S.I. 1991/2286, art. 2(1), [Sch. 1](#)
- F3** [S. 8\(4\)\(5\)](#) inserted (21.10.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 45](#) (with savings [s. 47\(4\)](#)); S.I. 1991/2286, art. 2(1), [Sch. 1](#)

## 9 Supplementary orders relating to special roads. **S**

- (1) Subject to section 113 of this Act, provision in relation to a special road may be made by an order under this section—
  - (a) for appropriating as part of the special road, as from such date as may be specified in the order, any road (or proposed road in course of construction) comprised in the route prescribed by the scheme authorising the special road and which is a road (or proposed road) for which the special road authority are the roads authority;
  - (b) for transferring to the special road authority, as from such date as may be specified in the order, any road (or proposed road in course of construction) comprised in that route and for which they are not the roads authority;
  - (c) for authorising the special road authority—
    - (i) to stop up, divert, improve or otherwise alter any road which crosses or enters the route of the special road or is or will be otherwise affected by the construction or improvement of the special road;
    - (ii) to construct any new road for purposes connected with any such alterations as aforesaid or for any other purpose connected with the special road or its construction and to close after such period as may be specified in the order any new road temporarily so constructed;
  - (d) for transferring to such roads authority as may be specified in the order, as from such date as may be so specified any road constructed by the special road authority in pursuance of the order or any previous order made under this section;

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- (e) for authorising or requiring the special road authority to exercise, either concurrently with or to the exclusion of any regional council, any functions which, apart from the order, would be exercisable by that regional council in relation to the special road or any part thereof other than functions of that authority as regional or general planning authority within the meaning of the <sup>M10</sup>Town and Country Planning (Scotland) Act 1972; or
  - (f) for any other purpose incidental to the purposes aforesaid or otherwise incidental to the construction or maintenance of, or other dealing with, the special road.
- (2) An order under this section shall—
- (a) in the case of a special road provided or to be provided by the Secretary of State, be made by the Secretary of State;
  - (b) in the case of a special road provided or to be provided by a local roads authority, be made by that authority and confirmed by the Secretary of State,
- in accordance with Parts I and III of Schedule 1 to this Act; and Schedule 2 to this Act shall have effect with respect to the validity and date of operation of any such order.
- (3) No order authorising the stopping up of a road shall be made or confirmed by the Secretary of State under this section unless he is satisfied that another reasonably convenient route is available or will be provided in pursuance of an order under this section before the road is stopped up.
- (4) No order providing for the appropriation by or transfer to a special road authority of an existing road comprised in the route prescribed by the scheme authorising the special road shall be made or confirmed by the Secretary of State under this section unless he is satisfied—
- (a) that another reasonably convenient route is available for traffic other than traffic of the class authorised by the scheme, or will be provided in pursuance of an order under this section before the date on which the appropriation or transfer takes effect, or
  - (b) that no such other route is reasonably required for any such other traffic.
- (5) An order under this section may provide for the payment of contributions—
- (a) by the special road authority to any other roads authority in respect of any additional liabilities imposed on that other authority in consequence of the provisions of the order or of any previous order made under this section;
  - (b) to the special road authority by any other authority in respect of any liabilities so imposed on the special road authority, being liabilities which would otherwise have fallen to be discharged by the other authority;
- and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

#### Marginal Citations

M10 1972 c. 52.

## 10 Certain special roads to be trunk roads. **S**

- (1) A special road to be provided by the Secretary of State in accordance with a scheme under section 7 of this Act shall, except in so far as it is provided by means of the

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appropriation or transfer of any existing road, become a trunk road on such date as may be specified in the scheme.

- (2) A road (not being a trunk road) which, by means of an order under section 9 of this Act, is appropriated as a special road to be provided by the Secretary of State, and a road which, by means of such an order, is transferred to the Secretary of State, shall become a trunk road on the date on which it is so appropriated or is so transferred, as the case may be.

- [<sup>F4</sup>(3) Subsections (1) and (2) above shall have effect subject to any provision of the scheme under section 7 of this Act directing that the special road in question or any part of it shall not be a trunk road; but any such provision shall not affect the power of the Secretary of State to make an order under section 5(2)(a) of this Act with respect to the special road or part.]

#### Textual Amendments

- F4** S. 10(3) inserted (21.10.1991) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), [s. 46](#) (with saving [s. 47\(4\)](#)); [S.I. 1991/2286](#), art. 2(1), [Sch. 1](#)

### *Classification of roads*

## 11 **Classification of roads.** **S**

- (1) The Secretary of State may, for the purposes of—
- (a) any provision of this Act which refers to a classified or unclassified road; or
  - (b) any other enactment (whether passed or made before or after the passing of this Act) which refers to a road classified by the Secretary of State,
- classify a road or proposed road (whether as a principal road or otherwise) from time to time in such manner as he may determine after consultation with any roads authority in whose area the road is, or will be, situated.
- (2) In any enactment in force at the commencement of this Act a reference to a classified road (or any cognate reference) shall be construed as a reference to a road (or proposed road) which for the time being is classified, for the purposes of that enactment, under subsection (1) above.
- (3) A road which, immediately before the commencement of this Act, bore (or fell to be treated as bearing) a classification (whether as a principal road or otherwise) given by the Secretary of State under any enactment shall, until the Secretary of State otherwise directs, be treated as continuing to bear that classification and as having been so classified under subsection (1) above.
- (4) The Secretary of State may by order assign a new description to a class of roads (or proposed roads) classified under subsection (1) above; and except in so far as the order otherwise provides, any reference in any enactment passed or made before the date of the order to a road (or to a proposed road) in terms of the old description shall be construed as a reference to a road (or to a proposed road) of the new description.

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

- C4 S. 11 definition of "principal road" applied (1.1.1993) by [New Roads and Street Works Act 1991](#) (c. 22, SIF 59, 108), [s. 136\(3\)](#); S.I. 1992/2990, art. 2(2), [Sch. 2](#)

### Supplementary

## 12 Powers as respects roads that cross or join public roads other than special roads. **S**

- (1) Subject to section 113, and without prejudice to section 9(1)(c), of this Act, provision may be made by the roads authority by an order under this section in relation to a public road (or proposed public road) other than a special road (or proposed public road which is to be a special road)—
  - (a) for authorising the roads authority for the road or proposed road (such road (or proposed road) being in this section referred to as the “main road”)—
    - (i) to stop up, divert, improve or otherwise alter a road (in this section referred to as the “side road”) which crosses or enters the route of the main road or is or will be otherwise affected by the construction or improvement of the main road;
    - (ii) to construct a new road for purposes concerned with any such operation as is mentioned in sub-paragraph (i) above or for any other purpose connected with the main road or its construction, and to close after such period as may be specified in the order any new road temporarily so constructed;
  - (b) for transferring to such other roads authority as may be specified in the order, as from such date as may be so specified, a road constructed in pursuance of the order or of any previous order made under this section;
  - (c) for any purpose incidental to the purposes aforesaid.
- (2) Parts I and III of Schedule 1 to this Act shall have effect as to the making of an order under this section by the Secretary of State as roads authority; and Schedule 2 to this Act shall have effect as to the validity and date of operation of any such order.
- (3) No order under this section authorising the stopping up of a road shall be made by the Secretary of State unless he is satisfied that another reasonably convenient route is available or will be provided before the road is stopped up.
- (4) An order under this section may provide for the payment of contributions—
  - (a) by the roads authority to any other roads authority in respect of any additional liabilities imposed on that other authority in consequence of the order or of any previous order made under this section;
  - (b) to the roads authority by any other roads authority in respect of any liabilities so imposed on the first mentioned authority which would otherwise have fallen to be discharged by that other authority;
 and may also provide for the determination by arbitration of disputes as to the payment of such contributions.
- (5) Except in a case to which section 132 of this Act applies, an order under this section shall include provision for the preservation of any rights of statutory undertakers in

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respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the side road.

- (6) The Secretary of State may by regulations prescribe the procedure to be followed by a local roads authority in making an order under this section; and such regulations may in particular make provision as to the means of public notification of the proposal to make such an order and may make like provision in relation to the local roads authority as is made by subsection (3) above in relation to the Secretary of State.
- (7) Where a local roads authority propose to make an order under this section, then, before the expiry of 28 days from the date of the first public notification, in accordance with regulations under subsection (6) above, of the proposal to make the order, any person may object to it to the authority, and—
- (a) if no such objection is made, or objection is made but withdrawn, they may confirm the order themselves and
  - (b) if such objection is made and not withdrawn, the Secretary of State shall determine the matter, and may confirm the order with or without modification or refuse to confirm it.

VALID FROM 04/01/1995

*<sup>F5</sup> Transitory provisions*

**Textual Amendments**

**F5** S. 12A-12F added (4.1.1995) by 1994 c. 39, s. 7(2), 38(2) (with s. 7(2)); S.I. 1994/2850 art. 3(a), Sch. 2

**12A Transitional power of Secretary of State as respects existing roads. S**

- (1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—
- (a) that any existing road should become a trunk road; or
  - (b) that any trunk road should cease to be a trunk road,
- he may by order direct that the road shall become a trunk road or, as the case may be, shall cease to be a trunk road, as from such date as may be specified in that regard in the order.
- (2) Where an order under this section directs that a road shall cease to be a trunk road, it may also direct that—
- (a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the road; and
  - (b) the authority shall enter the road in their list of public roads.
- (3) An order under this section may relate to one or more roads.

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## **12B Transitional power of Secretary of State as respects proposed roads. S**

(1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—

(a) that any proposed road—

(i) to be constructed by the local roads authority; and

(ii) in respect of which all necessary planning permission has been granted or is deemed to have been granted,

should become a trunk road; or

(b) that any proposed road—

(i) to be constructed by the Secretary of State as a trunk road; and

(ii) in relation to which an order has been made under section 5 of this Act,

should not become a trunk road,

he may by order direct that the proposed road shall or, as the case may be, shall not become a trunk road.

(2) Where an order is made in respect of a proposed road as mentioned in subsection (1) (a) above—

(a) subject to subsection (6) below, the Secretary of State may, for the purposes of the construction of that road, do any thing which he would have been entitled to do if an order under section 12 of this Act (in this section referred to as a “section 12 order”) had been made in relation to that road; and

(b) where an environmental statement has been published in respect of the project, the Secretary of State shall not be required to publish a further environmental statement,

but otherwise the Secretary of State shall in all respects be in the same position in relation to that proposed road as the local roads authority would have been if such order had not been made.

(3) Where an order is made in respect of a proposed road as mentioned in subsection (1) (b) above—

(a) the local roads authority may proceed with construction of the said road as if all necessary planning permission had been granted;

(b) the section 12 order made in relation to that road shall apply as if—

(i) the local roads authority were the roads authority referred to in such order; and

(ii) all necessary planning permission has been granted; and

(c) where an environmental statement has been published in respect of the project, the local roads authority shall not be required to publish a further environmental statement.

(4) Where an order under this section directs that a proposed road shall not become a trunk road, it may also direct that—

(a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the proposed road; and

(b) on such date as may be specified in that regard in the order, the authority shall enter the road in their list of public roads.

(5) An order under this section may relate to one or more proposed roads.



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- (6) The Secretary of State shall not by virtue of this section be empowered—
- (a) to stop up a road as mentioned in section 12(1)(a)(i) of this Act; or
  - (b) to do anything mentioned in paragraphs (a) and (b) of section 70 of this Act except where the local roads authority have been so authorised under a section 12 order; and where such an order has been made, the Secretary of State may do anything he would have been authorised to do if the order had been made by him.
- (7) In this section and in section 12C of this Act “planning permission” means permission under Part III of the <sup>M11</sup>Town and Country Planning (Scotland) Act 1972.

#### Marginal Citations

M11 1972 c. 52.

### 12C Transitional power of Secretary of State as respects special road schemes. **S**

- (1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that—
- (a) a special road which the Secretary of State is authorised to provide by virtue of a scheme under section 7 of this Act (a “section 7 scheme”) should be provided by a local roads authority; or
  - (b) a special road which a local roads authority is authorised to provide by virtue of a section 7 scheme which has been confirmed by the Secretary of State should be provided by the Secretary of State,
- he may by order direct that the local roads authority or, as the case may be, the Secretary of State shall be authorised to provide such special road; and the section 7 schemes relating to those special roads shall (notwithstanding their terms) be deemed to authorise the provision of such special roads by the local roads authority and the Secretary of State respectively.
- (2) Where an order is made in respect of a special road as mentioned in subsection (1) (a) above—
- (a) where the Secretary of State has made an order under section 9 of this Act (a “section 9 order”) in relation to that special road, the local roads authority may treat that order as if it were an order made by them and confirmed by the Secretary of State;
  - (b) any necessary planning permission (whether relating to the special road or the doing of anything authorised by virtue of the section 9 order) shall be deemed to have been granted to the local roads authority; and
  - (c) where an environmental statement has been published in respect of the project, the local roads authority shall not be required to publish a further environmental statement.
- (3) Where an order is made in respect of a special road as mentioned in subsection (1) (b) above—
- (a) if the local roads authority have made a section 9 order which has been confirmed by the Secretary of State, the Secretary of State may treat that section 9 order as if it were an order made by him; and



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(b) where an environmental statement has been published in respect of the project, the Secretary of State shall not be required to publish a further environmental statement,

but otherwise the Secretary of State shall in all respects be in the same position in relation to that special road as the local roads authority would have been if such order had not been made.

**12D Application of section 112 to orders under sections 12A, 12B, 12C and 12E. S**

The provisions of section 112 of this Act shall apply, subject to such modifications as the Secretary of State may by order specify, to roads, proposed roads and special roads such as may be mentioned in orders made under sections 12A, 12B, 12C and 12E of this Act as they apply to roads mentioned in the said section 112.

**12E Further power of Secretary of State as respects proposed roads and special road schemes. S**

- (1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that any proposed road to be constructed by a local roads authority should become a trunk road, but the condition mentioned in subsection (1)(a)(ii) of section 12B of this Act is not satisfied in relation to such proposed road, he may, notwithstanding the provisions of that subsection, by order direct that the proposed road shall become a trunk road.
- (2) The provisions of paragraphs (a) and (b) of section 12B(2) of this Act shall apply where an order is made under subsection (1) above as they apply where an order is made under subsection (1)(a) of that section.
- (3) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that a special road in respect of which a section 7 scheme has been made by a local roads authority but not confirmed by the Secretary of State should be provided by him, he may, notwithstanding the provisions of subsection (1)(b) of section 12C of this Act, by order, direct that he shall be authorised to provide such special road by virtue of such scheme.
- (4) The provisions of paragraphs (a) and (b) of section 12C(3) of this Act shall apply where an order is made under subsection (3) above as they apply where an order is made under subsection (1)(b) of that section.
- (5) An order under subsection (1) or (3) above may include provision specifying the extent to which compliance before the making of that order with any statutory requirement in relation to the proposed road or, as the case may be, special road shall be deemed to satisfy for all purposes any statutory requirement which the Secretary of State would, apart from such provision, have been required to comply with in relation to that proposed road or special road.
- (6) As from the date of an order under subsection (1) or (3) above, the proposed road or, as the case may be, special road shall be deemed always to have been a proposed road to be constructed by the Secretary of State or a special road which the Secretary of State is authorised to provide.

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**12F Further provisions as to orders. S**

An order under section 12A, 12B, 12C, 12D or 12E of this Act may not be made so as to take effect more than 3 years after 1st April 1996.]

**Status:**

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**Changes to legislation:**

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