



# 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, with the consent of the Treasury, 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.

#### **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.

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

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

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## **[<sup>F1</sup>20A Environmental assessment of certain road construction projects.**

- (1) In any case where the Secretary of State has under consideration the construction of a new road, he shall determine before the relevant date whether or not the project falls within Annex I or Annex II to Council Directive No.85/337/EEC on the assessment of the effects of certain public and private projects on the environment.
  - (2) [<sup>F2</sup>Where it appears to him]that the project falls within Annex I, or that it falls within Annex II and has such characteristics that it should be made subject to an environmental assessment, he shall publish not later than the relevant date an environmental statement, that is, a statement [<sup>F3</sup>identifying , describing and assessing in an appropriate manner, in the light of each individual case and in accordance with Articles 4 to 11 of the Directive, the direct and indirect effects of the project on the factors mentioned in Article 3 of the Directive and] containing the information referred to in Annex III to the Directive to the extent that he considers—
    - (a) that it is relevant to the specific characteristics of the project and of the environmental features likely to be affected by it; and
    - (b) that (having regard in particular to current knowledge and methods of assessment) the information may reasonably be gathered,
 including at least—
    - (i) a description of the project comprising information on the site, design and size of the project;
    - (ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
    - (iii) the data required to identify and assess the main effects which the project is likely to have on the environment;
    - (iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.
- [ Any project for the construction of a special road which falls within Annex II to the
- <sup>F4</sup>(2A) Directive shall be treated as having such characteristics that it should be made subject to an environmental assessment in accordance with the Directive.]
- (3) In this section “the relevant date” means the date of publication of the draft order, or draft scheme, relating to the construction of the road.
  - (4) If the Secretary of State publishes an environmental statement under this section, he shall ensure that the public concerned is given an opportunity to express an opinion before the project is initiated.
  - (5) If on completion of the project any part of the road would lie on, or within 100 metres of, land comprised—
    - (a) in a national scenic area designated under section 262C of the Town and Country Planning (Scotland) Act 1972;
    - (b) in a conservation area within the meaning of [<sup>F5</sup>the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997]; or
    - (c) in an area notified under section 28 of the Wildlife and Countryside Act 1981 as an area of special scientific interest or in relation to which the Secretary of State has made an order under section 29 of that Act,
 he shall ensure that the appropriate environmental body is given an opportunity to express an opinion before the project is initiated.
  - (6) In this Act “the appropriate environmental body” means—

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- [ Scottish Natural Heritage, if the proposal relates to land falling within  
<sup>F6</sup>(a) paragraph (a) or (c) of subsection (5) above; and]  
(b) the planning authority, if it relates to land falling within paragraph (b); <sup>F7</sup> . . .  
(c) . . . . .

(7) This section does not apply where the draft order or draft scheme is published before the coming into force of the Environmental Assessment (Scotland) Regulations 1988.]

#### Textual Amendments

- F1** S. 20A inserted by S.I. 1988/1221, **reg. 70**  
**F2** Words in s. 20A(2) substituted (19.8.1994) by S.I. 1994/2012, **reg. 4(a)**  
**F3** Words in s. 20A(2) inserted (19.8.1994) by S.I. 1994/2012, **reg. 4(a)**  
**F4** S. 20A(2A) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 42(1)(with saving s. 47(4)); S.I. 1991/2286, art. 2(1), **Sch. 1**  
**F5** Words in s. 20A(5)(b) substituted (27.5.1997) by 1997 c. 11, s. 4, **Sch. 2**, para. 38(2)  
**F6** S. 20A(6)(a) substituted (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 11(2)**; S.I. 1991/2633, **art. 4**  
**F7** S. 20A(6) word "and" and para. (c) repealed (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, 46:1, 130), s. 27(2), **Sch. 11**; S.I. 1991/2633, **art. 4**

VALID FROM 01/08/1999

#### [<sup>F8</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; and

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- (b) any information about the environmental impact assessment procedure which they consider it appropriate to give and which has not already been made available to that 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.
- (7) Where an EEA State has been consulted in accordance with subsection (4) above, the Scottish Ministers shall inform the EEA State of the decision and give it copies of the documents referred to in paragraph 7(1B) or 13(1B) as the case may be of Schedule 1 to this Act.
- (8) In this section “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

**F8** Ss. 20A and 20B substituted for s. 20A (1.8.1999) by S.S.I. 1999/1, reg. 49

#### 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..

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- (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 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.

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### **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
  - (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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