



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART IX

#### ACQUISITION, TRANSFER, VESTING AND COMPENSATION

##### *Vesting and transfer*

#### **112 Transfer of property and liabilities upon road becoming or ceasing to be a trunk road.**

- (1) Where a road becomes a trunk road, then, subject to the provisions of this section, as from the date on which it does so (“the operative date”), there shall, by this section, be transferred to and shall vest in the Secretary of State for the purposes of his functions as roads authority—
- (a) the road in so far as it was, immediately before the operative date, vested in the former roads authority;
  - (b) all property in so far as it was, immediately before the operative date, vested in the former roads authority for the purposes of their functions in relation to the road;
  - (c) all liabilities which have been incurred by the authority for the purposes mentioned in paragraph (b) above and have not been discharged before the operative date, other than loans and loan charges.
- [<sup>F1</sup>(d) any property such as is mentioned in subsection (1A) below]

- [<sup>F2</sup>(1A) The property mentioned in paragraph (d) of subsection (1) above is property which—
- (a) was, immediately before the operative date, vested in the former roads authority for the purposes of their functions in relation to more than one road (including the road mentioned in that subsection); and
  - (b) is specified in an order made by the Secretary of State.

- (1B) Where any property is transferred to and vests in the Secretary of State as mentioned in subsection (1)(d) above, he shall make arrangements with the former roads authority as respects the use of that property; and any dispute between the Secretary of State and

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the former roads authority as to any arrangements made under this subsection shall be determined in like manner as any dispute such as is mentioned in subsection (7) below.]

- (2) In [<sup>F3</sup>subsections (1) and (1A)] above, “property”—
- (a) includes the unexpended balances of any grants paid by the Secretary of State to any such authority for the purposes of their functions in relation to the road but not of any loans raised by any such authority for those purposes; and
  - (b) does not include—
    - (i) land vested in the authority for the storage of materials required wholly or partly for the maintenance, repair or improvement of other roads;
    - (ii) land acquired for the improvement or development of frontages or of land abutting on or adjacent to the road; and
    - (iii) materials for maintenance, repair or improvement of the road.
- (3) Such vesting as is mentioned in subsection (1) above shall not confer on the Secretary of State any heritable right in relation to a road.
- (4) There shall not be transferred to the Secretary of State by this section any right or liability in respect of—
- (a) work done, services rendered, goods delivered, or money due for payment, before the operative date;
  - (b) damages or compensation for any act or omission before that date; or
  - (c) the price of, or compensation for, any land purchased, or for which a contract to purchase has been made, before that date.
- (5) Anything vested in the Secretary of State by this section shall be held by him subject to all covenants, conditions and restrictions subject to which it was held by the former roads authority and to all liabilities affecting it (except a liability referred to in subsection (4) above).
- (6) The Secretary of State may enter into an agreement with the former roads authority—
- (a) that any property or liabilities (except loans and loan charges) acquired or incurred by the authority for the purposes of their functions in relation to a road which has become a trunk road, other than properties or liabilities transferred to the Secretary of State by this section, shall be transferred to him, or
  - (b) that any property or liabilities transferred to the Secretary of State by this section shall be transferred back to the authority.
- (7) Any dispute between the Secretary of State and any authority or person as to the property or liabilities transferred by this section shall be determined by arbitration by a single arbiter appointed in default of agreement by the Court of Session, or the sheriff, on the application of either party.
- (8) The foregoing provisions of this section shall apply where a road ceases to be a trunk road in like manner as they apply where a road becomes a trunk road, with the substitution—
- (a) for references to the former roads authority of references to the Secretary of State, and
  - (b) for references to the Secretary of State of references to the local roads authority who become the roads authority for the road.

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- (9) The former roads authority for a road which becomes a trunk road shall produce to the Secretary of State such documents and other information as he may require relating to their functions, property and liabilities in respect of the road.
- (10) Schedule 6 to this Act shall have effect for the purpose of providing for transitional matters arising where a road becomes or ceases to be a trunk road and for making certain other transitional provisions.
- (11) In the foregoing provisions of this section—
- “former roads authority” means, in relation to a road which has become a trunk road, the roads authority in whom the road was vested immediately before it became a trunk road; and
- “property”, subject to subsections (2) and (3) above, includes property, rights and powers of every description.

#### Textual Amendments

- F1** S. 112(1)(d) added (4.1.1995) by 1994 c. 39, s. 38(3)(a) (with s. 7(2)); S.I. 1994/2850, art. 3(a), Sch. 2
- F2** S. 112(1A)(1B) added (4.1.1995) by 1994 c. 39, s. 38(3)(b) (with s. 7(2)); S.I. 1994/2850, art. 3(a), Sch. 2
- F3** Words in s. 112(2) substituted (4.1.1995) by 1994 c. 39, s. 38(3)(c) (with s. 7(2)); S.I. 1994/2850, art. 3(a), Sch. 2

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

- C1** S. 112 applied (with modifications) (18.3.2011) by Forth Crossing Act 2011 (asp 2), ss. 12(5), 13(4), 80(2) (with ss. 12(6), 69, 78); S.S.I. 2011/38, art. 2, sch.

### 113 Transfer of property and liabilities in connection with special roads etc.

- (1) Where provision is made by an order under section 9 or, as the case may be, 12 of this Act—
- (a) for transferring a road from one roads authority to another;
- (b) for enabling a roads authority to alter a road vested in another; or
- (c) for authorising or requiring any functions of a [<sup>F4</sup>local authority] to be exercised by a roads authority,
- the order may transfer to the roads authority to whom the road is transferred or, as the case may be, in whom it is vested, or by whom those functions are to be exercised, any property, rights or liabilities (other than loans or loan charges) vested in or incurred by the other authority in connection with the road, or the alteration, or for the purposes of those functions.
- (2) An order transferring property, rights or liabilities under section 9 or 12 of this Act may for that purpose (whether or not the road in question is a trunk road) apply any of the provisions of section 112 of this Act or any of the transitional provisions contained in Schedule 6 to this Act, subject to such modifications as may be specified in the order.
- (3) No order under section 9 or 12 of this Act shall provide for transferring to any authority (except by agreement with that authority) any bridge over or tunnel under the road as distinct from any approaches to the bridge or tunnel.

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#### Textual Amendments

**F4** Words in S. 113(1)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 135(7)**; S.I. 1996/323, **art 4(1)(c)**

### [<sup>F5</sup>113A Dissolution of certain bodies in consequence of order under section 9.

- (1) Where—
- (a) an order under section 9 of this Act transfers to a special road authority a road for the management and maintenance of which a body other than a roads authority was, prior to the coming into force of the order, responsible under any enactment; and
  - (b) the functions of that body relate solely to that road,
- the Secretary of State may by order (in this section referred to as a “dissolution order”) dissolve the body.
- (2) A dissolution order may transfer or provide for the transfer to—
- (a) the special road authority referred to in subsection (1)(a) above; or
  - (b) such other person as the Secretary of State considers appropriate,
- of such of the property, rights and liabilities of the body dissolved by the order as the Secretary of State considers appropriate.
- (3) A dissolution order may make provision in connection with the transfer of staff employed by or for the purposes of the body.
- (4) Without prejudice to the generality of subsection (2) above, a dissolution order may make provision regarding liability for the payment of any pensions, allowances or gratuities which would otherwise have been the responsibility of the body.
- (5) A dissolution order may make incidental provision as to the interests, rights and liabilities of third parties with respect to property, rights and liabilities transferred by the order.
- (6) In subsection (5) above the reference to third parties is a reference to persons other than the body and the persons referred to in subsection (2)(a) and (b) above.
- (7) A dissolution order may repeal or amend—
- (a) any enactment in a private Act; and
  - (b) any provision of an order made under or confirmed by a private Act,
- which, in consequence of the making of the order, is no longer required or, as the case may be, requires to be amended.]

#### Textual Amendments

**F5** S. 113A added (4.1.1995) by 1994 c. 39, s.147; S.I. 1994/2850, art. 3(a), **Sch. 2**

### 114 Transfers of officers and property in connection with lighting and bus shelters, etc.

- (1) This section applies where, by virtue of section 35 or 49 of this Act, a function which was, before the commencement of this Act, exercisable by a district council

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(whether or not concurrently with another local authority) is exercisable by a local roads authority.

- (2) An officer of a district council who, in the period immediately before the coming into force of this Act, was wholly or mainly employed in duties pertaining, irrespective of how his office or employment was formally described, to a function referred to in subsection (1) above, shall be transferred into the employment of the local roads authority; but such transfer shall not affect any legal right or entitlement of the officer.
- (3) Subject to any such agreement as is provided for in subsection (4) below, any heritable or moveable property of a district council which is wholly or mainly used, or held, by the council in relation to the discharge of a function referred to in subsection (1) above shall transfer to and vest in the local roads authority.
- (4) If or in so far as the district council and the local roads authority agree that property shall not be transferred by subsection (3) above, that subsection shall have no effect as regards the property; but the property shall no longer be used or held by the district council in relation to the discharge of a function referred to in subsection (1) above.
- (5) Any dispute between a district council and a local roads authority as to whether or when a transfer falls to take place under subsection (2) or (3) above or as to any other matter concerning such a transfer shall be determined by arbitration by a single arbiter appointed in default of agreement by the Court of Session, or the sheriff, on the application of either party.

## **115 Vesting of solum of stopped up road.**

- (1) Where a road is stopped up under this Act or any other enactment and has ceased to be used as a road, the solum of the road shall, subject to any prior claim of any person by reason of title, vest in the owner or owners of the land which adjoins the road.
- (2) Any dispute arising under this section as to the vesting of the solum may be referred on summary application by any interested party to the sheriff, and the decision of the sheriff on the matter shall be final.

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