



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART VI

ACCESS AND STOPPING UP

68 Power of roads authorities to stop up roads by order.

- (1) Subject to section 71(1) and (2) of this Act, the roads authority may, either on their own initiative or at the request of any person, make an order stopping up any road which they consider—
 - (a) has become dangerous to the public other than by reason of its crossing or entering the route of another road which is a public road or of its being affected by the construction or improvement of such other road; or
 - (b) is or will become unnecessary.
- (2) Before making an order under—
 - (a) subsection (1)(a) above; or
 - (b) subsection (1)(b) above on the ground that the road is unnecessary,the roads authority shall satisfy themselves that a suitable alternative road exists or that no alternative road is necessary.
- (3) An order under subsection (1)(b) above made only on the ground that a road will become unnecessary shall not come into operation until—
 - (a) the road has become unnecessary; and
 - (b) a suitable alternative road exists.
- (4) An order under subsection (1) above—
 - (a) may provide for the stopping up of a road subject to the reservation of a means of passage along the road for pedestrians, cyclists or both; and
 - (b) shall, except in a case to which section 132 of this Act applies, include provisions for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the road to which the order relates.

Status: Point in time view as at 23/03/2005.

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69 Stopping up of dangerous access from public road to land.

- (1) Subject to section 71(1) and (2) of this Act, where the roads authority consider that a private means of access from a road or proposed road to land is likely to cause danger to, or to interfere unreasonably with, traffic on the road, they may make an order stopping up the access and may provide a new means of access to the land.
- (2) A private means of access shall not be stopped up under this section—
 - (a) before all objections to the making of the order have been disposed of,
 - (b) before the expiry of 6 weeks from the date of the first public notification of the proposal to make the order, and
 - (c) in a case where a new means of access is to be provided by the roads authority, before it has been so provided.

70 Stopping up of access to land from certain roads being constructed.

- (1) Without prejudice to section 69 of this Act, an order under section 9 or 12 of this Act may authorise the roads authority—
 - (a) to stop up any private means of access to land adjoining or adjacent to land comprised in the route of the special, or as the case may be main, road, or forming the site of any works authorised by the order;
 - (b) to provide a new means of access to any such land.
- (2) The references in subsection (1) above to a special road and to a main road shall be construed as including references to a proposed such road.

71 Provisions supplementary to sections 68 to 70.

- (1) Subject to subsection (2) below, the Secretary of State may by regulations prescribe the procedure to be followed in making an order under section 68 or 69 of this Act; and such regulations may in particular make provision as to—
 - (a) the content of the order; and
 - (b) the means of public notification of the proposal to make such an order.
- (2) Where a roads authority propose to make an order under the said section 68 or 69, then, before the expiry of 28 days from the date of the first public notification, in accordance with regulations under subsection (1) above, of the proposal to make the order, any person may object to it to the authority, and—
 - (a) where the roads authority is a local roads authority—
 - (i) if no such objection is made, or objection is made but withdrawn, they may confirm the order themselves; and
 - (ii) 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;
 - (b) where the roads authority is the Secretary of State, he shall not make the order without having considered any such objection.
- (3) Before stopping up the access to any land under section 69 or by virtue of section 70 of this Act, the roads authority shall satisfy themselves—
 - (a) that no access to the land is reasonably required; or

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- (b) that another reasonably convenient means of access to the land is available or will be provided in pursuance of an order made under the said section 69, or by virtue of the said section 70 as the case may be.
- (4) The roads authority may stop up a means of access under section 69 or by virtue of section 70 of this Act in any way which seems to them appropriate, but not so as to obstruct any public right of way on foot.
- (5) A person who uses a means of access which has been stopped up under section 69 or by virtue of section 70 of this Act, other than a person exercising a public right of way on foot, commits an offence.
- (6) Where access to any land has been stopped up under section 69 or by virtue of section 70 of this Act, or, as the case may be, is limited by virtue of the restrictions imposed under this Act on the use of a special road, and any person has suffered damage in consequence thereof by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, he shall be entitled to recover from the roads authority compensation in respect of that damage; and in assessing such compensation regard shall be had to any new means of access provided by the roads authority.

72 Stopping up private access to land by agreement.

- (1) Without prejudice to sections 69 and 70 of this Act, the roads authority may agree with the occupier of land and with any other person having an interest in the land that a private means of access from a public road, or proposed public road, to the land shall be stopped up by the authority; and such agreement may provide for the payment by the roads authority to the other party of compensation in respect of any damage suffered in consequence of the stopping up.
- (2) The roads authority may stop up a means of access by virtue of this section in any way which seems to them to be appropriate; but not so as to obstruct any public right of way on foot.
- (3) Without prejudice to subsection (4) below, the provisions of any agreement made under this section shall be binding on persons deriving title from the occupier or the other person; except that no provision shall be enforceable by virtue of this subsection against a third party who shall have in good faith and for value, acquired right (whether ^{F1}title has been completed] or not) to land prior to the agreement being either registered in the Land Register of Scotland or as the case may be recorded in the Register of Sasines.
- (4) A person who uses a means of access which has been stopped up by virtue of this section, other than a person exercising a public right of way on foot, commits an offence.

Textual Amendments

- F1** Words in s. 72(3) substituted (28.11.2004) by *Abolition of Feudal Tenure etc. (Scotland) Act 2000* (asp 5), ss. 71, 77(2), **sch. 12 para. 45** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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73 Expenses incurred under section 69 or by virtue of section 70 or 72.

Any expenses incurred under section 69, or by virtue of section 70 or 72, of this Act by a local roads authority shall be deemed for the purposes of section 3 of this Act to be incurred in road construction or improvement.

74 Temporary provision of substitute road.

- (1) Where proposed works for the maintenance, repair or improvement of a road are such as, in the opinion of the roads authority, will require a complete temporary prohibition of a class, or classes, of or all traffic on the road the authority may, through any land adjoining the road, make a substitute road to accommodate the traffic so prohibited.
- (2) At least 28 days before a roads authority commence making a road under subsection (1) above, they shall serve on the owner and the occupier of the land concerned notice in that regard; and without prejudice to section 136 of this Act that notice shall contain a statement of when it is intended the works proposed in relation to the substitute road will commence and of the length of time for which the authority estimate that road will be required.
- (3) The roads authority shall, as soon as is practicable after the substitute road is no longer required, reinstate the land.
- (4) A person upon whom a notice has been served under subsection (2) above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.
- (5) A substitute road made under subsection (1) above—
 - (a) shall be managed and maintained by the roads authority but shall not be entered by the authority in their list of public roads or, as the case may be, in the list of roads kept under section 2(2) of this Act; and
 - (b) shall vest in the authority for the purposes of their functions as roads authority; but such vesting shall not confer on them any heritable right in relation to the substitute road.
- (6) Without prejudice to section 116(1) of this Act, from the commencement of the making of a road through land under subsection (1) above until reinstatement of the land under subsection (3) above, rent shall by the roads authority be payable for so much of the land as is taken for the road; and the amount of that rent, and the person or persons to whom it is so payable, shall, in the absence of agreement between the roads authority and each person on whom they have served notice under subsection (2) above as regards the road, be determined by the Lands Tribunal for Scotland, whose decision on the matter shall be final.

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