



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART VIII

INTERFERENCE AND DAMAGE

Obstruction of view

83 Prevention of obstruction of view at corners, bends and junctions

- (1) Where the roads authority are of the opinion that it is necessary, for the prevention of danger arising from obstruction of the view of road users, to impose restrictions with respect to land at or near a corner, bend or junction in a road they may serve a notice (in this section referred to as an "obstruction notice")—
- (a) upon the owner or occupier of the land directing him, within such period (being not less than 28 days) as may be specified in the notice, to alter the height or character of any wall (not being a wall forming part of the structure of any other permanent building), fence, advertising hoarding, hedge, tree or shrub thereon so as to cause it to conform with any requirements specified in the notice;
 - (b) upon the owner, occupier and any lessee of the land restraining him, either absolutely or subject to such conditions as may be specified in the notice, from permitting any building, wall, fence or advertising hoarding to be erected or hedge, tree or shrub to be planted, on the land:

Provided that an obstruction notice shall not inhibit reconstruction, or repair, which does not create any new obstruction of the view of road users.

- (2) In subsection (1) above "advertising hoarding" means a hoarding or similar structure used, or adapted for use, for the display of advertisements.
- (3) Restrictions imposed by an obstruction notice shall come into force upon its service and shall remain in force until it is withdrawn by the roads authority; and such restrictions shall, while in force, be binding upon any successor in title to the owner or occupier of the land to which they relate unless that successor proves that when

Status: This is the original version (as it was originally enacted).

he became the owner or occupier of the land he had, after making due inquiries, no reasonable cause to suspect that any such restrictions were in force.

- (4) A person may, within 28 days of the receipt of an obstruction notice, object in writing (specifying the grounds of objection) to the roads authority; and the question whether the notice shall be withdrawn as respects any requirement or restriction objected to shall then be determined in the manner provided by section 84 of this Act.
- (5) A person upon whom an obstruction notice is served shall have power, notwithstanding anything in any conveyance or in any lease or other agreement, to do all such things as may be necessary for complying with the requirements of the notice.
- (6) Without prejudice to section 141 of this Act, where an obstruction notice has been served upon a person the roads authority may, with the consent of that person, do on his behalf anything necessary for complying with the requirements of the notice.
- (7) Subject to subsections (4) and (6) above, and without prejudice to any other proceedings which may be instituted against him, a person who fails to comply with the requirements of, or acts in contravention of, an obstruction notice served on him commits an offence.
- (8) A person upon whom an obstruction notice is served shall be entitled to recover from the roads authority any expenses reasonably incurred by him in carrying out any directions contained in the notice; and a person sustaining loss in direct consequence of any requirement of such a notice or a person who proves that his property is injuriously affected by restrictions imposed by such a notice shall, if he makes a claim within six months after its service, be entitled to recover from the roads authority compensation for the injury sustained.
- (9) Nothing in this section shall authorise the service by a local roads authority of an obstruction notice with respect to—
 - (a) any wall—
 - (i) forming part of an ancient monument or other object of archaeological interest, except with the consent in writing of the Secretary of State ;
or
 - (ii) forming part of, or necessary for the maintenance of, a railway, canal, inland waterway, dock or harbour;
 - (b) a protected tree ; or
 - (c) a listed building.
- (10) In subsection (9) above—

" protected tree " means a tree which is subject to a tree preservation order under section 58(1) of the Town and Country Planning (Scotland) Act 1972 ;
and

" listed building " has the meaning assigned to it by section 52(7) of that Act.

84 Determination of questions arising out of section 83

- (1) A question as to whether—
 - (a) a notice served under subsection (1) of section 83 of this Act shall be withdrawn as respects any requirement or restriction objected to under subsection (4) of that section; or

Status: This is the original version (as it was originally enacted).

- (b) any expenses were reasonably incurred by any person in carrying out directions contained in a notice served under that section,
shall be decided—
- (i) if the parties so agree, by a single arbiter appointed by them; or
 - (ii) in default of such agreement, by the sheriff.
- (2) In determining any such question as is mentioned in paragraph (a) of subsection (1) above, the arbiter or" sheriff shall have power to order that the requirement or restriction shall have effect subject to such modifications, if any, as he may direct.