



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART VIII

INTERFERENCE AND DAMAGE

Roadside dangers

93 Protection of road users from dangers near a road.

- (1) If, in the opinion of the roads authority, anything which is on land beside or near to a road—
- (a) but is not itself a building constitutes a danger to road users and there is no other provision of this Act under or by virtue of which they may take steps to obviate the danger, they shall, under this subsection, take such steps;
 - (b) and is a building constitutes a danger to road users and there is no other such provision as aforesaid, they shall under this subsection take such steps by way of enclosure or screening,

as they consider appropriate to afford protection from the danger or to ensure that the danger is not so constituted; and they may, subject to subsection (6)(a) below, recover the expenses reasonably incurred in so doing from the owner of the land.

- (2) Where there is on land adjoining a road—
- (a) a fence made with barbed wire, or in or on which barbed wire has been laid;
 - (b) an electrified fence; or
 - (c) a wall or window-sill incorporating spikes, broken glass, barbed wire or a similar device,

and such wire, electrified fence, spikes, glass or device is in the opinion of the roads authority likely to be injurious to persons or animals lawfully using the road, the roads authority may serve a notice on the occupier of the land requiring him, within such period as may be specified in the notice, to take such steps as may be so specified to remove the risk of injury.

Status: Point in time view as at 31/10/1994.

Changes to legislation: Roads (Scotland) Act 1984, Cross Heading: Roadside dangers is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Where the roads authority are occupiers of land adjoining a road, and there is on that land any such thing as is described in paragraphs (a) to (c) of subsection (2) above, then—
- (a) in the case of a local roads authority, any ratepayer within the region or islands area; and
 - (b) in the case of the Secretary of State, any person,
- may, if of the opinion required of a roads authority by the said subsection, serve a notice on the authority requiring them to take such steps as may be specified in the notice to remove the risk of injury.
- (4) If the period specified in a notice served under subsection (3) above expires without the steps so specified having been taken, the person who served the notice may apply to the sheriff who may, if he is satisfied that the steps specified in the notice are necessary, order the roads authority to take those steps.
- (5) In subsection (2) above “barbed wire” means any wire or strip metal with spikes or jagged projections.
- (6) A person who considers that in all the circumstances he should not be required—
- (a) to pay such expenses as are mentioned in subsection (1) above, may within 28 days of the first written intimation to him by the roads authority of their intention to recover those expenses from him; or
 - (b) to take such steps as are specified in a notice served on him under subsection (2) above, may within 28 days of such notice,
- refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Modifications etc. (not altering text)

- C1** [S. 93](#) power to contract out functions of the Secretary of State (16.3.1996) by [S.I. 1996/878, art. 2, Sch. para. 5\(ad\)](#)

94 Power to fill in roadside ditches etc.

- (1) If it appears to the roads authority that a ditch on land adjoining or lying near to a public road constitutes a danger to road users, the authority may—
- (a) if they consider the ditch unnecessary for drainage purposes and the owner and every occupier of the land known to the authority agree in writing that it is unnecessary for those purposes, fill it in; or
 - (b) place in the ditch or in land adjoining or lying near to it, such pipes as they consider necessary in substitution for the ditch, and thereafter fill it in.
- (2) If a person, without the consent of the roads authority, opens up or keeps open any ditch which has been filled in under subsection (1) above, the authority may carry out any work of reinstatement or repair necessitated by his action and may recover from him the expenses reasonably incurred in so doing; and without prejudice to their right to exercise that power, the person commits an offence.
- (3) In this section—
- “ditch” includes a gutter or watercourse and any part of a ditch;
- “pipes” includes culverts, tunnels and other works; and

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“public road” includes a proposed public road.

Modifications etc. (not altering text)

- C2** [S. 94\(1\)\(a\)](#): power to contract out functions of Secretary of State (16.3.1996) by [S.I. 1996/878](#), [art. 2](#), [Sch. para. 5\(ae\)](#)

Status:

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Changes to legislation:

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