



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART XIII

GENERAL

Powers of entry etc.

140 Powers of entry.

- (1) A person authorised by a roads authority shall, on producing, if so required, some duly authenticated document showing his authority in that regard, have a right to enter any land at all reasonable hours for the purpose of—
- (a) surveying that or any other land in connection with the exercise of the functions of the roads authority under this Act;
 - (b) laying and leaving on the land apparatus for the purpose of the survey or removing such apparatus;
 - (c) searching or boring to ascertain for the purpose of the survey—
 - (i) the nature of the subsoil or the presence of minerals; or
 - (ii) the nature of any mining operations or other activity taking place beneath the surface of the land which may affect the stability of a public road;
 - (d) inspecting anything which any person is under a duty to maintain under this Act;
 - (e) ascertaining whether any work required to be done by or under this Act by any person in relation to any land has been done;
 - (f) inspecting any work to which a consent or authorisation granted by the authority under this Act relates;
 - (g) carrying out anything which is required, by a notice served by the authority under this Act, to be done by any person in relation to any land and which the person has failed to do in accordance with the notice; or
 - (h) taking any other action, or executing any work, authorised or required by, under or by virtue of this Act to be taken or executed by the roads authority.

Status: Point in time view as at 26/12/2023.

Changes to legislation: Roads (Scotland) Act 1984, Cross Heading: Powers of entry etc. is up to date with all changes known to be in force on or before 28 May 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)

- (2) Without prejudice to subsection (8) below, and subject to any provision of this Act which allows an authority to act in an emergency, entry to land shall not be demanded as of right under or by virtue of this Act unless at least 7 days notice of the intended entry has been given to the occupier.
- (3) Without prejudice to any other provision of this Act which requires notice of proposed works to be given, works shall not be carried out on any land in pursuance of subsection (1)(b) or (c) above by a person unless at least 7 days notice of the intention to do so has been given by that person—
 - (a) to the owner and occupier of the land; and
 - (b) in the case referred to in subsection (1)(c) above, to ^{F1}the Coal Authority, any licensed operator (within the meaning of the Coal Industry Act 1994), and], and any other proprietor of underground mineral workings, where ^{F1}the Coal Authority, any licensed operator (within the meaning of the Coal Industry Act 1994), and]the other proprietor’s interests are liable to be affected by the searching or boring.
- (4) Statutory undertakers ^{F2}. . . may object to the roads authority about the carrying out of works proposed to be carried out under subsection (1)(b), (c) or (h) above on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking; and in that event the works shall not be carried out except with the authority of the Secretary of State after consultation with the Minister responsible for the undertaking.
- (5) A person contravening subsection (3) or (4) above commits an offence.
- (6) A roads authority shall be entitled to recover the expenses reasonably incurred by them in doing anything in relation to any land under—
 - (a) subsection (1)(e) above from the person who has been required to do the work;
 - (b) subsection (1)(f) above, from the person to whom the consent or authorisation has been granted,
 but may remit any sum, or any part of that sum, due to them under this subsection as they think fit.
- (7) Where such expense as is mentioned in subsection (6) above is recoverable under that subsection from more than one person, the roads authority may apportion such expense among them.
- (8) If it is shown to the satisfaction of the sheriff, or of a magistrate or justice of the peace having jurisdiction in the place where the land is situated, on evidence on oath—
 - (a) that admission to land which any person is entitled to enter by virtue of this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, and
 - (b) that there are reasonable grounds for entry to the land for any purpose for which the right of entry is exercisable,
 the sheriff, magistrate or justice may by warrant authorise the person to enter the land.
- (9) A person who wilfully obstructs a person upon whom a right of entry has been conferred by any of the provisions of this section or by a warrant issued thereunder commits an offence.

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- (10) Where, in the exercise of a power of entry conferred by this section, damage has been caused to land or to corporeal moveables, any person having an interest in the land or moveables may recover compensation in respect of that damage from the roads authority by whom or on whose behalf the power was exercised; and where in consequence of the exercise of such power a person is disturbed in his enjoyment of land or corporeal moveables, he may recover from the roads authority compensation in respect of the disturbance.

Textual Amendments

- F1** Words in s. 140(3)(b) substituted (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9 para. 31(a)** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F2** Words in s. 140(4) repealed (31.10.1994) by 1994 c. 21, s. 67, **Sch. 9, para. 31(b), Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**

141 Power of roads authority to execute works etc. on default of person required to do so.

- (1) Where by notice under this Act a roads authority require works or excavations to be executed within a specified period then, subject to subsection (3) below, if those works or excavations are not timeously executed they may themselves execute them:

Provided that this section does not apply as regards any particular such requirement for which this Act makes express provision analogous to the foregoing provisions of this subsection.

- (2) Subsections (6) and (7) of section 140 of this Act shall apply in relation to works or excavations executed by a roads authority under subsection (1) above and to the person who had been required to execute the works or excavations as those subsections apply to entry and inspection under subsection (1)(f) of that section and to the person who has been granted the consent or authorisation.
- (3) The roads authority may in writing grant an extension of the period specified in any such notice as is mentioned in subsection (1) above.
- (4) In the application to the foregoing provisions of this section of the definition of “works” in section 151(1) of this Act the expression shall also include such—
- (a) removal and reinstatement as is mentioned in section 51(3) or 87(1);
 - (b) steps as are mentioned in section 57(1), 67 or 93(2);
 - (c) replacement, repair or putting into good condition as is mentioned in section 66(2);
 - (d) alteration as is mentioned in section 83(1);
 - (e) work as is mentioned in section 91(1) or (2); and
 - (f) removal as is mentioned in section 92(2),
- of this Act.

Modifications etc. (not altering text)

- C1** S. 141: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, **art. 2, Sch. para. 5(aj)**

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142 Power to require occupier to permit work to be executed by owner.

If, on an application made by the owner of any land, it appears to the sheriff that the occupier of that land is preventing the owner from executing work which the owner is by this Act required to execute, the sheriff may order the occupier to permit the execution of the work.

Status:

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