



New Roads and Street Works Act 1991

1991 CHAPTER 22

PART IV U.K.

ROAD WORKS IN SCOTLAND

General requirements as to execution of road works

124 Safety measures. **S**

- (1) An undertaker executing road works shall secure—
 - (a) that any part of the road which is broken up or open, or is obstructed by plant or materials used or deposited in connection with the works, is adequately guarded and lit, and
 - (b) that such traffic signs are placed and maintained, and where necessary operated, as are reasonably required for the guidance or direction of persons using the road, and in accordance with section 120 of the Roads (Scotland) Act 1984 (duty to have regard to the needs of people with a disability).

- (2) In discharging in relation to a road his duty with respect to the placing, maintenance or operation of traffic signs, an undertaker shall comply with any directions given by the traffic authority.

The power of the traffic authority to give directions under this subsection is exercisable subject to any directions given by the Secretary of State under section 65 of the ^{M1}Road Traffic Regulation Act 1984.

- (3) The Secretary of State may issue or approve for the purposes of this section codes of practice giving practical guidance as to the matters mentioned in subsection (1); and—
 - (a) so far as an undertaker complies with such a code of practice he shall be taken to comply with that subsection; and
 - (b) a failure in any respect to comply with any such code is evidence of failure in that respect to comply with that subsection.

Status: Point in time view as at 01/04/2008.

Changes to legislation: New Roads and Street Works Act 1991, Cross Heading: General requirements as to execution of road works is up to date with all changes known to be in force on or before 18 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)

- (4) An undertaker who fails to comply with subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding [^{F1}level 5] on the standard scale.
- (5) If it appears to the road works authority that an undertaker has failed to comply with subsection (1) or (2), they may take such steps as appear to them necessary and may recover from the undertaker the costs reasonably incurred by them in doing so.
- (6) If a person without lawful authority or excuse—
- (a) takes down, alters or removes any fence, barrier, traffic sign or light erected or placed in pursuance of subsection (1) or (2) above, or
 - (b) extinguishes a light so placed,
- he commits an offence and is liable on summary conviction to a fine not exceeding [^{F2}level 5] on the standard scale.

Textual Amendments

- F1** Words in s. 124(4) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 3](#); [S.S.I. 2008/15, art. 2\(2\), sch. 1](#)
- F2** Words in s. 124(6) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 3](#); [S.S.I. 2008/15, art. 2\(2\), sch. 1](#)

Commencement Information

- I1** [S. 124](#) wholly in force: [s. 124\(3\)](#) in force at 14.7.1992 by [S. I. 1992/1671, art. 2, Sch.](#); [s. 124\(1\)\(2\)\(4\)-\(6\)](#) in force at 1.4.1993 by [S.I. 1992/2990, art. 2\(3\), Sch. 3](#)

Marginal Citations

- M1** [1984 c. 27.](#)

125 Avoidance of unnecessary delay or obstruction. **S**

- (1) An undertaker executing road works which involve—
- (a) breaking up or opening the road, or any sewer, drain or tunnel under it, or
 - (b) tunnelling or boring under the road,
- shall carry on and complete the works with all such dispatch as is reasonably practicable.
- (2) An undertaker who fails to do so commits an offence and is liable on summary conviction to a fine not exceeding [^{F3}level 5] on the standard scale.
- (3) Where an undertaker executing any road works creates an obstruction in a road to a greater extent or for a longer period than is reasonably necessary, the road works authority may by notice require him to take such reasonable steps as are specified in the notice to mitigate or discontinue the obstruction.
- (4) If the undertaker fails to comply with such a notice within 24 hours of receiving it, or such longer period as the authority may specify, the authority may take the necessary steps and recover from him the costs reasonably incurred by them in doing so.

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Textual Amendments

- F3** Words in s. 125(2) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 3](#); [S.S.I. 2008/15, art. 2\(2\), sch. 1](#)

126 Qualifications of supervisors and operatives. **S**

- (1) It is the duty of an undertaker executing road works involving—
- breaking up the road, or any sewer, drain or tunnel under it, or
 - tunnelling or boring under the road,
- to secure that, except in such cases as may be prescribed, the execution of the works is supervised by a person having a prescribed qualification as a supervisor.

[^{F4}(1A) A road works authority may (unless the case is one excepted from subsection (1)) by notice require an undertaker executing road works—

- to notify them of the name of—
 - the person who is currently the qualified supervisor required under subsection (1), and
 - each person who has previously been the qualified supervisor so required, and
- to provide them with such evidence of the requisite qualification of the person or, as the case may be, each person named as may be prescribed.]

- (2) It is the duty of an undertaker executing road works involving—
- breaking up or opening the road, or any sewer, drain or tunnel under it, or
 - tunnelling or boring under the road,

to secure that, except in such cases as may be prescribed, there is on site at all times when any such works are in progress at least one person having a prescribed qualification as a trained operative.

[^{F5}(2A) A road works authority may (unless the case is one excepted from subsection (2)) by notice require an undertaker executing road works—

- to notify them of the name of—
 - a person whose presence on site at any time specified in the notice (being a time when the works were in progress) enabled the undertaker to comply with his duty under subsection (2), or
 - each person whose presence on site during the progress of the works enabled the undertaker to comply with his duty under subsection (2), and
- to provide them such evidence of the requisite qualification of the or, as the case may be, each person named as may be prescribed.

(2B) A notice under subsection (1A) or (2A) may be given at any time while the works are being executed or within such period after their completion as may be prescribed.

(2C) The undertaker shall comply with a notice under subsection (1A) or (2A) within such period and in such way as may be prescribed.]

- (3) An undertaker who fails to comply with his duty under subsection (1) [^{F6}, (2) or (2C)] commits an offence and is liable on summary conviction to a fine not exceeding [^{F7}level 5] on the standard scale.

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- (4) Regulations made by the Secretary of State for the purposes of this section may include provision with respect to—
- (a) the approval of bodies conferring qualifications (and the withdrawal of such approval), and
 - (b) the circumstances in which a qualification may be conferred [^{F8}and
 - (c) the form of any document to be issued by an approved body to certify or otherwise show that a qualification has been conferred on any person].

Textual Amendments

- F4** S. 126(1A) inserted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 26(2)**, 54(2); S.S.I. 2008/15, art. 2(2), sch. 1
- F5** S. 126(2A)-(2C) inserted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 26(3)**, 54(2); S.S.I. 2008/15, art. 2(2), sch. 1
- F6** Words in s. 126(3) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 26(4)**, 54(2); S.S.I. 2008/15, art. 2(2), sch. 1
- F7** Words in s. 126(3) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), s. 54(2), **sch. 3**; S.S.I. 2008/15, art. 2(2), sch. 1
- F8** S. 126(4)(c) and word inserted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 26(5)**, 54(2); S.S.I. 2008/15, art. 2(2), sch. 1

[^{F9}126A Duty of authorities, undertakers etc. to ensure competence of employees etc. **S**

Each of the authorities and other persons set out in the first column below shall use their or, as the case may be, his best endeavours to ensure that each of that authority's or, as the case may be, that person's employees or agents whose duty it is to carry out for that authority or person a function conferred on that authority or person by or under an enactment set out relative to that authority or person in the second column below is competent to perform that duty—

A road works authority	Section 112B(1) and (3) of this Act; section 18 of the Transport (Scotland) Act 2005 (asp 12) (duty to provide Scottish Road Works Commissioner with certain information).
A roads authority	Section 112B(4) to (7) of this Act.
An undertaker	Sections 113(1), 114(1) and 116(2) of this Act; section 18 of the Transport (Scotland) Act 2005 (asp 12) (duty to provide Scottish Road Works Commissioner with certain information).]

Textual Amendments

- F9** S. 126A inserted (S.) (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), **ss. 27**, 54(2); S.S.I. 2008/15, art. 2(2), sch. 1

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127 Facilities to be afforded to road works authority. **S**

- (1) An undertaker executing road works shall afford the road works authority reasonable facilities for ascertaining whether he is complying with his duties under this Part.
- (2) An undertaker who fails to afford the road works authority such facilities commits an offence in respect of each failure and is liable on summary conviction to a fine not exceeding [^{F10}level 4] on the standard scale.

Textual Amendments

- F10** Words in s. 127(2) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 3](#); [S.S.I. 2008/15, art. 2\(2\), sch. 1](#)

128 Works likely to affect other apparatus in the road. **S**

- (1) Where road works are likely to affect another person's apparatus in the road, the undertaker executing the works shall take all reasonably practicable steps—
 - (a) to give the person to whom the apparatus belongs reasonable facilities for monitoring the execution of the works, and
 - (b) to comply with any requirement made by him which is reasonably necessary for the protection of the apparatus or for securing access to it.
- (2) An undertaker who fails to comply with subsection (1) commits an offence in respect of each failure and is liable on summary conviction to a fine not exceeding [^{F11}level 4] on the standard scale.
- (3) In proceedings against a person for such an offence it is a defence for him to show that the failure was attributable—
 - (a) to his not knowing the position, or not knowing of the existence, of another person's apparatus, or
 - (b) to his not knowing the identity or address of the person to whom any apparatus belongs,and that his ignorance was not due to any negligence on his part or to any failure to make inquiries which he ought reasonably to have made.

Textual Amendments

- F11** Words in s. 128(2) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 3](#); [S.S.I. 2008/15, art. 2\(2\), sch. 1](#)

Modifications etc. (not altering text)

- C1** S. 128 excluded (28.11.1992) by [S.I. 1992/2990, art. 8](#)
- C2** S. 128 modified (1. 1. 1993) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 167\(7\)](#) (as substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22\), s. 168\(1\), Sch. 8 Pt. IV para. 109](#); [S.I. 1992/2990, art. 2\(2\), Sch.2](#))
- C3** S. 128 applied (with modifications) (27.4.2006) by [Edinburgh Tram \(Line Two\) Act 2006 \(asp 6\), s. 7\(6\)\(7\)](#) (with s. 75)
- C4** S. 128 applied (with modifications) (8.5.2006) by [Edinburgh Tram \(Line One\) Act 2006 \(asp 7\), s. 7\(6\)\(7\)](#) (with ss. 76, 84)

Status:

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