



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART IV

#### ROAD WORKS IN SCOTLAND

*Provisions with respect to particular authorities and undertakings*

#### **145 Roads authorities, roads and related matters.**

(1) In this Part—

“roads authority” and “local roads authority” have the same meaning as in section 151 of the <sup>M1</sup>Roads (Scotland) Act 1984; and  
“public road” means a road which a roads authority have a duty to maintain.

(2) In this Part “works for road purposes” means—

- (a) works for the maintenance of a road,
- (b) works for any purpose falling within the definition of “improvement” in section 151 of that Act,
- (c) the erection, maintenance, alteration or removal of traffic signs, or
- (d) the construction of a crossing for vehicles across a footway or the strengthening or adaptation of a footway for use as a crossing for vehicles.

(3) In this Part “major works for roads purposes” means works of any of the following descriptions executed by the roads authority in relation to a road which consists of or includes a carriageway—

- (a) reconstruction or widening of the road,
- (b) substantial alteration of the level of the road,
- (c) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footpath or cycle track in the road,
- (d) the construction or removal of a road hump within the meaning of section 40 of the <sup>M2</sup>Roads (Scotland) Act 1984,

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- (e) works carried out in exercise of the powers conferred by section 63 of the Roads (Scotland) Act 1984 (new access over verges and footways),
- (f) provision of a cattle-grid in the road or works ancillary thereto, or
- (g) tunnelling or boring under the road.

#### Marginal Citations

**M1** 1984 c. 54.

**M2** 1984 c. 54.

### 146 Prospective public roads.

- (1) Subject to subsection (2), where a local roads authority are satisfied that a road in their area which is not a public road is likely to become a public road, they may make a declaration to that effect.
- (2) Subsection (1) does not apply to a road which is under the management or control of a transport authority.
- (3) The provisions of this Part apply to a road in respect of which such a declaration has been made as they apply to a public road.
- (4) In relation to road works in such a road, the road works authority—
  - (a) shall secure the performance by undertakers of their duties under this Part, and shall exercise their powers under this Part, in such manner as is reasonably required for the protection of the road managers; and
  - (b) shall comply with any reasonable request as to securing performance of those duties, or as to the exercise of those powers, which may be made by the road managers.

### 147 Bridges, bridge authorities and related matters.

- (1) In this Part—
  - (a) references to a bridge include so much of any road as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the road; and
  - (b) “bridge authority” means the authority, body or person in whom a bridge is vested.
- (2) In this Part “major bridge works” means works for the replacement, reconstruction or substantial alteration of a bridge.
- (3) Where a road is carried or crossed by a bridge, any statutory right to place apparatus in the road includes the right to place apparatus in, and attach apparatus to, the structure of the bridge; and other rights to execute works in relation to the apparatus extend accordingly.

References in this Part to apparatus in the road include apparatus so placed or attached.

- (4) An undertaker proposing to execute road works affecting the structure of a bridge shall consult the bridge authority before giving notice under section 114 (notice of starting date) in relation to the works.

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- (5) An undertaker executing such works shall take all reasonably practicable steps—
- (a) to give the bridge authority reasonable facilities for monitoring the execution of the works, and
  - (b) to comply with any requirement made by them which is reasonably necessary for the protection of the bridge or for securing access to it.
- (6) An undertaker who fails to comply with any requirement of subsection (4) or (5) commits an offence in respect of each failure and is liable on summary conviction to a fine not exceeding [F<sup>1</sup>level 5] on the standard scale.
- (7) Subsections (4) to (6) do not apply to works in relation to which Schedule 6 applies (works in roads with special engineering difficulties).

#### Textual Amendments

- F1** Words in s. 147(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](#)

## 148 Sewers.

- (1) An undertaker proposing to execute road works affecting [F<sup>2</sup>a public sewer] shall consult [F<sup>3</sup>Scottish Water] before giving notice under section 114 (notice of starting date) in relation to the works.
- (2) References in this Part to apparatus include a sewer, drain or tunnel.
- [F<sup>4</sup>(3) References in this Part to an undertaker having apparatus shall, where the apparatus is a sewer, drain or tunnel, be construed—
- (a) in the case of apparatus vested in [F<sup>5</sup>Scottish Water], as references to that [F<sup>6</sup>body]; and
  - (b) in any other case, as references to the authority, body or person having the management or control of the apparatus.]
- (4) Section 128 (provisions as to works likely to affect other apparatus in the road) does not apply by virtue of subsection (2) above in relation to works likely to affect [F<sup>7</sup>a public sewer] if, or to the extent that, Schedule 6 (works in roads with special engineering difficulties) applies.

#### Textual Amendments

- F2** Words in s. 148(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 21\(5\)\(a\)](#) (with s. 67); [S.S.I. 2002/118, art. 2](#)
- F3** Words in s. 148(1) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 21\(5\)\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2](#)
- F4** S. 148(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 168\(4\)\(b\)](#); [S.I. 1996/323 art. 4\(c\)](#)
- F5** Words in s. 148(3)(a) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 21\(5\)\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2](#)
- F6** Word in s. 148(3)(a) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71, Sch. 7 para. 21\(5\)\(b\)](#) (with s. 67); [S.S.I. 2002/118, art. 2](#)

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- F7** Words in s. 148(4) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 21\(5\)\(c\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)

## 149 Provisions as to reinstatement of sewers, drains or tunnels.

- (1) The duties of an undertaker under this Part with respect to reinstatement of the road extend, in the case of road works which involve breaking up or opening a sewer, drain or tunnel under the road, to the reinstatement of the sewer, drain or tunnel.
- (2) The responsible authority may by notice require an undertaker who has failed to comply with his duties under this Part with respect to reinstatement to carry out the necessary remedial works within such period [<sup>F8</sup>, not being shorter than such period as may be prescribed,] as may be specified in the notice.

If he fails to comply with the notice, the authority may carry out the necessary works and recover from him the costs reasonably incurred by them in doing so.

[<sup>F9(2A)</sup> Different minimum periods may be prescribed under subsection (2) for different descriptions of remedial works; and cases may be so prescribed in which no minimum period applies.]

- (3) If it appears to the responsible authority that a failure by an undertaker to comply with his duties under this Part as to reinstatement is causing danger to users of the road, the authority may carry out the necessary works without first giving notice and may recover from him the costs reasonably incurred by them in doing so.

They shall, however, give notice to him as soon as reasonably practicable stating their reasons for taking immediate action.

- (4) The responsible authority for the purposes of this section is—
  - (a) in the case of [<sup>F10</sup>a public sewer, Scottish Water], and
  - (b) in the case of any other sewer, drain or tunnel, the authority, body or person having the management or control of it.

### Textual Amendments

- F8** Words in s. 149(2) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), [ss. 29\(2\)\(a\)](#), [54\(2\)](#); [S.S.I. 2008/15](#), [art. 2\(2\)](#), [sch. 1](#)
- F9** [S. 149\(2A\)](#) inserted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), [ss. 29\(2\)\(b\)](#), [54\(2\)](#); [S.S.I. 2008/15](#), [art. 2\(2\)](#), [sch. 1](#)
- F10** Words in s. 149(4)(a) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 21\(6\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)

## 150 Transport authorities, transport undertakings and related matters.

- (1) In this Part—
  - (a) “transport authority” means the authority, body or person having the control or management of a transport undertaking; and
  - (b) “transport undertaking” means a railway, tramway, dock, harbour, pier, canal or inland navigation undertaking of which the activities, or some of the activities, are carried on under statutory authority.

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- (2) In this Part “major transport works” means substantial works required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking.
- (3) References in this Part to a road which crosses or is crossed by property held or used for the purposes of a transport undertaking extend to cases in which the road and the property in question are at different levels.

But the transport authority shall not be treated as a relevant authority as regards undertakers’ works in such a road where the property in question consists only of—

- (a) subsoil of the road which is held by the transport authority but is not used, and has not been adapted for use, for the purposes of the undertaking, or
  - (b) property underground at such a depth that there is no reasonable possibility of the works affecting it.
- (4) The provisions of this Part relating to a road which crosses or is crossed by property held or used for the purposes of a transport undertaking apply to a road which is or forms part of a towing-path or other way running along a canal or inland navigation, provided the path or way is held or used, or the subsoil of it is held, for the purposes of the canal or inland navigation undertaking.

## **151 Special precautions as to displaying of lights.**

- (1) An undertaker executing road works in a road which crosses, or is crossed by, or is in the vicinity of, a railway, tramway, dock, harbour, pier, canal or inland navigation, shall comply with any reasonable requirements imposed by the transport authority concerned with respect to the displaying of lights so as to avoid any risk of their—
  - (a) being mistaken for any signal light or other light used for controlling, directing or securing the safety of traffic thereon, or
  - (b) being a hindrance to the ready interpretation of any such signal or other light.
- (2) An undertaker who fails to comply with any such requirement commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In proceedings for such an offence it is a defence for the undertaker to show that all reasonable care was taken by him, and by his contractors and by persons in his employ or that of his contractors, to secure that no such failure occurred.

## **152 Works affecting level crossings or tramways.**

- (1) This section applies to road works at a crossing of a railway on the level or which affect a tramway.

In this section “the relevant transport authority” means the authority having the management of the railway or tramway undertaking concerned.

- (2) An undertaker proposing to begin to execute works to which this section applies shall give the prescribed notice to the relevant transport authority notwithstanding that such notice is not required under section 114 (notice of starting date).

The provisions of subsections (2) to (7) of that section (contents of notice, when works may be begun, &c.) apply in relation to the notice required by this subsection as in relation to a notice under subsection (1) of that section.

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- (3) An undertaker executing works to which this section applies shall comply with any reasonable requirements made by the relevant transport authority—
- (a) for securing the safety of persons employed in connection with the works, or
  - (b) for securing that interference with traffic on the railway or tramway caused by the execution of the works is reduced so far as is practicable;
- and, except where submission of a plan and section is required, he shall defer beginning the works for such further period as the relevant transport authority may reasonably request as needed for formulating their requirements under this subsection or making their traffic arrangements.
- (4) Nothing in subsection (2) or (3) affects the right of an undertaker to execute emergency works.
- (5) An undertaker executing emergency works shall give notice to the relevant transport authority as soon as reasonably practicable of his intention or, as the case may be, of his having begun to do so notwithstanding that such notice is not required by section 116 (notice of emergency works).

The provisions of subsections (3) and (4) of that section (contents of notice and penalty for failure to give notice) apply in relation to the notice required by this subsection as in relation to a notice under subsection (2) of that section.

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