

*Status: Point in time view as at 07/01/2015.*

**Changes to legislation:** New Roads and Street Works Act 1991, SCHEDULE 6 is up to date with all changes known to be in force on or before 02 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)

## SCHEDULES

### SCHEDULE 6

Section 122(1).

#### ROADS WITH SPECIAL ENGINEERING DIFFICULTIES

##### Modifications etc. (not altering text)

**C1** Sch. 6 modified (28.11.1992) by S.I. 1992/2990, art. 3(2)

##### *Introductory*

- 1 In this Schedule a “road with special engineering difficulties” means a road for the time being designated under section 122 as having special engineering difficulties.

##### *Requirement of plan and section*

- 2 (1) In a road with special engineering difficulties road works (other than emergency works) involving—
- (a) breaking up or opening the road, or any sewer, drain or tunnel under it, or
  - (b) tunnelling or boring under the road,
- shall not be executed until a plan and section of the works have been settled by agreement between the undertaker and each of the relevant authorities or <sup>[F1]</sup>in the prescribed manner].
- (2) For that purpose an undertaker proposing to execute any such works shall submit a plan and section of them to each relevant authority.

##### Textual Amendments

**F1** Words in Sch. 6 para. 2(1) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(1)(2) (g), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1

- 3 Emergency works may be executed without a plan and section being so submitted or settled, but as soon as is reasonably practicable after the execution of the works the undertaker shall furnish a plan and section of the works to each relevant authority.
- 4 (1) In the case of a road which is not a public road and which the road managers have no liability to the public to maintain or repair, the undertaker may give the road managers a notice stating—
- (a) the general effect of the works proposed or, as the case may be, of the emergency works executed, and
  - (b) that it is a notice given for the purposes of this paragraph.
- (2) Where such a notice is given paragraphs 2 and 3 do not apply if the road managers do not, within 10 working days from the date on which the notice was given to them,

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- give notice to the undertaker requiring the submission or furnishing of a plan and section to them.
- 5 (1) A relevant authority to whom a plan and section of works are required to be submitted or furnished may accept as, or in lieu of, a plan and section any description of the works, whether in diagram form or not, which appears to them to be sufficient.
- (2) References in this Schedule to a plan and section include any such description so submitted or furnished to the form of which the relevant authority have not objected within the time allowed under paragraph 7(2) below.
- 6 If an undertaker—
- (a) executes any works in contravention of paragraph 2, or
  - (b) fails to furnish a plan and section in accordance with paragraph 3,
- he commits an offence and is liable on summary conviction to a fine not exceeding [F<sup>2</sup>level 5] on the standard scale.

#### Textual Amendments

- F2** Words in [Sch. 6 para. 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](#)

#### *Procedure on submission of plan and section*

- 7 (1) A relevant authority to whom there is submitted a plan and section of road works proposed to be executed in a road with special engineering difficulties shall give notice to the undertaker—
- (a) approving the plan and section without modification, or
  - (b) objecting to them in form as being on too small a scale or giving insufficient particulars, or
  - (c) approving them subject to modifications specified in the notice, or
  - (d) disapproving them.
- (2) The notice shall be given without avoidable delay, and at the latest before the end of the period of—
- (a) 7 working days in the case of a plan and section of works relating only to—
    - (i) a service pipe or service line, or
    - (ii) overhead electric lines or [F<sup>3</sup>electronic communications apparatus],  
and
  - (b) one month in any other case;
- and as between the undertaker and a relevant authority who do not duly give notice before the end of that period, the plan and section as submitted shall be deemed to have been settled by agreement.
- (3) The reference in sub-paragraph (2)(a)(i) to a service pipe or service line is to—
- (a) a pipe or line through or by means of which a supply of gas, electricity or water is afforded or intended to be afforded to premises—
    - (i) directly from premises from which the supply originates, or
    - (ii) from a main, that is, a pipe or line for affording a general supply;
  - (b) a pipe through or by means of which sewerage services are afforded, or intended to be afforded, which is not [F<sup>4</sup>a public sewer]; or

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- (c) underground [<sup>F3</sup>electronic communications apparatus] for the purpose of providing a service by means of [<sup>F5</sup>an electronic communications network] to or from particular premises (as opposed to apparatus for the general purposes of such [<sup>F5</sup>a network]).

But so much of any such pipe, line or apparatus as is placed, or intended to be placed, for a continuous length of 100 metres or more in a public road shall be treated as not being a service pipe or service line.

- (4) In this paragraph—

“electric line” has the same meaning as in Part I of the <sup>M1</sup>Electricity Act 1989;

<sup>F6</sup> ...  
<sup>F6</sup> ...

#### Textual Amendments

- F3** Words in Sch. 6 para. 7 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), Sch. 17 para. 108(1)(b)(2) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F4** Words in Sch. 6 para. 7(3)(b) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71, Sch. 7 para. 21(8)(a) (with s. 67); S.S.I. 2002/118, art. 2
- F5** Words in Sch. 6 para. 7(3)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), Sch. 17 para. 108(1)(b)(3) (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F6** Words in Sch. 6 para. 7(4) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

#### Marginal Citations

- M1** 1989 c. 29.

- 8 (1) Where a relevant authority give notice approving the plan and section subject to modifications, or disapproving the plan and section, they shall state their reasons for doing so.
- (2) If a relevant authority duly give notice—
- (a) objecting to the plan and section in form, or
- (b) approving them subject to modifications to which the undertaker does not agree, or
- (c) disapproving them,
- then, unless the notice is withdrawn, the undertaker may refer the matter to arbitration.
- (3) If the notice is withdrawn, the plan and section as submitted be deemed to have been settled by agreement between them and the undertaker.
- 9 [<sup>F7</sup>Scottish Water] or a bridge authority may not give notice—
- (a) approving a plan and section subject to modifications, or

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- (b) disapproving a plan and section,  
on grounds other than such as relate to the injurious effect of the proposed works on  
[F<sup>8</sup>a public sewer] or, as the case may be, on the structure or stability of their bridge.

**Textual Amendments**

- F7** Words in Sch. 6 para. 9 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 21\(8\)\(b\)\(i\)](#), (with s. 67); S.S.I. 2002/118, [art. 2](#)
- F8** Words in Sch. 6 para. 9 substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 21\(8\)\(b\)\(ii\)](#), (with s. 67); S.S.I. 2002/118, [art. 2](#)

*Settlement of plan and section by arbitration*

- 10 (1) The duty of the [F<sup>9</sup>person to whom it falls, by virtue of regulations made under paragraph 2(1), to settle a dispute under that paragraph] is to settle a plan and section of works of the kind proposed, as works to be executed in the road.
- (2) He may require the undertaker to submit to him a plan and section in such form, require the relevant authority to submit to him such observations on a plan and section submitted to him, and require the undertaker or the relevant authority to furnish him with such information and to take such other steps, as appear to him to be requisite.
- (3) He may treat compliance with any such requirement made of the undertaker as a condition of his proceeding with the settlement of a plan and section, and compliance with any such requirement made of the relevant authority as a condition of his settling a plan and section otherwise than as proposed by the undertaker.

**Textual Amendments**

- F9** Words in Sch. 6 para. 10(1) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), [ss. 36\(5\)\(a\)](#), 54(2); S.S.I. 2008/15, [art. 2\(2\)](#), [sch. 1](#)

- 11 (1) Where the reference relates to the placing, altering or changing the position of apparatus in a road which is carried by or goes under a bridge, then, if the arbiter is satisfied—
- (a) that the execution of the works would be likely to affect injuriously the structure or stability of the bridge, and
- (b) that it is not practicable to meet objection on that ground to the plan and section submitted,
- he shall so declare, and shall not settle any plan and section of those works on the reference.
- (2) This does not affect the right of the undertaker to submit another plan and section.

*Objection to works executed without plan and section being settled*

- 12 (1) This paragraph applies where road works have been executed in a road with special engineering difficulties without a plan and section having been settled with the road works authority or another relevant authority, whether the works were executed in contravention of paragraph 2 above or were emergency works.

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- (2) The authority in question may, by notice to the undertaker, object to any of the works; and after affording the undertaker an opportunity to enter into an agreement with them for meeting the objection, may refer the matter to <sup>F10</sup>be settled in the prescribed manner].
- (3) The <sup>F11</sup>person to whom it falls to settle the matter] may direct the alteration of the works to conform to a plan and section settled by him, or the removal of any apparatus placed in the execution of the works, and the undertaker shall comply with any such direction.
- (4) In settling the terms of any such direction <sup>F12</sup>that person] shall satisfy himself that compliance with it will not involve any undue interruption or restriction of the supply or service for the purposes of which the works were executed.
- (5) If an undertaker fails to execute works in accordance with a direction under this paragraph, he commits an offence and is liable on summary conviction to a fine not exceeding <sup>F13</sup>level 5] on the standard scale.

#### Textual Amendments

- F10** Words in Sch. 6 para. 12(2) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(5)(b)(i), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1
- F11** Words in Sch. 6 para. 12(3) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(5)(b)(ii), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1
- F12** Words in Sch. 6 para. 12(4) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(5)(b)(iii), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1
- F13** Words in Sch. 6 para. 12(5) 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

#### *Execution of works in accordance with plan and section*

- 13 (1) An undertaker executing road works in a road with special engineering difficulties shall, where a plan and section have been settled, execute the works in accordance with the plan and section as settled, or, if each of the relevant authorities agrees to the modification of the plan or section, in accordance with them as so modified.
- (2) If an undertaker fails to comply with sub-paragraph (1) he commits an offence and is liable on summary conviction to a fine not exceeding <sup>F14</sup>level 5] on the standard scale.

#### Textual Amendments

- F14** Words in Sch. 6 para. 13(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

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