



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART IV

#### ROAD WORKS IN SCOTLAND

##### *Introductory provisions*

#### **109 Permission to execute road works.**

- (1) A road works authority may grant permission in writing, subject to such reasonable conditions as they consider appropriate, to persons to whom this section applies—
  - (a) to place, or to retain, apparatus in a road, and
  - (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it,and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the road, or any sewer, drain or tunnel under it, or tunnelling or boring under the road).
- (2) A person to whom permission has been granted under this section to execute works may do so without obtaining any consent which would otherwise be required to be given—
  - (a) by any other relevant authority in its capacity as such, or
  - (b) by any person in his capacity as the owner of apparatus affected by the works;but without prejudice to the provisions of this Part as to the making of requirements by any such authority or person or as to the settlement of a plan and section and the execution of the works in accordance with them.
- (3) The granting of permission under this section to a person does not dispense that person from obtaining any other consent, licence or permission which may be required; and it does not authorise the installation of apparatus for the use of which the licence of the Secretary of State is required unless and until that licence has been granted.

*Status: Point in time view as at 01/09/2020. This version of this provision has been superseded.*

*Changes to legislation: New Roads and Street Works Act 1991, Section 109 is up to date with all changes known to be in force on or before 23 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) This section applies to persons who are described in one or more of the following paragraphs—
- (a) persons of a prescribed class,
  - (b) persons carrying out works of a prescribed class,
  - (c) persons carrying out works in a prescribed area.
- (5) The conditions referred to in subsection (1) may include conditions as to—
- (a) the payment of fees,
  - (b) the future cessation or withdrawal of the permission, and
  - (c) indemnification of the authority against claims arising out of what is permitted.
- (6) Before granting permission under this section the road works authority shall give not less than 10 working days' notice to each of the following—
- (a) where the works are likely to affect [<sup>F1</sup>a public sewer, Scottish Water;]
  - (b) where the works are to be executed in a part of a road which is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, to that authority,
  - (c) where in any other case the part of the road in which the works are to be executed is carried or crossed by a bridge, to the bridge authority,
  - (d) to any person who has given notice under section 113 (advance notice of certain works) of his intention to execute road works which are likely to be affected by the works to which the permission relates, and
  - (e) to any person having apparatus in the road which is likely to be affected by the works;
- but a failure to do so does not affect the validity of the permission.
- (7) Where permission has been granted under section 61 of the <sup>M1</sup>Roads (Scotland) Act 1984 in respect of apparatus and the road works authority consider that permission could be granted under this section in respect of that apparatus, they may cancel the permission granted under section 61 of the 1984 Act and, if they cancel that permission, they shall substitute for it permission granted in accordance with subsection (1) above.
- (8) The works referred to in subsection (1) above do not include works for road purposes.

#### Textual Amendments

**F1** Words in s. 109(6)(a) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp. 3\), s. 71, Sch. 7 para. 21\(3\)](#) (with s. 67); S.S.I. 2002/118, [art. 2](#)

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

**C1** [S. 109](#): power to contract out functions of the Secretary of State conferred (16.3.1996) by [S.I. 1996/878, art. 2, Sch. para. 6\(a\)](#)

#### Marginal Citations

**M1** [1984 c. 54](#).

**Status:**

Point in time view as at 01/09/2020. This version of this provision has been superseded.

**Changes to legislation:**

New Roads and Street Works Act 1991, Section 109 is up to date with all changes known to be in force on or before 23 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.