



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART IV

#### ROAD WORKS IN SCOTLAND

##### *General requirements as to execution of road works*

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

- (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 [<sup>F1</sup>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**

- F1** 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](#)

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*Status: Point in time view as at 21/04/2015.*

**Changes to legislation:** *New Roads and Street Works Act 1991, Section 128 is up to date with all changes known to be in force on or before 10 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)*

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**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:**

Point in time view as at 21/04/2015.

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