



New Roads and Street Works Act 1991

1991 CHAPTER 22

PART IV

ROAD WORKS IN SCOTLAND

Duties and liabilities of undertakers with respect to apparatus

PROSPECTIVE

138 Records of location of apparatus.

- (1) An undertaker shall, except in such cases as may be prescribed, record the location of every item of apparatus belonging to him as soon as reasonably practicable after—
 - (a) placing it in the road or altering its position,
 - (b) locating it in the road in the course of executing any other works, or
 - (c) being informed of its location under section 139 below,stating the nature of the apparatus and (if known) whether it is for the time being in use.
- (2) The records shall be kept up to date and shall be kept in such form and manner as may be prescribed.
- (3) An undertaker shall make his records available for inspection, at all reasonable hours and free of charge, by any person having authority to execute works of any description in the road or otherwise appearing to the undertaker to have a sufficient interest.
- (4) If an undertaker fails to comply with his duties under this section—
 - (a) he commits an offence and is liable on summary conviction to a fine not exceeding [^{F1}level 5] on the standard scale; and
 - (b) he is liable to compensate any person in respect of damage or loss incurred by him in consequence of the failure.
- (5) In criminal or civil proceedings arising out of any such failure it is a defence for the undertaker to show that all reasonable care was taken by him, and by his contractors

Status: Point in time view as at 11/01/2006. This version of this provision is prospective.

Changes to legislation: *New Roads and Street Works Act 1991, Section 138 is up to date with all changes known to be in force on or before 20 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)*

and by persons in his employ or that of his contractors, to secure that no such failure occurred.

- (6) An order under section 161 (power to make consequential amendments, repeals, &c.) relating to an enactment or instrument containing provision for the keeping of records of apparatus which appears to the Secretary of State to be superseded by or otherwise inconsistent with the provisions of this section—
- (a) shall not be subject to the procedure provided for in Schedule 7, and
 - (b) may make such transitional and other provision as appears to the Secretary of State appropriate for applying in relation to records compiled under that enactment or instrument the provisions of subsections (2) to (5) above and section 139 below.

Textual Amendments

- F1** Words in s. 138(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](#)

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