



# Transport (Scotland) Act 2005

## 2005 asp 12

### PART 2

#### ROAD WORKS

##### *Miscellaneous*

## 21 Directions as to placing of apparatus in roads

(1) After section 115 of the 1991 Act there is inserted—

### **“115A Power to give directions as to placing of apparatus**

(1) Where—

- (a) an undertaker is proposing to execute road works consisting of the placing of apparatus in a road (the “proposed road”),
- (b) placing the apparatus in the proposed road is likely to cause disruption to traffic, and
- (c) it appears to the road works authority that—
  - (i) there is another road in which the apparatus could be placed (the “other road”), and
  - (ii) the conditions in subsection (2) are satisfied,

the authority may by directions require the undertaker not to place the apparatus in the proposed road (but shall not require the undertaker to place the apparatus in the other road).

(2) The conditions referred to in subsection (1)(c)(ii) are that—

- (a) disruption to traffic would be avoided or reduced if the apparatus were to be placed in the other road,
- (b) placing the apparatus in the other road would be a reasonable way of achieving the purpose for which the apparatus is to be placed, and
- (c) it is reasonable to require the undertaker not to place the apparatus in the proposed road.

- (3) Directions under this section may be varied or revoked by further such directions.
  - (4) The procedure for giving directions under this section shall be as prescribed.
  - (5) The Scottish Ministers shall by regulations make provision for appeals against directions under this section, including provision as to the procedure to be followed on an appeal.
  - (6) An undertaker who executes works in contravention of directions under this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
  - (7) An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, the failure is attributable to a direction under this section.
  - (8) The Scottish Ministers shall issue or approve for the purposes of this section a code of practice giving practical guidance as to the exercise by road works authorities of the power conferred by this section; and in exercising that power a road works authority shall have regard to the code of practice.”.
- (2) In section 116 of the 1991 Act (notice of emergency works in roads), in subsection (1), the word “or” is repealed and after “works”, where first occurring, there is inserted “or section 115A (power to give directions as to placing of apparatus)”.