Roads (Scotland) Act 1984

1984 CHAPTER 54

PART I

PUBLIC ROADS

[F1 Transitory provisions

Textual Amendments

F1 S. 12A-12F added (4.1.1995) by 1994 c. 39, **s. 7(2)**, 38(2) (with s. 7(2)); S.I. 1994/2850 art. 3(a), Sch. 2

12A Transitional power of Secretary of State as respects existing roads.

(1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—

(a) that any existing road should become a trunk road; or

(b) that any trunk road should cease to be a trunk road,

he may by order direct that the road shall become a trunk road or, as the case may be, shall cease to be a trunk road, as from such date as may be specified in that regard in the order.

(2) Where an order under this section directs that a road shall cease to be a trunk road, it may also direct that—

(a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the road; and

(b) the authority shall enter the road in their list of public roads.

(3) An order under this section may relate to one or more roads.

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12B Transitional power of Secretary of State as respects proposed roads.

(1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—

(a) that any proposed road—

(i) to be constructed by the local roads authority; and

(ii) in respect of which all necessary planning permission has been granted or is deemed to have been granted,

should become a trunk road; or

(b) that any proposed road—

(i) to be constructed by the Secretary of State as a trunk road; and

(ii) in relation to which an order has been made under section 5 of this Act,

should not become a trunk road,

he may by order direct that the proposed road shall or, as the case may be, shall not become a trunk road.

(2) Where an order is made in respect of a proposed road as mentioned in subsection (1)(a) above—

(a) subject to subsection (6) below, the Secretary of State may, for the purposes of the construction of that road, do any thing which he would have been entitled to do if an order under section 12 of this Act (in this section referred to as a "section 12 order") had been made in relation to that road; and

(b) where an **[**[F2]EIA report**]** has been published in respect of the project, the Secretary of State shall not be required to publish a further **[**[F2]EIA report**]** ,

but otherwise the Secretary of State shall in all respects be in the same position in relation to that proposed road as the local roads authority would have been if such order had not been made.

(3) Where an order is made in respect of a proposed road as mentioned in subsection (1)(b) above—

(a) the local roads authority may proceed with construction of the said road as if all necessary planning permission had been granted;

(b) the section 12 order made in relation to that road shall apply as if—

(i) the local roads authority were the roads authority referred to in such order; and

(ii) all necessary planning permission has been granted; and

(c) where an **[**[F3]EIA report**]** has been published in respect of the project, the local roads authority shall not be required to publish a further **[**[F3]EIA report**]** .

(4) Where an order under this section directs that a proposed road shall not become a trunk road, it may also direct that—

(a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the proposed road; and

(b) on such date as may be specified in that regard in the order, the authority shall enter the road in their list of public roads.

(5) An order under this section may relate to one or more proposed roads.

(6) The Secretary of State shall not by virtue of this section be empowered—

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(a) to stop up a road as mentioned in section 12(1)(a)(i) of this Act; or

(b) to do anything mentioned in paragraphs (a) and (b) of section 70 of this Act except where the local roads authority have been so authorised under a section 12 order; and where such an order has been made, the Secretary of State may do anything he would have been authorised to do if the order had been made by him.

(7) In this section and in section 12C of this Act "planning permission" means permission under **[**[F4]Part III of the Town and Country Planning (Scotland) Act 1997**]**.

Textual Amendments

F2 Words in s. 12B(2)(b) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, **3**

F3 Words in s. 12B(3)(c) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, **3**

F4 S. 12B(7) words substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2**, para. 38(1)

12C Transitional power of Secretary of State as respects special road schemes.

(1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that—

(a) a special road which the Secretary of State is authorised to provide by virtue of a scheme under section 7 of this Act (a "section 7 scheme") should be provided by a local roads authority; or

(b) a special road which a local roads authority is authorised to provide by virtue of a section 7 scheme which has been confirmed by the Secretary of State should be provided by the Secretary of State,

he may by order direct that the local roads authority or, as the case may be, the Secretary of State shall be authorised to provide such special road; and the section 7 schemes relating to those special roads shall (notwithstanding their terms) be deemed to authorise the provision of such special roads by the local roads authority and the Secretary of State respectively.

(2) Where an order is made in respect of a special road as mentioned in subsection (1)(a) above—

(a) where the Secretary of State has made an order under section 9 of this Act (a "section 9 order") in relation to that special road, the local roads authority may treat that order as if it were an order made by them and confirmed by the Secretary of State;

(b) any necessary planning permission (whether relating to the special road or the doing of anything authorised by virtue of the section 9 order) shall be deemed to have been granted to the local roads authority; and

(c) where an **[**[F5]EIA report**]** has been published in respect of the project, the local roads authority shall not be required to publish a further **[**[F5]EIA report**]** .

(3) Where an order is made in respect of a special road as mentioned in subsection (1)(b) above—

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(a) if the local roads authority have made a section 9 order which has been confirmed by the Secretary of State, the Secretary of State may treat that section 9 order as if it were an order made by him; and

(b) where an **[**[F6]EIA report**]** has been published in respect of the project, the Secretary of State shall not be required to publish a further **[**[F6]EIA report**]** ,

but otherwise the Secretary of State shall in all respects be in the same position in relation to that special road as the local roads authority would have been if such order had not been made.

Textual Amendments

F5 Words in s. 12C(2)(c) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, **4**

F6 Words in s. 12C(3)(b) substituted (16.5.2017) by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 (S.S.I. 2017/137), regs. 1, **4**

12D Application of section 112 to orders under sections 12A, 12B, 12C and 12E.

The provisions of section 112 of this Act shall apply, subject to such modifications as the Secretary of State may by order specify, to roads, proposed roads and special roads such as may be mentioned in orders made under sections 12A, 12B, 12C and 12E of this Act as they apply to roads mentioned in the said section 112.

12E Further power of Secretary of State as respects proposed roads and special road schemes.

(1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that any proposed road to be constructed by a local roads authority should become a trunk road, but the condition mentioned in subsection (1)(a)(ii) of section 12B of this Act is not satisfied in relation to such proposed road, he may, notwithstanding the provisions of that subsection, by order direct that the proposed road shall become a trunk road.

(2) The provisions of paragraphs (a) and (b) of section 12B(2) of this Act shall apply where an order is made under subsection (1) above as they apply where an order is made under subsection (1)(a) of that section.

(3) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that a special road in respect of which a section 7 scheme has been made by a local roads authority but not confirmed by the Secretary of State should be provided by him, he may, notwithstanding the provisions of subsection (1)(b) of section 12C of this Act, by order, direct that he shall be authorised to provide such special road by virtue of such scheme.

(4) The provisions of paragraphs (a) and (b) of section 12C(3) of this Act shall apply where an order is made under subsection (3) above as they apply where an order is made under subsection (1)(b) of that section.

(5) An order under subsection (1) or (3) above may include provision specifying the extent to which compliance before the making of that order with any statutory requirement

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in relation to the proposed road or, as the case may be, special road shall be deemed to satisfy for all purposes any statutory requirement which the Secretary of State would, apart from such provision, have been required to comply with in relation to that proposed road or special road.

(6) As from the date of an order under subsection (1) or (3) above, the proposed road or, as the case may be, special road shall be deemed always to have been a proposed road to be constructed by the Secretary of State or a special road which the Secretary of State is authorised to provide.

12F Further provisions as to orders.

An order under section 12A, 12B, 12C, 12D or 12E of this Act may not be made so as to take effect more than 3 years after 1st April 1996.**]**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 152(3)(3ZA) substituted for s. 152(3) by 2019 asp 17 s. 124(2)