



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART XII

STATUTORY UNDERTAKERS

132 Saving for operators of telecommunications code systems

- (1) Subject to the provisions of this section, nothing in this Act or in any scheme or enactment under or by virtue of this Act—
 - (a) shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code ; or
 - (b) applies to any telecommunication apparatus kept installed for the purposes of any such system.
- (2) Where in pursuance of an order under this Act (or under an Act repealed by this Act) a road is (or was) stopped up or diverted and, immediately before that order comes (or came) into force, there is (or was) under, in, upon, over, along or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into force; but any person entitled to land over which the road subsisted may require the alteration of the apparatus.
- (3) Where an order under this Act (or under an Act repealed by this Act) provides for the alteration of a road and, immediately before the date on which the order comes (or came) into force, there is (or was) under, in, upon, over, along, or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the roads authority shall be entitled to require the alteration of the apparatus. This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purpose of authority's works as defined in Part II of the Public Utilities Street Works Act 1950.
- (4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of subsections (1) to (3) above as it applies for the purposes of that code.

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- (5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any right conferred by this section to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to a right to require the removal of such apparatus.

133 Restriction on laying of apparatus etc. in special roads

- (1) Subject to the provisions of this section, the powers conferred on statutory undertakers by or under any enactment to lay down or erect apparatus under, in, over, along or across land shall not be exercisable in relation to land comprised in the route of a special road except with the consent of the special road authority.
- (2) The consent of the special road authority shall not be required under this section for the laying down or erection by statutory undertakers of apparatus by way of renewal of apparatus for the time being belonging to or used by them for the purpose of their undertaking.
- (3) The consent of a special road authority under this section may be given subject to conditions, but those conditions shall not include a condition requiring any payment to be made by the undertakers to the special road authority in respect of the exercise of powers consented to.
- (4) Where apparatus, in respect of which the consent of a special road authority is required under this section, is to be laid down or erected along a line crossing the route of the special road but not running along that route, the authority—
- (a) shall not withhold their consent unless there are special reasons for doing so ; and
 - (b) may, if they give their consent subject to conditions, make contributions to the statutory undertakers in respect of any expenses incurred by the undertakers in complying with those conditions.
- (5) Any dispute between a special road authority and statutory undertakers in respect of—
- (a) the withholding of the consent of the authority in respect of apparatus to be laid down or erected as mentioned in subsection (4) above ;
 - (b) the imposition of any condition on the grant of such consent; or
 - (c) the making of any contributions under paragraph (b) of the said subsection (4),
- shall be determined by a single arbiter appointed, in default of agreement, by the sheriff on the application of either party.
- (6) Where the consent of a special road authority is required under this section in respect of apparatus to be laid down or erected otherwise than as mentioned in subsection (4) above and the authority are a local roads authority, then—
- (a) if the apparatus is to be laid under the carriageway of the special road, the authority shall not give their consent except with the approval of the Secretary of State;
 - (b) if the consent of the authority is refused (otherwise than in consequence of the withholding of the approval required by paragraph (a) above) or is granted subject to conditions (other than conditions approved under that paragraph) the statutory undertakers may appeal to the Secretary of State, and the Secretary of State may make such order in relation to the matter as he thinks fit.

- (7) The provisions of this section shall have effect in addition to and not in substitution for the provisions of any other enactment restricting or regulating the powers of any statutory undertakers to break open streets or enter upon land for the purpose of laying down or erecting apparatus.

134 Extinguishment of rights of statutory undertakers to apparatus etc. in connection with schemes under section 7 and orders under section 9

- (1) Without prejudice to section 133 of this Act, section 219 of the Town and Country Planning (Scotland) Act 1972 (extinguishment of certain subsisting rights of statutory undertakers over land acquired under Part VI of that Act) shall apply
- (a) in relation to land acquired or appropriated by a special road authority for the purpose of carrying out works in pursuance of a scheme under section 7 or an order under section 9 of this Act; and
 - (b) in relation to land forming the site of any part of an existing road which is appropriated or transferred to a special road authority under this Act,
- as it applies in relation to land acquired under the said Part VI; and sections 220 and 222 to 225 of the said Act of 1972 (which contain provisions consequential upon the extinguishment of any right under the said section 219) shall have effect accordingly.
- (2) The provisions of the said Act of 1972 mentioned in subsection (1) above shall have effect, as applied for the purposes of this section, with the substitution for references therein to the purchasing authority of references to the special road authority.
- (3) Where apparatus of statutory undertakers supplying electricity, gas, hydraulic power or water is removed in pursuance of a notice or order given or made under the said section 219 (as applied for the purposes of this section), any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the special road authority expenditure for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given if that expenditure was reasonably incurred in consequence of the removal.

135 Restriction of powers of local authority in whom sewer is vested

- (1) Sections 133 and 134 of this Act (including the provisions of the Town and Country Planning (Scotland) Act 1972 applied by subsection (1) of the said section 134), shall, so far as applicable, apply in relation to the sewers and sewage disposal works of any local authority as they apply in relation to the apparatus of statutory undertakers.
- (2) In the said provisions of the said Act of 1972 applied for the purposes of this section, references to the appropriate Minister shall be construed, in relation to a local authority, as references to the Secretary of State.
- (3) Where a public sewer is removed in pursuance of a notice or order given or made under section 219 of the said Act of 1972 as applied for the purposes of this section, a person who is the owner or occupier of premises the drains of which communicated with that sewer, or the owner of a private sewer which communicated with that sewer, shall be entitled to recover from the special road authority expenditure for the purpose of
- (a) linking his drain or sewer with—
 - (i) any other public sewer; or
 - (ii) a private sewage disposal plant; or

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- (b) constructing a private sewage disposal plant and linking his drain or sewer to that plant,
if that expenditure was reasonably incurred in consequence of the removal.