



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART VIII

INTERFERENCE AND DAMAGE

General obstruction

91 Prevention of danger to road from nearby vegetation and fences etc. or from retaining walls being inadequate.

- (1) Where a hedge, tree or shrub overhangs a road so as to—
 - (a) endanger or obstruct the passage of vehicles or pedestrians;
 - (b) obstruct or interfere with—
 - (i) road users' view of the road;
 - (ii) the light from a public lamp; or
 - (iii) a traffic sign; or
 - (c) increase the likelihood of obstruction of the road by drifting snow,the roads authority may, by notice served either on the owner of the hedge, tree or shrub, or on the occupier of the land on which it is growing, require him within 28 days from the date of service of the notice to carry out such work on the hedge, tree or shrub as is necessary to remove the cause of danger, obstruction or interference.
- (2) Subject to subsections (3) and (4) below, where it appears to the roads authority that a hedge, tree, shrub, fence or wall on or near a road is in such condition that it, or part of it, is likely to cause danger by falling on the road, or that a retaining wall (whether or not near the road) is in such condition that there is constituted a danger to the road or to road users, they may, by notice served either on the owner of the hedge, tree, shrub, fence or wall, or on the occupier of the land on which it is situated, require him within 28 days from the date of the service of the notice to carry out such work as will obviate the danger.
- (3) Subject to subsection (4) below, if in the opinion of the roads authority the danger referred to in subsection (2) above is imminent they may dispense with the service of

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the notice required by that subsection, may themselves carry out the work forthwith, and may recover the expenses reasonably incurred in so doing from the owner or occupier.

- (4) Subsection (3) above does not apply, and subsection (2) above does not except in any case with the consent of [^{F1}Historic Environment Scotland] apply, as regards a wall (or retaining wall) forming part of an ancient monument or other object of archaeological interest; and any such consent may direct that the said subsection (2) shall apply in that case with such modifications as may be specified in the consent:

Provided that where in the opinion of the roads authority the danger referred to in the said subsection (2) is imminent, they may before obtaining such consent (and without service of the notice required by that subsection) carry out such work, or take such other steps, as will for the time being safeguard road users.

- (5) The roads authority may make such contribution as they think fit towards any expenses reasonably incurred by a person in carrying out necessary work in pursuance of subsection (1) or (2) above.
- (6) As soon as may be after the necessity for work under this section on a protected tree or on a wall (or retaining wall) forming part of a listed building arises and before any such work is commenced, the roads authority shall give notice of the proposed work to the planning authority:

Provided that, if in the opinion of the roads authority there is imminent danger of the tree or wall falling on the road, they may dispense with the giving of such notice.

- (7) Nothing in this section shall impose on the roads authority any liability in respect of injury to persons or damage to property.
- (8) In—
- (a) subsection (2) above, “retaining wall” means a wall which serves, or is intended to serve, as a support for earth or other material on only one side; and
 - (b) subsection (6) above—
 - (i) “planning authority” has the meaning assigned by section 172 of the ^{M1}Local Government (Scotland) Act 1973; and
 - (ii) “protected tree” means a tree which is subject to a tree preservation order under [^{F2}section 160(1) of the Town and Country Planning (Scotland) Act 1997].
- (9) A person upon whom a notice has been served under subsection (1) or (2) above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Textual Amendments

- F1** Words in s. 91(4) substituted (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Ancillary Provision\) Order 2015 \(S.S.I. 2015/271\)](#), arts. 1, **2(2)** (with art. 2(4))
- F2** Words in 91(8)(b)(ii) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), [Sch. 2 para. 38\(6\)](#)

Modifications etc. (not altering text)

- C1** S. 91: power to contract out functions of Secretary of State (16.3.1996) by [S.I. 1996/878, art. 2, Sch. para. 5\(ab\)](#)

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Marginal Citations

M1 1973 c. 65.

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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\(2\)](#)