



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART IV

#### ROAD WORKS IN SCOTLAND

##### *Roads subject to special controls*

#### **120 Protected roads**

- (1) The consent of the road works authority is required for the placing of apparatus by an undertaker in a protected road, except as mentioned below.

The following are “protected roads” for this purpose—

- (a) any road or proposed road which is a special road in accordance with section 7 of the Roads (Scotland) Act 1984, and
  - (b) any road designated by the road works authority as protected.
- (2) Consent is not required for the placing of apparatus—
- (a) by way of renewal of existing apparatus, or
  - (b) in pursuance of a permission granted under section 109 of this Act (permission to execute road works) or section 61 of the Roads (Scotland) Act 1984 (permission to place and maintain apparatus under a road), except where the permission was granted before the road became a protected road.
- (3) The road works authority may require the payment of—
- (a) a reasonable fee in respect of the legal or other expenses incurred in connection with the giving of their consent under this section, and
  - (b) an annual fee of a reasonable amount for administering the consent;
- and any such fee is recoverable from the undertaker.

This shall not be construed as affecting any right of the authority where they own the land on which the road is situated to grant, subject to such terms and conditions as they think fit, the right to place anything in, under or over the land.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Where the apparatus is to be placed crossing the protected road and not running along it, the road works authority shall not withhold their consent unless there are special reasons for doing so.
- (5) Consent to the placing of apparatus in a protected road may be given subject to conditions; and the road works authority may agree to contribute to the expenses incurred by the undertaker in complying with the conditions.
- (6) Any dispute between a road works authority and an undertaker as to the withholding of consent, the imposition of conditions, or the making of contributions shall be settled by arbitration.
- (7) An undertaker having a statutory duty to afford a supply or service shall not be regarded as in breach of that duty if, or to the extent that, it is not reasonably practicable to afford a supply or service by reason of anything done by the road works authority in exercise of their functions in relation to a protected road.