
STATUTORY INSTRUMENTS

1992 No. 2990 (C.89) (S.245)

ROADS AND BRIDGES, SCOTLAND

The New Roads and Street Works Act 1991
(Commencement No.6 and Transitional
Provisions and Savings) (Scotland) Order 1992

Made - - - - 28th November 1992

The Secretary of State, in exercise of the powers conferred on him by section 170 of the New Roads and Street Works Act 1991(1), and of all other powers enabling him in that behalf, hereby makes the following Order:

PART I
GENERAL

Citation and interpretation

1.—(1) This Order may be cited as the New Roads and Street Works Act 1991 (Commencement No.6 and Transitional Provisions and Savings) (Scotland) Order 1992.

(2) In this Order—

“the 1950 Act” means the Public Utilities Street Works Act 1950(2);

“the 1984 Act” means the Roads (Scotland) Act 1984(3);

“the 1991 Act” means the New Roads and Street Works Act 1991;

“sewer authority” has the same meaning as in section 39(1)(4) of the 1950 Act;

“special road” has the same meaning as in section 151(1) of the 1984 Act;

“special road authority” has the same meaning as in section 7(4) of the 1984 Act;

“statutory undertaker” means an undertaker who is entitled to carry out road works by virtue of a statutory right.

(1) 1991 c. 22.

(2) 1950 c. 39.

(3) 1984 c. 54.

(4) Section 39(1) was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(32).

Commencement of certain provisions of the 1991 Act

2.—(1) The provisions of the 1991 Act specified in the first column of Schedule 1 to this Order (which relates to the matters specified in the second column thereof) shall come into force on 30th November 1992.

(2) The provisions of the 1991 Act specified in the first column of Schedule 2 to this Order (which relates to the matters specified in the second column thereof) shall come into force on 1st January 1993.

(3) The provisions of the 1991 Act specified in the first column of Schedule 3 to this Order (which relates to the matters specified in the second column thereof) shall come into force on 1st April 1993.

PART II

TRANSITIONAL PROVISIONS AND SAVINGS

Advance Notice of certain works

3.—(1) An undertaker who has submitted a plan and section of works under section 3(1)(5) of the 1950 Act on or before 31st December 1992, shall be deemed to have given an advance notice of works for the purposes of section 113 of the 1991 Act.

(2) An undertaker who has submitted a plan and section of works under section 3(1) of the 1950 Act on or before 31st December 1992 shall be deemed to have settled a plan and section of the works for the purposes of Schedule 6 to the 1991 Act.

Notice of starting date of works

4. An undertaker who has given a notice under section 6(1)(6) of the 1950 Act on or before 31st December 1992 shall be deemed to have given a notice of starting date of works for the purposes of section 114 of the 1991 Act.

Notice of emergency works

5. An undertaker who has given a notice relating to the execution of emergency works under section 6(5) of the 1950 Act on or before 31st December 1992 shall be deemed to have given a notice of emergency works under section 116 of the 1991 Act and the works executed in reliance on such a notice shall be deemed to be emergency works for the purposes of section 116 notwithstanding any of the provisions of section 111 of the 1991 Act.

Restrictions on works following substantial works carried out for road purposes

6. A road works authority shall not restrict the execution of road works in a road by notice under section 117 of the 1991 Act during the twelve months following the completion of substantial works carried out for road purposes in any case where the roads authority has on or before 31st December 1992 granted consent to an undertaker to break up or open that road under section 28(4)(7) of the 1950 Act.

(5) Section 3(1) was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(4)(a).

(6) Section 6(1) was amended by the Telecommunications Act 1984 (c. 12), Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(7)(a).

(7) Section 28(4) was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(24)(c).

Protected Roads

7. Where a special road authority has on or before 31st December 1992 granted to a statutory undertaker consent to lay down or erect apparatus in any land comprised in the route of a special road, the consent of the road works authority under section 120 of the 1991 Act for the placing of that apparatus in a protected road shall not be required.

Works likely to affect other apparatus in the road

8. The provisions of section 128 of the 1991 Act shall not apply to any road works which are in hand on 1st January 1993 or in respect of which any action required under section 26(8) of the 1950 Act has been taken before that date.

Duty of undertaker to reinstate

9. An undertaker shall not be subject to the provisions of section 129 of the 1991 Act if—
- (a) the road works authority has elected to execute permanent reinstatement in accordance with the provisions of the Third Schedule(9) to the 1950 Act and the undertaker is treated for the purposes of paragraph 5(2) of that Schedule as having completed his works and such of the permanent reinstatement and making good as by virtue of the 1950 Act he is obliged to execute, provided that an authority electing to execute permanent reinstatement as aforesaid may not recover the cost of reinstatement from an undertaker unless the reinstatement has been completed on or before 31st December 1993 and an account has been rendered to the undertaker on or before 31st March 1994; or
 - (b) the undertaker has begun permanent reinstatement on or before 31st December 1992; or
 - (c) the road works authority and the undertaker have agreed on or before 31st December 1992 that the road works authority should execute permanent reinstatement and the reinstatement is executed in accordance with that agreement.

Measures necessary where apparatus affected by major works

10. The provisions of sections 143(1), (3) and (4) and 144 of the 1991 Act shall not apply in any case where, on or before 31st December 1992, a roads, bridge or transport authority have given to an undertaker a notice of intention to execute works in accordance with paragraph 2(1) of Part I of the Fourth Schedule(10) to the 1950 Act and has accepted that undertaker's notice given under paragraph 3 of that Schedule as a specification of works and measures necessary to protect the undertaker's apparatus.

Reinstatement affected by subsequent works

11. Subsections (5) to (8) of section 132 of the 1991 Act shall apply to reinstatements carried out in accordance with section 7(11) of, and the Third Schedule to, the 1950 Act.

(8) Section 26 was amended by the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289F and 289G, by the Telecommunications Act 1984, Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(22).

(9) The Third Schedule was amended by the Telecommunications Act 1984, Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(35).

(10) The Fourth Schedule was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(36).

(11) Section 7 was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(8).

Savings

12. Notwithstanding the repeal of the 1950 Act by section 168(2) of, and Schedule 9 to, the 1991 Act, sections 7, 8(**12**), 9(**13**) and 10(**14**) of, and the Third Schedule to, the 1950 Act shall continue to apply to permanent reinstatements begun by an undertaker on or before 31st December 1992 and to permanent reinstatements carried out by a road works authority in the circumstances set out in article 9(a) of this Order.

13. Sections 10(1) and 12(4)(**15**) of the 1950 Act shall continue to apply to road works executed by a transport authority or a sewer authority which were begun on or before 31st December 1992.

14. Section 16 of the 1950 Act shall continue in force in relation to agreements to which that section applies which are made on or before 31st December 1992.

15. Section 8 of the 1950 Act shall continue in force until 31st March 1993 in relation to road works whether or not they were begun before 1st January 1993.

St Andrew's House,
Edinburgh
28th November 1992

James Douglas-Hamilton
Parliamentary Under Secretary of State, Scottish
Office

(12) Section 8 was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(9).

(13) Section 9 was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(10).

(14) Section 10 was amended by the Telecommunications Act 1984, Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(11).

(15) Section 12(4) was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(13)(d).

SCHEDULE 1

Article 2(1)

Provisions of the 1991 Act which come into force on 30th November 1992

Provisions of the Act	Subject Matter
In section 112, subsections (1), (2) and (3)	The road works register and Regulations in relation thereto
Section 114 for the purpose of making Regulations	Notice of starting date of works
Section 116	Notice of emergency works
Section 117	Restriction on works following substantial works carried out for road purposes

SCHEDULE 2

Article 2(2)

Provisions of the 1991 Act which come into force on 1st January 1993

Provisions of the Act	Subject Matter
Section 109	Permission to execute road works
Section 110	Prohibition of unauthorised road works
Section 114 for all purposes other than the making of Regulations	Notice of starting date of works
In section 118, subsections (1), (2), (4), (5) and (6)	General duty of road works authority to co-ordinate works
In section 119, subsections (1) and (3)	General duty of undertakers to co-operate
Section 120	Protected roads
Section 125	Avoidance of unnecessary delay or obstruction
Section 127	Facilities to be afforded to road works authorities
Section 128	Works likely to affect other apparatus in the road
In section 129, subsections (1), (2), (3), (5), (6) and (7)	Duty of undertaker to reinstate
Section 131	Power of road works authority in relation to reinstatement
Section 132	Reinstatement affected by subsequent works
Section 133	Charge for occupation of the road where works unreasonably prolonged
Section 135	Liability for cost of temporary traffic regulation
Section 136	Liability for cost of use of alternative route

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Provisions of the Act	Subject Matter
Section 137	Contributions to costs of making good long-term damage
In section 140, subsections (1), (2), (5), (6) and (7)	Duty to maintain apparatus
Section 141	Liability for damage or loss caused
Section 142	Works for road purposes likely to affect apparatus in the road
In section 143, subsections (1), (3) and (4)	Measures necessary where apparatus affected by major works
Section 147	Bridges, bridge authorities and related matters
Section 148	Sewers
Section 149	Provisions as to reinstatement of sewers, drains or tunnels
Section 150	Transport authorities, transport undertakings and related matters
Section 151	Special precautions as to displaying of lights
Section 152	Works affecting level crossings or tramways
Section 153	Power of road works authority or district council to undertake road works
Section 154	Offences
Section 155	Recovery of costs or expenses
Section 159	Agreements inconsistent with the provisions of Part IV of the 1991 Act
Section 160	Effect of Part IV of the 1991 Act on certain existing special enactments or instruments
Section 161	Effect of Part IV of the 1991 Act on other existing enactments or instruments
Section 162	Former controlled land
Section 166 in so far as it has not already been commenced	Offences by bodies corporate or Scottish partnerships
Section 168 in so far as it relates to the provisions of Schedules 8 and 9 of the 1991 Act referred to in this Schedule	Minor and consequential amendments and repeals
Schedule 7	Procedure for making certain Orders under Part IV of the 1991 Act
Schedule 8 in so far as it relates to Scotland and has not already been commenced	Minor and consequential amendments
Schedule 9 in so far as it relates to Scotland and has not already been commenced	Repeals

SCHEDULE 3

Article 2(3)

Provisions of the 1991 Act which come into force on 1st April 1993

Provisions of the Act	Subject matter
In section 124, subsections (1), (2), (4), (5) and (6)	Safety measures

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2(1) brings into force on 30th November 1992 those provisions of the New Roads and Street Works Act 1991 (“the 1991 Act”) which are specified in Schedule 1 to the Order. Article 2(2) brings into force on 1st January 1993 those provisions of the 1991 Act specified in Schedule 2 to the Order. Article 2(3) brings into force on 1st April 1993 those provisions of the 1991 Act specified in Schedule 3 to the Order.

The remaining articles of the Order make transitional provisions and keep in force for limited purposes certain provisions of the Public Utilities Street Works Act 1950 which is repealed by section 168 of, and Schedule 9 to the 1991 Act as from 1st January 1993.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the New Roads and Street Works Act 1991 have been brought into force by Commencement Orders made before the date of this Order.

Provision	Date of commencement	S.I.No.
Part II (except sections 43 and 44)	21st October 1991	1991/2286
Section 166 (partially) (Scotland)		
Section 167 (partially) (Scotland)		
Section 168 (partially) (Scotland)		
Schedule 8 (partially) (Scotland)		
Schedule 9 (partially) (Scotland)		
Sections 43 and 44	1st November 1991	1991/2286

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Provision	Date of commencement	S.I.No.
Section 168 (partially) (Scotland)		
Schedule 8 (partially) (Scotland)		
Schedule 9 (partially) (Scotland)		
Part I	1st November 1991	1991/2288
Section 166 (1) (England and Wales)		
Section 167 (1), (2), (3) and (6) (England and Wales)		
Section 168 (partially) (England and Wales)		
Section 169 (1), 170 and 171		
Schedule 8, Part II (England and Wales)		
Schedule 8, Part IV (partially) (England and Wales)		
Schedule 9 (partially) (England and Wales)		
Section 107	14th July 1992	1992/1671
Section 108		
Section 111		
Section 112 (4), (5) and (6)		
Section 113		
Section 115		
Section 118 (3)		
Section 119 (2)		
Section 121		
Section 122		
Section 123		
Section 124 (3)		
Section 126		
Section 129 (4)		
Section 130		
Section 134		
Section 140 (3) and (4)		

Provision	Date of commencement	S.I.No.
Section 143 (2)		
Section 144		
Section 145		
Section 146		
Section 156		
Section 157		
Section 158		
Section 163		
Section 164		
Section 165		
Section 167 (partially) (Scotland)		
Section 169 (partially) (Scotland)		
Schedule 6		
Section 48	14th July 1992	1992/1686
Section 49		
Section 52		
Section 53 (4), (5) and (6)		
Section 54		
Section 56		
Section 59 (3)		
Section 60 (2)		
Section 62		
Section 63		
Section 64		
Section 65 (3)		
Section 67		
Section 70 (4)		
Section 71		
Section 75		
Section 81 (3) and (4)		
Section 84 (2)		
Section 85		
Section 86		

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Provision	Date of commencement	S.I.No.
Section 87		
Section 97		
Section 98		
Section 99		
Section 104		
Section 105		
Section 106		
Section 167 (partially) (England and Wales)		
Schedule 4		
Section 53 (1), (2) and (3)	28th November 1992	1992/2984
Section 55 (partially)		
Section 57		
Section 58		
Section 50	1st January 1993	1992/2984
Section 51		
Section 55 (partially)		
Section 59 (1), (2), (4), (5) and (6)		
Section 60 (1) and (3)		
Section 61		
Section 66		
Section 68		
Section 69		
Section 70 (1), (2), (3), (5), (6) and (7)		
Section 72		
Section 73		
Section 74		
Section 76		
Section 77		
Section 78		
Section 81 (1), (2), (5), (6) and (7)		
Section 82		
Section 83		

Provision	Date of commencement	S.I.No.
Section 84 (1), (3) and (4)		
Section 88		
Section 89		
Section 90		
Section 91		
Section 92		
Section 93		
Section 94		
Section 95		
Section 96		
Section 100		
Section 101		
Section 102		
Section 103		
Section 168 (partially) (England and Wales)		
Schedule 3		
Schedule 5		
Schedule 8 (partially) (England and Wales)		
Schedule 9 (partially) (England and Wales)		
Section 65 (1), (2), (4), (5) and (6)	1st April 1993	1992/2984