



Transport (Scotland) Act 2005

2005 asp 12

PART 2

ROAD WORKS

Resurfacing

32 Contributions to costs of resurfacing by undertaker

(1) After section 137 of the 1991 Act there is inserted—

“137A Contributions to costs of resurfacing by undertaker

- (1) Where a road works authority have given a resurfacing notice to an undertaker—
- (a) the authority shall pay to the undertaker a proportion, calculated in the prescribed manner, of the costs reasonably incurred by the undertaker in executing the works specified in the notice,
 - (b) an undertaker to whom subsection (2) applies shall pay to the undertaker referred to in paragraph (a) a proportion, calculated in the prescribed manner, of those costs.
- (2) This subsection applies to an undertaker if—
- (a) the undertaker has, before the completion of the works specified in the notice, executed road works which involved the breaking up of any part of a road, and
 - (b) the works specified in the notice include the resurfacing of that part of the road.
- (3) The Scottish Ministers may by regulations prescribe exceptions to the duty imposed by subsection (1)(b).
- (4) The payments referred to in subsection (1) shall be made in such instalments and manner, and within such period, as may be prescribed.
- (5) The Scottish Ministers may by regulations make provision requiring disputes of a prescribed description (including disputes as to whether subsection (2)

Status: This is the original version (as it was originally enacted).

applies to an undertaker) to be determined in such manner and by such persons as may be prescribed.

- (6) For the purposes of this section, any costs incurred by an undertaker (including any costs of a road works authority which are borne by the undertaker) in consequence of a failure by the undertaker to comply with any duty under this Part shall be treated as having been incurred unreasonably.
 - (7) The first regulations for the purposes of this section shall not be made unless a draft of them has been laid before and approved by a resolution of the Scottish Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.”.
- (2) In section 155 of the 1991 Act, in subsection (3), after “road)” there is inserted “or 137A (contributions to costs of resurfacing by undertakers)”.