



# Transport (Scotland) Act 2019

## 2019 asp 17

### PART 9

#### ROAD WORKS

##### *Information about apparatus*

#### **119 Information about apparatus**

- (1) The New Roads and Street Works Act 1991 is amended as follows.
- (2) For section 138 (records of location of apparatus) substitute—

##### **“138A Entering details about apparatus in the Scottish Road Work Register**

- (1) This section applies where a person—
  - (a) places in, alters the position of, or removes from a road, apparatus that belongs to the person,
  - (b) discovers, in the course of executing other works in a road, apparatus that belongs to the person (but in respect of which no information, or incorrect information, is entered in the SRWR), or
  - (c) is informed under section 139 about the location of apparatus that belongs to the person.
- (2) The person must, except in such cases as are prescribed, enter in the SRWR such information about the apparatus as is prescribed as soon as is reasonably practicable after the occurrence of an event in paragraph (a) to (c) of subsection (1).
- (3) If the person fails to comply with the duty under subsection (2)—
  - (a) the person commits an offence, and
  - (b) the person is liable to compensate any person in respect of loss or damage incurred by that person in consequence of the failure.
- (4) A person guilty of an offence under subsection (3)(a) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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*Status: This is the original version (as it was originally enacted).*

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- (5) In civil or criminal proceedings against a person arising out of a failure to comply with the duty under subsection (2), it is a defence for the person to show that all reasonable care was taken to secure that no such failure occurred by—
- (a) the person and the person’s employees, and
  - (b) any contractor of the person and the contractor’s employees.”.
- (3) In section 139 (duty to inform undertakers of apparatus)—
- (a) for subsection (1) substitute—

“(1A) Subsection (1B) applies where a person executing works of any description in a road finds apparatus belonging to an undertaker which—

    - (a) is not entered in the SRWR, or
    - (b) is entered in the SRWR but the details pertaining to it are incorrect.

(1B) The person must take such steps as are reasonably practicable to inform the undertaker to whom the apparatus belongs of its location and (so far as appears from external inspection) its nature and whether it is in use.”,
  - (b) in subsection (2)(a), for the words from “note” to “prescribed)” substitute “enter in the SRWR”,
  - (c) in subsection (3), for “(1)” substitute “(1B)”, and
  - (d) in subsection (4), for “(1)” substitute “(1B)”.
- (4) The italic heading immediately preceding section 138 becomes “*Duties and liabilities with respect to apparatus*”.