Transport (Scotland) Act 2019

2019 asp 17

PART 9

ROAD WORKS

Reinstatement of roads following works

118 Reinstatement quality plans

(1) The New Roads and Street Works Act 1991 is amended as follows.

(2) After section 130 insert—

"**130A Reinstatement quality plans: undertakers etc.**

(1) This section applies where a person (other than a roads authority) proposes to execute road works or works for road purposes which will involve—

(a) breaking up the road, or any sewer, drain or tunnel under it,

(b) tunnelling or boring under the road,

(c) any other activity that will involve reinstating the road.

(2) Before commencing the proposed works, the person must enter in the SRWR—

(a) a plan, approved by the Commissioner, which sets out the intended approach to reinstating the road after completion of the proposed works (a "specific reinstatement quality plan"), or

(b) either—

(i) a plan, approved by the Commissioner, which sets out the intended approach to reinstating roads in circumstances such as those applicable for the proposed works (a "general reinstatement quality plan"), or

(ii) a notice confirming that an applicable general reinstatement quality plan has previously been approved and entered.

(3) Where a person enters a notice under subsection (2)(b)(ii), the Commissioner may require the person, before commencing the proposed works, to enter in the SRWR—

(a) a specific reinstatement quality plan for the proposed works, or

(b) an updated general reinstatement quality plan,

which has been approved by the Commissioner.

(4) The Commissioner may approve a plan under this section only if the Commissioner is satisfied that the plan demonstrates the person—

(a) is competent to safely and effectively execute the reinstatement of the road, and

(b) has in place quality control procedures sufficient to ensure that the reinstatement of the road is to a sufficient standard and in compliance with the statutory obligations applicable to the works.

(5) A person who fails to comply with a duty to which the person is subject under subsection (2) or (3) commits an offence.

(6) A person who commits an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

130B Reinstatement quality plans: roads authorities

(1) This section applies where a roads authority proposes to execute works for roads purposes which will involve—

(a) breaking up the road, or any sewer, drain or tunnel under it,

(b) tunnelling or boring under the road,

(c) any other activity that will involve reinstating the road.

(2) The Commissioner may, at any time before works to reinstate the road commence, require the roads authority to enter in the SRWR a plan, approved by the Commissioner, which sets out the authority's intended approach to reinstating the road in respect of the proposed works.

(3) The Commissioner may approve a plan under subsection (2) only if the Commissioner is satisfied that the plan demonstrates that the authority has in place—

(a) appropriate arrangements to safely and effectively execute the reinstatement of the road, and

(b) quality control procedures sufficient to ensure that the reinstatement of the road is to a sufficient standard and in compliance with the statutory obligations applicable to the works.

(4) Nothing in this section prevents a roads authority from—

(a) preparing a plan for the reinstatement of a road and sending it to the Commissioner for approval,

(b) entering a plan approved by the Commissioner in the SRWR.

130C Reinstatement quality plans: codes of practice and further provision

(1) The Scottish Ministers may issue or approve for the purposes of sections 130A and 130B codes of practice giving practical guidance as to the matters mentioned in sections 130A and 130B (and regulations made under this section).

(2) The Scottish Ministers may by regulations make further provision about plans to be entered in the SRWR under section 130A or 130B.

(3) In particular, and without limit to that generality, regulations under subsection (2) may include provision—

(a) about the form and content of the plans,

(b) about the form, content and timing of any notice to be entered in the SRWR under section 130A(2)(b)(ii),

(c) specifying circumstances in which the Commissioner may (or must) require—

(i) a person to enter a plan in the SRWR under section 130A(3), or

(ii) a roads authority to enter a plan in the SRWR under section 130B(2),

(d) relating to the process to be followed (including any time periods which must be complied with) by the Commissioner in order to require a plan to be entered in the SRWR,

(e) requiring a plan to be reviewed by the person who has entered it in the SRWR at such intervals or otherwise in such circumstances as are specified,

(f) about the consequences of complying, and of failing to comply, with a code of practice issued or approved under subsection (1).

(4) Regulations under subsection (2) may create offences for failure to comply with requirements imposed under the regulations.

(5) Where regulations under subsection (2) include provision creating an offence—

(a) they must provide for the offence to be triable summarily only, and

(b) they must provide for the maximum penalty for the offence to be a fine, which must not exceed level 5 on the standard scale.

(6) Regulations under subsection (2) which include provision creating an offence are subject to the affirmative procedure.”.