Roads (Scotland) Act 1984

1984 CHAPTER 54

An Act to make provision as regards roads in Scotland; and for connected purposes. [31st October 1984]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

C1 Act extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), Sch. 7 para. 2(1)(xlvi), **Sch. 8 para. 33** and Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 2(7)(b), **Sch. 17 para. 35(1)**
Act extended (1.3.1996) by 1995 c. 45 s. 16(1), Sch. 4, para. 2(1)(xxxiv); S.I. 1996/218 art. 2

C2 Act modified by S.I. 1986/509, **art. 7(2)**

C3 Act definitions of "roads authority", "local roads authority", "special road authority" and "special road" applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 47(1)** (with savings s. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

C4 Act definitions of "carriageway" and "footway" applied (14.7.1992) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 164(1)**; S.I. 1992/1671, art. 2, **Sch.**

C5 Act definitions of "carriageway" and "main road" applied (1.1.1993) by Pipelines Act 1962 (c. 58, SIF 102), **s. 15(10)** substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 101(3)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

C6 Act definitions of "footpath" and "cycle track" applied (1.7.1992) by s. 15 of Road Traffic Regulation Act 1984 (c. 27, SIF 107:1) as substituted (1.7.1992) by Road Traffic (Temporary Restrictions) Act 1991 (c. 26, 107:1) s. 1(1), Sch. 1; S.I. 1992/1218, **art. 2**

C7 Act definition of "public road" applied (30.11.1991) by Coal Mining Subsidence Act 1991 (c. 45, SIF 86), **s. 9(2)(a)(ii)** (with saving s. 37(4), Sch. 7); S.I. 1991/2508, **art. 2**

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PART I

PUBLIC ROADS

General powers and duties of roads authorities

1 Powers and duties of local roads authorities.

(1) Subject to subsection (10) below, a local roads authority shall manage and maintain all such roads in their area as are for the time being entered in a list (in this Act referred to as their "list of public roads") prepared and kept by them under this section; and for the purposes of such management and maintenance (and without prejudice to this subsection's generality) they shall, subject to the provisions of this Act, have power to reconstruct, alter, widen, improve or renew any such road or to determine the means by which the public right of passage over it, or over any part of it, may be exercised.

(2) Subject to subsection (10) below, the list of public roads prepared by the local roads authority shall, at the date of commencement of this section, comprise all public roads which immediately prior to that date were required to be entered by the local highway authority for the area in a list of the roads highways and bridges under their management and control under section 41 of the [M1]Roads and Bridges (Scotland) Act 1878 or in a register of streets under section 5 of the [M2]Burgh Police (Scotland) Act 1903 or any corresponding local enactment.

(3) The list of public roads shall be open for inspection free of charge at such reasonable times and places as the local roads authority may determine.

(4) The local roads authority may, subject to the provisions of this Act, add to or delete from their list of public roads; but before any entry for a road which for the time being is a private road is so added or any entry for a public road is so deleted they shall—

(a) give notice of their intention in that regard to the frontages of that road; and

(b) publish a notice of such intention in at least one newspaper circulating in the area,

and, where any representation is made within 28 days after the requirements of paragraphs (a) and (b) above have been fulfilled, the authority shall consider that representation and give notice to the person making it and, with a note or copy of the representation, to the frontagers (or to the other frontagers if it was a representation by a frontager) of the authority's decision as regards whether or not to proceed with the addition or deletion following the representation:

Provided that—

(i) any addition or deletion giving effect to a decision under subsection (5) below;

(ii) any deletion in consequence of the stopping up of a public road under this Act; or

(iii) any deletion on transfer of such a road to another roads authority,

shall not require such intimation or publication as is mentioned in paragraphs (a) and (b) above.

(5) The requisite number of frontagers to whom notice of a decision following a representation is given under subsection (4) above may, within 28 days of such notice, refer the matter by summary application to the sheriff. His decision thereon shall, subject to subsection (8) below, be final and, where that decision requires the addition

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or deletion to be proceeded with, shall be given effect to forthwith by the local roads authority.

(6) A decision of which notice is given under subsection (4) above shall not be given effect to until the 28 days mentioned in subsection (5) above have expired or, if the matter has been referred under the said subsection (5) to the sheriff, until the summary application has been disposed of or abandoned.

(7) In subsection (5) above, "the requisite number" means—

(a) a majority; or

(b) such number as together owns land which . . . [F1] . . . [F1]includes not less than half of the boundary between the land fronting or abutting the road mentioned in subsection (4)(a) above and that road; . . . [F1] . . . [F1]

(8) Subsection (5) above is without prejudice to the rights of the local roads authority to proceed again under subsection (4) above as regards the same addition or deletion (or as regards an addition or deletion which comprehends, or is comprehended in, the same addition or deletion) where there has been a material change of circumstances since the publication, in relation to the original proposed addition or deletion, of the notice under subsection (4)(b) above.

(9) Subject to subsection (10) below, every road which is entered in the list of public roads kept by a local roads authority shall vest in the authority for the purposes of their functions as roads authority: but such vesting shall not confer on an authority any heritable right in relation to a road.

(10) There shall not vest under subsection (9) above any bridge which both—

(a) immediately prior to the commencement of this section was not so managed and controlled as is mentioned in subsection (2) above; and

(b) has not since such commencement been acquired (whether compulsorily or by agreement) by the local roads authority,

and without prejudice to sections 79 to 81 of this Act, until such acquisition the authority shall not manage and maintain the bridge (as distinct from any road carried by it) and any entry in their list of public roads in respect of such a road shall include a statement to the effect that the road does not, for the purposes of subsection (1) above, comprise the bridge carrying the road.

Textual Amendments

F1 Words "either—(i)", "or" and subparagraph (ii) repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), ss. 34, 35(2)(3), **Sch. 6**

Marginal Citations

M1 1878 c. 51.

M2 1903 c. 33.

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VALID FROM 16/03/1996

2 Powers and duties of Secretary of State as roads authority: management and maintenance.

(1) The Secretary of State shall manage and maintain—

(a) trunk roads;

(b) special roads provided by him; and

(c) any other road constructed by him under section 19 of this Act (or section 8 of the [M3]Development and Road Improvement Funds Act 1909) and not entered in a list of public roads by a local roads authority,

and for the purposes of such management and maintenance (and without prejudice to this subsection's generality) he shall have power to reconstruct, alter, widen, improve or renew any such road or to determine the means by which the public right of passage over it, or over any part of it, may be exercised.

(2) The Secretary of State shall prepare and keep a list of roads which he is for the time being liable to manage and maintain under subsection (1) above; and the list shall, at the date of commencement of this section, comprise all roads which immediately prior to that date were managed and maintained by him.

(3) The list referred to in subsection (2) above shall be open for inspection free of charge at such reasonable times and places as the Secretary of state may determine.

(4) Every road maintainable by the Secretary of State under subsection (1) above shall vest in him for the purposes of his functions as roads authority; but such vesting shall not confer on him any heritable right in relation to a road.

Modifications etc. (not altering text)

C8 S. 2(1) power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878 art. 2, Sch. para. 5(a)

Marginal Citations

M3 1909 c. 47.

3 Power of Secretary of State to make advances to local roads authorities etc.

(1) The Secretary of State with the consent of the Treasury may subject to subsection (2)(b)(iii) below make to a local roads authority—

(a) advances (other than advances in respect of the acquisition of land) in respect of the construction of new roads or the maintenance or improvement of roads or make such advances in conjunction with such an authority (whether or not that authority is the roads authority by whom the road is, or as the case may be will be, maintainable) to any person;

(b) advances in respect of the acquisition of land by them where he is satisfied that the land has been or is to be acquired by the authority with a view to the construction of a new road or the improvement of a road.

(2) The advances mentioned—

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(a) in paragraph (a) of subsection (1) above may include advances for the purpose of carrying out surveys with a view to ascertaining the need for the construction or improvement of roads (whether or not such construction or improvement is thereafter proceeded with); and

(b) in paragraphs (a) and (b) of that subsection—

(i) may include advances in connection with the exercise of any power conferred on a local roads authority by section 52, 53 or 106 of this Act;

(ii) may include advances for any purpose incidental, or conducive, to the purposes mentioned in those paragraphs; and

(iii) shall be made only where it appears to the Secretary of State that the whole or any part of the expenditure in respect of which such advances could be made should not fall on the authority.

(3) Without prejudice to subsection (2)(b)(iii) above, the advances mentioned in paragraph (b) of subsection (1) above may include, where the land is acquired by the authority, either or both of—

(a) any amount by which the annual expenditure incurred by the authority in maintaining the land, during the period between its acquisition and the construction or improvement of the road in question, and in the payment of loan charges accruing due during that period in respect of any debt incurred by the authority for the purpose of acquiring the land, exceeds the annual income accruing to the authority from the land during that period; and

(b) any loan charges accruing due after the end of that period in respect of any money borrowed by the authority for the purpose of acquiring the land.

(4) An advance under subsection (1)(a) or (b) above may be either by way of grant or by way of loan, or partly in one way and partly in the other, and shall be upon such terms and subject to such conditions as the Secretary of State thinks fit.

(5) In subsection (3) above, “loan charges”, in relation to any borrowed money, means the sums required for the payment of interest on that money and for the repayment thereof by instalments or by means of a sinking fund.

VALID FROM 16/03/1996

4 Agreements between authorities.

(1) Subject to subsections (2) to (5) below, the Secretary of State may enter into an agreement with a local roads authority or, in relation to cleansing, with a district council, for the carrying out by the authority or council or any of his functions as roads authority—

(a) in relation to a trunk or other road or land acquired by him under this Act in connection with, but not forming part of, a trunk road;

(b) in relation to cattle-grids.

(2) Subsection (1) above does not apply as regards functions under section 55 of this Act, but subject to subsections (4) and (5) below, the Secretary of State may enter into an agreement with a general or district planning authority for the carrying out by the authority of any of his functions under that section.

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(3) Where an agreement under subsection (1) above affects a trunk road in the area of a local roads authority who are not a party to the agreement, the agreement shall have effect only if the authority consent to it.

(4) An authority doing anything under an agreement entered into under this section act as agents for the Secretary of State, and nothing in any such agreement affects his status as roads authority.

(5) The functions of the Secretary of State mentioned in sub-sections (1) and (2) above do not include his functions under Schedules 1 and 2 to this Act.

Modifications etc. (not altering text)

C9 S. 4(1) power to contract out functions of Secretary of State (as restricted) (16.3.1996) by S.I. 1996/878 arts. 1, 2, Sch., para. 5(b)

Trunk roads

VALID FROM 27/05/1997

5 Trunk roads.

(1) Subject to the provisions of this section, all roads which immediately before the commencement of this section were trunk roads within the meaning of the Trunk Roads Acts [M4] 1936 and [M5] 1946 shall continue to be, and to be known as, trunk roads.

(2) The Secretary of State shall keep under review the national system of routes for through traffic in Scotland, and if he is satisfied, after taking into consideration the requirements of local and national planning, including the requirements of agriculture and industry, that it is expedient for the purpose of extending, improving or reorganising that system either—

(a) that any existing road, or any road proposed to be constructed by him, should become a trunk road, or

(b) that any trunk road should cease to be a trunk road,

he may by order direct that the road shall become, or as the case may be shall cease to be, a trunk road as from such date as may be specified in that regard in the order.

(3) The power of the Secretary of State under subsection (2)(a) above shall include power to direct that a road, or a proposed road, which he considers suitable for the purpose of relieving the trunk road from local traffic shall become part of the trunk road, whether or not there is (or will be) intervening land between those roads.

(4) Subject to subsection (7)(i) below, Parts I and III of Schedule 1 to this Act shall have effect in connection with the making of an order under this section, and Schedule 2 to this Act shall have effect in connection with the validity and date of operation of any such order.

(5) If objection to an order under this section is duly made in accordance with Schedule 1 to this Act by the local roads authority who are responsible for the maintenance of any road to which the order relates, or who will become so responsible by virtue of

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the order, and that objection is not withdrawn, the order shall be subject to special parliamentary procedure, and Part IV of that Schedule shall have effect for the purposes of the application to the order of the [M6] Statutory Orders (Special Procedure) Act 1945.

(6) Where an order under this section directs that a road shall cease to be a trunk road it may also direct that—
  (a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the road; and
  (b) the authority shall enter the road in their list of public roads.

(7) If an order—
  (a) under this section, or
  (b) under section 1(3) of the [M7] Trunk Roads Act 1936 and continuing in force by virtue of paragraph 5 of Schedule 6 to this Act,

  directing that a road which the Secretary of State proposes to construct shall become a trunk road—
    (i) is revoked by a subsequent order made at any time before the date on which that road is opened for the purposes of through traffic, Schedules 1 and 2 to this Act shall have no effect as regards the revoking order, but within 28 days of the revoking order's having been made notice of the revocation shall be published by the Secretary of State in the Edinburgh Gazette and in such other manner as he thinks best adapted for informing persons affected;
    (ii) is revoked or varied by a subsequent order made at any such time as aforesaid, the revoking or varying order shall not be deemed for the purposes of subsection (6) above to be an order directing that a road shall cease to be a trunk road.

(8) Without prejudice to the powers of the Secretary of State under this Act—
  (a) to improve trunk roads by the construction of cycle tracks and footways for use in connection therewith, or
  (b) to provide such tracks or footways as part of any trunk road which he is authorised to construct,

  the power to make an order under this section directing that a road proposed to be constructed by the Secretary of State shall become a trunk road may be exercised in relation to any cycle track or footpath which the Secretary of State proposes to construct upon land separated by intervening land from the trunk road in connection with which it is to be used.

(9) A local roads authority, if they think fit, may contribute towards costs incurred by the Secretary of State in the construction or improvement of any trunk road.

Marginal Citations

M4 Edw. 8 & 1 Geo. 6 c. 5.
M5 9 & 10 Geo. 6 c. 30.
M6 9 & 10 Feo. 6 c. 18.
M7 Edw. 8 & 1 Geo. 6 c.5.

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6 Local and private Act functions with respect to trunk roads.

As from the date when a road becomes a trunk road, any functions of construction, maintenance or improvement exercisable as respects that road by a local roads authority under any local or private Act shall instead be exercisable by the Secretary of State.

Special roads

7 General provision as to special roads.

(1) Subject to the provisions of this Act, all such roads as immediately before the commencement of this Act were special roads, being roads provided in pursuance of a scheme made under section 1 of the [M8]Special Roads Act 1949, shall continue to be, and to be known as, special roads.

(2) Roads which continue to be special roads by virtue of subsection (1) above shall continue, subject to the provisions of this Act, to be special roads for the use of traffic of the classes for the use of which they were special roads immediately before the commencement of this Act.

(3) A roads authority may be authorised by means of a scheme under this section to provide, along a route prescribed by the scheme, a special road for the use of traffic of any class so prescribed.

(4) Subject to subsection (10) below, a roads authority authorised by a scheme under this section, or by any such scheme as is referred to in subsection (1) above, to provide a special road are in this Act referred to in relation to that road as the "special road authority".

(5) A special road authorised by a scheme under this section may be provided by means of—
   (a) the construction by the special road authority of a new road along the route prescribed by the scheme or along any part of that route;
   (b) the appropriation under this Act of any road (or proposed road in course of construction) comprised in that route for which the special road authority are the roads authority;
   (c) the transfer to that authority under this Act of any road (or proposed road in course of construction) comprised in that route for which they are not the roads authority.

(6) A scheme under this section authorising the provision of a special road shall—
   (a) in the case of a road to be provided by the Secretary of State, be made by the Secretary of State, and
   (b) in the case of a road to be provided by a local roads authority, be made by that authority and confirmed by the Secretary of State,

   in accordance with the provisions of Parts II and III of Schedule 1 to this Act.

(7) Before making or confirming a scheme under this section, the Secretary of State shall give due consideration to the requirements of local and national planning, and to the requirements of agriculture and industry.

(8) If objection to a scheme under this section is duly made in accordance with Schedule 1 to this Act—

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(a) by the roads authority for any road (or proposed road) comprised in the route of the special road authorised by the scheme;

(b) by any navigation authority or water authority on whom notice is required to be served under paragraph 3 of that Schedule on the ground that any bridge or tunnel over or under navigable waters for which provision is made by the scheme is likely to obstruct or impede the performance of their functions under any enactment or to interfere with the reasonable requirements of navigation over the waters affected by the scheme,

and is not withdrawn, the scheme shall be subject to special parliamentary procedure.

(9) Part IV of Schedule 1 to this Act shall have effect for the purposes of the application to schemes under this section of the [M9] Statutory Orders (Special Procedure) Act 1945; and Schedule 2 to this Act shall have effect with respect to the validity and date of operation of such schemes.

(10) A scheme under this section may be submitted to the Secretary of State jointly by any two or more local roads authorities, and any such scheme may determine which of those authorities shall be the special road authority for the special road and may provide—

(a) for the performance by the special road authority, in relation to the road, of any roads functions of another authority who are party to the submission; and

(b) for the making of contributions by that other authority to the special road authority in respect of expenditure incurred in the performance of those functions.

Modifications etc. (not altering text)

C10 S. 7 definition of "special road scheme" applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 47(1)**(with savings s. 47(4)); S.I. 1991/2286, art. 2(1), **Sch. 1**

Marginal Citations

M8 1949 c. 32.

M9 9 & 10 Geo. 6 c. 18.

8 Further provision as regards classification of traffic for purposes of special roads.

(1) Different classes of traffic may be prescribed by a scheme under section 7 of this Act in relation to different parts of the special road to which the scheme relates.

(2) The classes of traffic prescribed by any such scheme shall be prescribed by reference to the classes set out in Schedule 3 to this Act.

(3) The Secretary of State may by order vary the classes of traffic specified in the said Schedule 3 and the composition of any such class; [F2] . . .

[[F3](4) A variation order may contain provision applying the variations made by the order to existing schemes (whether made by the Secretary of State or a local roads authority); and in the absence of such provision a variation order does not affect the classes of traffic prescribed in an existing scheme.

(5) In subsection (4) above an “existing scheme” means a scheme under section 7 made before the order comes into operation.**]**

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Textual Amendments

F2 Words in s. 8(3) omitted (21.10.1991) by virtue of New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 45** (with savings s. 47(4)); S.I. 1991/2286, art. 2(1), **Sch. 1**

F3 S. 8(4)(5) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 45** (with savings s. 47(4)); S.I. 1991/2286, art. 2(1), **Sch. 1**

9 Supplementary orders relating to special roads.

(1) Subject to section 113 of this Act, provision in relation to a special road may be made by an order under this section—

(a) for appropriating as part of the special road, as from such date as may be specified in the order, any road (or proposed road in course of construction) comprised in the route prescribed by the scheme authorising the special road and which is a road (or proposed road) for which the special road authority are the roads authority;

(b) for transferring to the special road authority, as from such date as may be specified in the order, any road (or proposed road in course of construction) comprised in that route and for which they are not the roads authority;

(c) for authorising the special road authority—

(i) to stop up, divert, improve or otherwise alter any road which crosses or enters the route of the special road or is or will be otherwise affected by the construction or improvement of the special road;

(ii) to construct any new road for purposes connected with any such alterations as aforesaid or for any other purpose connected with the special road or its construction and to close after such period as may be specified in the order any new road temporarily so constructed;

(d) for transferring to such roads authority as may be specified in the order, as from such date as may be so specified any road constructed by the special road authority in pursuance of the order or any previous order made under this section;

(e) for authorising or requiring the special road authority to exercise, either concurrently with or to the exclusion of any regional council, any functions which, apart from the order, would be exercisable by that regional council in relation to the special road or any part thereof other than functions of that authority as regional or general planning authority within the meaning of the [M10]Town and Country Planning (Scotland) Act 1972; or

(f) for any other purpose incidental to the purposes aforesaid or otherwise incidental to the construction or maintenance of, or other dealing with, the special road.

(2) An order under this section shall—

(a) in the case of a special road provided or to be provided by the Secretary of State, be made by the Secretary of State;

(b) in the case of a special road provided or to be provided by a local roads authority, be made by that authority and confirmed by the Secretary of State,

in accordance with Parts I and III of Schedule 1 to this Act; and Schedule 2 to this Act shall have effect with respect to the validity and date of operation of any such order.

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(3) No order authorising the stopping up of a road shall be made or confirmed by the Secretary of State under this section unless he is satisfied that another reasonably convenient route is available or will be provided in pursuance of an order under this section before the road is stopped up.

(4) No order providing for the appropriation by or transfer to a special road authority of an existing road comprised in the route prescribed by the scheme authorising the special road shall be made or confirmed by the Secretary of State under this section unless he is satisfied—

(a) that another reasonably convenient route is available for traffic other than traffic of the class authorised by the scheme, or will be provided in pursuance of an order under this section before the date on which the appropriation or transfer takes effect, or

(b) that no such other route is reasonably required for any such other traffic.

(5) An order under this section may provide for the payment of contributions—

(a) by the special road authority to any other roads authority in respect of any additional liabilities imposed on that other authority in consequence of the provisions of the order or of any previous order made under this section;

(b) to the special road authority by any other authority in respect of any liabilities so imposed on the special road authority, being liabilities which would otherwise have fallen to be discharged by the other authority;

and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

Marginal Citations
M10 1972 c. 52.

10 Certain special roads to be trunk roads.

(1) A special road to be provided by the Secretary of State in accordance with a scheme under section 7 of this Act shall, except in so far as it is provided by means of the appropriation or transfer of any existing road, become a trunk road on such date as may be specified in the scheme.

(2) A road (not being a trunk road) which, by means of an order under section 9 of this Act, is appropriated as a special road to be provided by the Secretary of State, and a road which, by means of such an order, is transferred to the Secretary of State, shall become a trunk road on the date on which it is so appropriated or is so transferred, as the case may be.

[[F4](3) Subsections (1) and (2) above shall have effect subject to any provision of the scheme under section 7 of this Act directing that the special road in question or any part of it shall not be a trunk road; but any such provision shall not affect the power of the Secretary of State to make an order under section 5(2)(a) of this Act with respect to the special road or part.**]**

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Changes to legislation: *Roads (Scotland) Act 1984 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F4 S. 10(3) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 46** (with saving s. 47(4)); S.I. 1991/2286, art. 2(1), **Sch. 1**

Classification of roads

11 Classification of roads.

(1) The Secretary of State may, for the purposes of—

(a) any provision of this Act which refers to a classified or unclassified road; or

(b) any other enactment (whether passed or made before or after the passing of this Act) which refers to a road classified by the Secretary of State,

classify a road or proposed road (whether as a principal road or otherwise) from time to time in such manner as he may determine after consultation with any roads authority in whose area the road is, or will be, situated.

(2) In any enactment in force at the commencement of this Act a reference to a classified road (or any cognate reference) shall be construed as a reference to a road (or proposed road) which for the time being is classified, for the purposes of that enactment, under subsection (1) above.

(3) A road which, immediately before the commencement of this Act, bore (or fell to be treated as bearing) a classification (whether as a principal road or otherwise) given by the Secretary of State under any enactment shall, until the Secretary of State otherwise directs, be treated as continuing to bear that classification and as having been so classified under subsection (1) above.

(4) The Secretary of State may by order assign a new description to a class of roads (or proposed roads) classified under subsection (1) above; and except in so far as the order otherwise provides, any reference in any enactment passed or made before the date of the order to a road (or to a proposed road) in terms of the old description shall be construed as a reference to a road (or to a proposed road) of the new description.

Modifications etc. (not altering text)

C11 S. 11 definition of "principal road" applied (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 136(3)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Supplementary

12 Powers as respects roads that cross or join public roads other than special roads.

(1) Subject to section 113, and without prejudice to section 9(1)(c), of this Act, provision may be made by the roads authority by an order under this section in relation to a public road (or proposed public road) other than a special road (or proposed public road which is to be a special road)—

(a) for authorising the roads authority for the road or proposed road (such road (or proposed road) being in this section referred to as the “main road”)—

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(i) to stop up, divert, improve or otherwise alter a road (in this section referred to as the "side road") which crosses or enters the route of the main road or is or will be otherwise affected by the construction or improvement of the main road;

(ii) to construct a new road for purposes concerned with any such operation as is mentioned in sub-paragraph (i) above or for any other purpose connected with the main road or its construction, and to close after such period as may be specified in the order any new road temporarily so constructed;

(b) for transferring to such other roads authority as may be specified in the order, as from such date as may be so specified, a road constructed in pursuance of the order or of any previous order made under this section;

(c) for any purpose incidental to the purposes aforesaid.

(2) Parts I and III of Schedule 1 to this Act shall have effect as to the making of an order under this section by the Secretary of State as roads authority; and Schedule 2 to this Act shall have effect as to the validity and date of operation of any such order.

(3) No order under this section authorising the stopping up of a road shall be made by the Secretary of State unless he is satisfied that another reasonably convenient route is available or will be provided before the road is stopped up.

(4) An order under this section may provide for the payment of contributions—

(a) by the roads authority to any other roads authority in respect of any additional liabilities imposed on that other authority in consequence of the order or of any previous order made under this section;

(b) to the roads authority by any other roads authority in respect of any liabilities so imposed on the first mentioned authority which would otherwise have fallen to be discharged by that other authority;

and may also provide for the determination by arbitration of disputes as to the payment of such contributions.

(5) Except in a case to which section 132 of this Act applies, an order under this section shall include provision for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the side road.

(6) The Secretary of State may by regulations prescribe the procedure to be followed by a local roads authority in making an order under this section; and such regulations may in particular make provision as to the means of public notification of the proposal to make such an order and may make like provision in relation to the local roads authority as is made by subsection (3) above in relation to the Secretary of State.

(7) Where a local roads authority propose to make an order under this section, then, before the expiry of 28 days from the date of the first public notification, in accordance with regulations under subsection (6) above, of the proposal to make the order, any person may object to it to the authority, and—

(a) if no such objection is made, or objection is made but withdrawn, they may confirm the order themselves and

(b) if such objection is made and not withdrawn, the Secretary of State shall determine the matter, and may confirm the order with or without modification or refuse to confirm it.

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VALID FROM 04/01/1995

[F5 Transitory provisions

Textual Amendments

F5 S. 12A-12F added (4.1.1995) by 1994 c. 39, **s. 7(2)**, 38(2) (with s. 7(2)); S.I. 1994/2850 art. 3(a), Sch. 2

12A Transitional power of Secretary of State as respects existing roads.

(1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—

(a) that any existing road should become a trunk road; or

(b) that any trunk road should cease to be a trunk road,

he may by order direct that the road shall become a trunk road or, as the case may be, shall cease to be a trunk road, as from such date as may be specified in that regard in the order.

(2) Where an order under this section directs that a road shall cease to be a trunk road, it may also direct that—

(a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the road; and

(b) the authority shall enter the road in their list of public roads.

(3) An order under this section may relate to one or more roads.

12B Transitional power of Secretary of State as respects proposed roads.

(1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—

(a) that any proposed road—

(i) to be constructed by the local roads authority; and

(ii) in respect of which all necessary planning permission has been granted or is deemed to have been granted,

should become a trunk road; or

(b) that any proposed road—

(i) to be constructed by the Secretary of State as a trunk road; and

(ii) in relation to which an order has been made under section 5 of this Act,

should not become a trunk road,

he may by order direct that the proposed road shall or, as the case may be, shall not become a trunk road.

(2) Where an order is made in respect of a proposed road as mentioned in subsection (1)(a) above—

Status: *Point in time view as at 01/01/1993. This version of this Act contains provisions that are not valid for this point in time.*
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(a) subject to subsection (6) below, the Secretary of State may, for the purposes of the construction of that road, do any thing which he would have been entitled to do if an order under section 12 of this Act (in this section referred to as a "section 12 order") had been made in relation to that road; and

(b) where an environmental statement has been published in respect of the project, the Secretary of State shall not be required to publish a further environmental statement,

but otherwise the Secretary of State shall in all respects be in the same position in relation to that proposed road as the local roads authority would have been if such order had not been made.

(3) Where an order is made in respect of a proposed road as mentioned in subsection (1)(b) above—

(a) the local roads authority may proceed with construction of the said road as if all necessary planning permission had been granted;

(b) the section 12 order made in relation to that road shall apply as if—

(i) the local roads authority were the roads authority referred to in such order; and

(ii) all necessary planning permission has been granted; and

(c) where an environmental statement has been published in respect of the project, the local roads authority shall not be required to publish a further environmental statement.

(4) Where an order under this section directs that a proposed road shall not become a trunk road, it may also direct that—

(a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the proposed road; and

(b) on such date as may be specified in that regard in the order, the authority shall enter the road in their list of public roads.

(5) An order under this section may relate to one or more proposed roads.

(6) The Secretary of State shall not by virtue of this section be empowered—

(a) to stop up a road as mentioned in section 12(1)(a)(i) of this Act; or

(b) to do anything mentioned in paragraphs (a) and (b) of section 70 of this Act except where the local roads authority have been so authorised under a section 12 order; and where such an order has been made, the Secretary of State may do anything he would have been authorised to do if the order had been made by him.

(7) In this section and in section 12C of this Act "planning permission" means permission under Part III of the [M11]Town and Country Planning (Scotland) Act 1972.

Marginal Citations

M11 1972 c. 52.

Status: *Point in time view as at 01/01/1993. This version of this Act contains provisions that are not valid for this point in time.*
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12C Transitional power of Secretary of State as respects special road schemes.

(1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that—

(a) a special road which the Secretary of State is authorised to provide by virtue of a scheme under section 7 of this Act (a "section 7 scheme") should be provided by a local roads authority; or

(b) a special road which a local roads authority is authorised to provide by virtue of a section 7 scheme which has been confirmed by the Secretary of State should be provided by the Secretary of State,

he may by order direct that the local roads authority or, as the case may be, the Secretary of State shall be authorised to provide such special road; and the section 7 schemes relating to those special roads shall (notwithstanding their terms) be deemed to authorise the provision of such special roads by the local roads authority and the Secretary of State respectively.

(2) Where an order is made in respect of a special road as mentioned in subsection (1)(a) above—

(a) where the Secretary of State has made an order under section 9 of this Act (a "section 9 order") in relation to that special road, the local roads authority may treat that order as if it were an order made by them and confirmed by the Secretary of State;

(b) any necessary planning permission (whether relating to the special road or the doing of anything authorised by virtue of the section 9 order) shall be deemed to have been granted to the local roads authority; and

(c) where an environmental statement has been published in respect of the project, the local roads authority shall not be required to publish a further environmental statement.

(3) Where an order is made in respect of a special road as mentioned in subsection (1)(b) above—

(a) if the local roads authority have made a section 9 order which has been confirmed by the Secretary of State, the Secretary of State may treat that section 9 order as if it were an order made by him; and

(b) where an environmental statement has been published in respect of the project, the Secretary of State shall not be required to publish a further environmental statement,

but otherwise the Secretary of State shall in all respects be in the same position in relation to that special road as the local roads authority would have been if such order had not been made.

12D Application of section 112 to orders under sections 12A, 12B, 12C and 12E.

The provisions of section 112 of this Act shall apply, subject to such modifications as the Secretary of State may by order specify, to roads, proposed roads and special roads such as may be mentioned in orders made under sections 12A, 12B, 12C and 12E of this Act as they apply to roads mentioned in the said section 112.

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12E Further power of Secretary of State as respects proposed roads and special road schemes.

(1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that any proposed road to be constructed by a local roads authority should become a trunk road, but the condition mentioned in subsection (1)(a)(ii) of section 12B of this Act is not satisfied in relation to such proposed road, he may, notwithstanding the provisions of that subsection, by order direct that the proposed road shall become a trunk road.

(2) The provisions of paragraphs (a) and (b) of section 12B(2) of this Act shall apply where an order is made under subsection (1) above as they apply where an order is made under subsection (1)(a) of that section.

(3) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that a special road in respect of which a section 7 scheme has been made by a local roads authority but not confirmed by the Secretary of State should be provided by him, he may, notwithstanding the provisions of subsection (1)(b) of section 12C of this Act, by order, direct that he shall be authorised to provide such special road by virtue of such scheme.

(4) The provisions of paragraphs (a) and (b) of section 12C(3) of this Act shall apply where an order is made under subsection (3) above as they apply where an order is made under subsection (1)(b) of that section.

(5) An order under subsection (1) or (3) above may include provision specifying the extent to which compliance before the making of that order with any statutory requirement in relation to the proposed road or, as the case may be, special road shall be deemed to satisfy for all purposes any statutory requirement which the Secretary of State would, apart from such provision, have been required to comply with in relation to that proposed road or special road.

(6) As from the date of an order under subsection (1) or (3) above, the proposed road or, as the case may be, special road shall be deemed always to have been a proposed road to be constructed by the Secretary of State or a special road which the Secretary of State is authorised to provide.

12F Further provisions as to orders.

An order under section 12A, 12B, 12C, 12D or 12E of this Act may not be made so as to take effect more than 3 years after 1st April 1996.**]**

PART II

PRIVATE ROADS

13 Making up and maintenance of private roads.

(1) The local roads authority may by notice to the frontagers of a private road require them to make the road up to, and maintain it at, such reasonable standard as may be specified in the notice.

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(2) Without prejudice to the generality of subsection (1) above there may be required by notice under that subsection work as regards levelling, paving, lighting or drainage.

(3) A notice under subsection (1) above shall, without prejudice to the generality of section 136 of this Act, specify—

(a) the local roads authority's estimate of the cost of the work required by the notice;

(b) a scheme whereby the cost is to be apportioned among the frontagers (being a scheme which is equitable in the opinion of the authority and which describes for each frontager the proportion of cost to be paid by him); and

(c) the dates by which the work shall be commenced and completed:

Provided that the authority may subsequently by notice allow a postponement of commencement or completion (or both).

(4) Without prejudice to subsection (5) below, a requirement imposed on frontagers by a notice under subsection (1) above may, if the requisite number of the frontagers so agree, be fulfilled on behalf of the frontagers by the local roads authority.

(5) Where the date specified in a notice under subsection (1) above for the commencement or, as the case may be, completion of the work specified in the notice expires without the work having been commenced or, as the case may be, completed, the local roads authority may carry out or complete the work.

(6) Without prejudice to section 14 of this Act, the expenses incurred by a local roads authority under subsection (4) or (5) above shall be recoverable from the frontagers in accordance with the scheme referred to in the notice mentioned in those subsections.

(7) A person upon whom a notice has been served under subsection (1) above may within 28 days of such service appeal by summary application to the sheriff; and the sheriff's decision on the matter shall be final.

(8) In subsection (4) above, "the requisite number" has the same meaning in relation to the private road and the land fronting or abutting the road as it has in section 1(7) of this Act in relation to the road and land mentioned in that section.

14 Power to contribute to, or carry out, work on private roads.

(1) A local roads authority may, if they think fit, pay the whole or any part of any expenditure incurred by a person in making up or maintaining a private road; and may, without prejudice to section 15 of this Act, at their own expense carry out any repair which they consider necessary in relation to a private road after giving such notice as is reasonable in the circumstances.

(2) For the avoidance of doubt—

(a) a local roads authority do not incur responsibility for making up or maintenance of the private road by reason only of their acting under subsection (1) above;

(b) the carrying out of work by a local roads authority under subsection (1) above does not create any implication that the private road, on completion of the work, is of a standard satisfactory to the authority for the purposes of section 16(1)(b) of this Act.

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15 Emergency work in relation to private roads.

(1) The local roads authority may, if in their opinion work in relation to a private road is necessary because circumstances constituting an emergency (other than an emergency constituted by such danger as is mentioned in section 91 of this Act) have arisen, carry out that work; and they shall not require to give any notice of their intention in that regard other than such (if any) as those circumstances appear to them to admit.

(2) The expenses of carrying out work under subsection (1) above shall be borne by the authority.

16 Application for private road to become public road.

(1) If a private road—

(a) is of such standard as has last been required by relevant notice under section 13(1) of this Act; or

(b) where no such standard has been so required, is of a standard satisfactory to the local roads authority,

then, if application is made to them under this subsection by the requisite number of frontagers for such addition, the authority shall, subject to subsection (4) below, within 12 months of the application add the road to their list of public roads:

Provided that where the requirement mentioned in paragraph (a) above has been fulfilled by the authority under subsection (4) of the said section 13 or the work specified in the notice has been carried out or completed by them under subsection (5) thereof no such application shall be required and the authority shall add the road to the said list forthwith.

(2) If, on completion of a private road constructed in accordance with a construction consent granted under section 21(3) of this Act, the person granted such consent applies, as respects the road, under this subsection to the local roads authority they shall within 12 months of the application add the road to their list of public roads.

(3) Any dispute in relation to—

(a) subsection (1) above, between the local roads authority and any frontager; or

(b) subsection (2) above, between that authority and a person applying (or purporting to apply) under that subsection,

shall be determined by arbitration by a single arbiter appointed in default of agreement by the sheriff on the application of either party.

(4) Without prejudice to any addition made under subsection (1) or (2) above, the said subsection (1) or as the case may be (2) does not impose a duty as respects a road which within the period there allowed for such addition deteriorates to a standard below that mentioned in the said subsection (1).

(5) In the foregoing provisions of this section—

"road" does not include a footpath; and

"the requisite number" has the same meaning in relation to that road and the land fronting or abutting the road as it has in section 1(7) of this Act in relation to the road and land mentioned in that section.

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17 Security for private road works relating to housing.

(1) Subject to subsection (3)(a) below, this section applies where—

(a) it is proposed to—

(i) erect a building; or

(ii) alter an existing building which is not a private dwellinghouse,

for use as a private dwellinghouse; and

(b) the land comprising the building fronts or abuts or, as the case may be, will front or abut a private road which—

(i) has not been constructed; or

(ii) is not of a standard mentioned in section 16(1) of this Act.

(2) The Secretary of State may by regulations make provision for securing that, in a case to which this section applies, the erection or alteration shall not commence until—

(a) any construction consent required for the road under section 21(1) of this Act has been obtained; and

(b) there has been deposited with the local roads authority, or secured to their satisfaction, a sum sufficient to meet the cost of constructing the road in accordance with the construction consent or, as the case may be, of making the road up to the standard mentioned as aforesaid.

(3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may—

(a) provide that this section—

(i) shall not apply to a particular class or particular classes of dwellinghouse; or

(ii) shall apply to any such class or classes subject to such modifications as the regulations may specify;

(b) provide that in a case to which this section applies a person carrying out works in contravention of, or otherwise than in accordance with, the regulations commits an offence and is liable on summary conviction to a fine not exceeding the statutory maximum and conviction on indictment to a fine;

(c) provide that—

(i) in a case where circumstances mentioned in provisions made under paragraph (d)(vi) below have arisen the local roads authority shall construct the road or, as the case may be, make it up to the standard mentioned in section 16(1) of this Act; and

(ii) subsection (2) of section 20 of this Act shall apply to a road so constructed or made up as that subsection applies to a road constructed under subsection (1) of that section; and

(d) make provision as to—

(i) such deposit or security as is mentioned in subsection (2)(b) above;

(ii) circumstances in which such deposit or security may be dispensed with;

(iii) calculation of the amount of the sum mentioned in the said subsection (2)(b) and the apportionment of that amount where more than one person is liable, by virtue of this section, to deposit or secure that sum in respect of the same road;

(iv) conditions under which the local roads authority shall hold any such deposit;

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(v) repayment of such deposit or discharge of such security; and

(vi) circumstances in which, and procedure by which, such deposit may be applied or, as the case may be, such security may be called up and the proceeds thereof applied, to meet the cost of the works in respect of which the deposit or security was held.

(4) Any dispute between a local roads authority and any person as to a matter arising from the foregoing provisions of this section or from regulations made thereunder shall be determined by a single arbiter appointed, in default of agreement, by the sheriff on the application of either party.

(5) In subsection (3) above, "the statutory maximum" has the meaning ascribed to it by section 74 of the [M12]Criminal Justice Act 1982.

Marginal Citations

M12 1982 c. 48.

18 Power of local roads authority to take over footpaths associated with development.

(1) A local roads authority may enter into an agreement—

(a) with every owner of land which is associated with or forms part of a development and on which there is, or is to be constructed, a footpath so associated; or

(b) where a person other than the owner of the land is or will be responsible for the maintenance or construction of the footpath, with that other person,

whereby, if the footpath, is made up to the satisfaction of the authority, they shall enter it in their list of public roads; but where the owner or other person fails within such reasonable period as may be specified in the agreement to make up the footpath to the authority's satisfaction, they may themselves carry out the work and recover from him such expenses as are reasonably incurred in so doing.

(2) Subject to subsection (3) below, where as regards an existing footpath a local roads authority are of the opinion that the obtaining of such agreement as is mentioned in subsection (1) above is not reasonably practicable, they may notwithstanding the absence of such agreement, enter the footpath in their list of public roads.

(3) A local roads authority shall not exercise the power conferred on them by subsection (2) above unless they have taken all reasonable steps to ascertain the identity of every owner of the land on which the footpath is, or is to be constructed and have obtained the consent to such exercise of a majority of those owners whose identities they have ascertained.

(4) In the foregoing provisions of this section "development" means residential or commercial building operations which will be, are being, or have been, carried out on land.

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PART III

NEW ROADS

19 Construction of new roads by Secretary of State as roads authority.

(1) Subject to, subsections (2) and (3) below, the Secretary of State, with the consent of the Treasury, may construct new trunk and other roads.

(2) Without prejudice to section 5(4) and (5) of this Act, before constructing a road other than a trunk road under subsection (1) above, the Secretary of State shall consult every local roads authority in whose area any part of the road will be situated and shall consider any objections to the road which he may receive from them.

(3) Without prejudice to section 7(3) and (5)(a) of this Act, the "other roads" referred to in subsection (1) above do not include special roads.

20 Construction of new roads other than special roads by local roads authority; and entry of such new roads and of special roads in list of public roads.

(1) Without prejudice to section 7(3) and (5)(a) of this Act, a local roads authority may construct in their area any new road, other than a special road, which they consider requisite.

(2) When such construction by them as is mentioned in subsection (1) above or in the said section 7(5)(a) is completed, the local roads authority shall enter the road (or as the case may be special road) in their list of public roads.

Modifications etc. (not altering text)
C12 S. 20(2) extended by S.I. 1985/2080, **reg. 14**(*b*)

[F6 20A Environmental assessment of certain road construction projects.

(1) In any case where the Secretary of State has under consideration the construction of a new road, he shall determine before the relevant date whether or not the project falls within Annex I or Annex II to Council Directive No.85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

(2) If he determines that the project falls within Annex I, or that it falls within Annex II and has such characteristics that it should be made subject to an environmental assessment, he shall publish not later than the relevant date an environmental statement, that is, a statement containing the information referred to in Annex III to the Directive to the extent that he considers—

(a) that it is relevant to the specific characteristics of the project and of the environmental features likely to be affected by it; and

(b) that (having regard in particular to current knowledge and methods of assessment) the information may reasonably be gathered,

including at least—

(i) a description of the project comprising information on the site, design and size of the project;

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(ii) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;

(iii) the data required to identify and assess the main effects which the project is likely to have on the environment;

(iv) a non-technical summary of the information mentioned in paragraphs (i) to (iii) above.

[F7](2A) **[** Any project for the construction of a special road which falls within Annex II to the Directive shall be treated as having such characteristics that it should be made subject to an environmental assessment in accordance with the Directive.**]**

(3) In this section "the relevant date" means the date of publication of the draft order, or draft scheme, relating to the construction of the road.

(4) If the Secretary of State publishes an environmental statement under this section, he shall ensure that the public concerned is given an opportunity to express an opinion before the project is initiated.

(5) If on completion of the project any part of the road would lie on, or within 100 metres of, land comprised—

(a) in a national scenic area designated under section 262C of the Town and Country Planning (Scotland) Act 1972;

(b) in a conservation area within the meaning of the said Act of 1972; or

(c) in an area notified under section 28 of the Wildlife and Countryside Act 1981 as an area of special scientific interest or in relation to which the Secretary of State has made an order under section 29 of that Act,

he shall ensure that the appropriate environmental body is given an opportunity to express an opinion before the project is initiated.

(6) In this Act "the appropriate environmental body" means—

[F8](a) **[** Scottish Natural Heritage, if the proposal relates to land falling within paragraph (a) or (c) of subsection (5) above; and**]**

(b) the planning authority, if it relates to land falling within paragraph (b); [F9]. . .

(c) . . . . . .

(7) This section does not apply where the draft order or draft scheme is published before the coming into force of the Environmental Assessment (Scotland) Regulations 1988.**]**

Textual Amendments

F6 S. 20A inserted by S.I. 1988/1221, **reg. 70**

F7 S. 20A(2A) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 42(1)**(with saving s. 47(4)); S.I. 1991/2286, art. 2(1), **Sch. 1**

F8 S. 20A(6)(a) substituted (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1, 130), s. 27(1), **Sch. 10 para. 11(2)**; S.I. 1991/2633, **art. 4**

F9 S. 20A(6) word "and" and para. (c) repealed (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, 46:1, 130), s. 27(2), **Sch. 11**; S.I. 1991/2633, **art. 4**

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VALID FROM 01/08/1999

[F10 20B Projects with significant transboundary effects

(1) This section applies if–

(a) it appears to the Scottish Ministers that a project to which section 20A(2) of this Act applies is likely to have a significant effect on the environment in another EEA State; or

(b) an EEA State the environment of which is likely to be significantly affected by such a project asks the Scottish Ministers for information about it.

(2) The Scottish Ministers shall give to the EEA State–

(a) a description of the project together with any information available to them which suggests that it may have a significant effect on the environment in the EEA State;

(b) any information which they have about the nature of the decision which may be taken on the project;

(c) where they consider it appropriate, information about the environmental impact assessment procedure; and

(d) a reasonable period within which to indicate whether the EEA State wishes to participate in that procedure of this Act.

(3) Subsection (2)(a) and (b) above must be complied with no later than the date of publication of the notice referred to in section 20A(3) of this Act.

(4) If the EEA State indicates that it wishes to participate in the environmental impact assessment procedure, the Scottish Ministers shall give it–

(a) a copy of the environmental statement where that has not already been given to that EEA State; and

(b) any information about the environmental impact assessment procedure which they consider it appropriate to give and which has not already been made available to that EEA State.

(5) The Scottish Ministers shall also–

(a) arrange for the information which they have given to the EEA State to be made available within a reasonable time to–

(i) the authorities referred to in Article 6(1) of the Directive; and

(ii) members of the public in the EEA State who are likely to be concerned; and

(b) ensure that those authorities and the members of the public concerned are given a reasonable opportunity to express an opinion before they decide whether to proceed with the project.

(6) In accordance with Article 7(4) of the Directive, the Scottish Ministers shall–

(a) enter into consultation with the EEA State concerned regarding in particular the potential significant effects of the project on the environment of that EEA State and the measures envisaged to reduce or eliminate those effects; and

(b) agree with the EEA State a reasonable period for that consultation.

(7) Where an EEA State has been consulted in accordance with subsection (4) above, the Scottish Ministers shall inform the EEA State of the decision and give it copies

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of the documents referred to in paragraph 7(1B) or 13(1B) as the case may be of Schedule 1 to this Act.

(8) In this section "EEA State" means a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 [M13] as adjusted by the Protocol signed at Brussels on 17th March 1993 [M14].**]**

Textual Amendments

F10 Ss. 20A and 20B substituted for s. 20A (1.8.1999) by S.S.I. 1999/1, **reg. 49**

Marginal Citations

M13 Cm 2073.

M14 Cm 2183.

21 Requirement of consent for new roads built other than by roads authority.

(1) A person other than a roads authority who wishes to construct a new road or an extension of an existing road shall before commencing such construction obtain the consent (in this section and in sections 22 and 23 of this Act referred to as "construction consent") thereto of the local roads authority.

(2) An application for construction consent—
- (a) shall be in writing in such from as the local roads authority may determine; and
- (b) shall by notice be intimated by the applicant to—
  - (i) the owners of all land which would front, abut or be comprehended in the new road or the extension of the existing road; and
  - (ii) such other persons, if any, as the authority may, for the purposes of the application, specify..

(3) The local roads authority shall consider any written representations, made to them within 28 days of the date of intimation, by any person to whom an application has been intimated under subsection (2)(b) above, and may thereafter—
- (a) subject to subsection (4) below, grant construction consent, either without conditions or subject to such conditions as they think fit; or
- (b) refuse construction consent;

and before granting the consent subject to a condition (other than the condition mentioned in subsection (4) below) or refusing consent, the authority shall allow the person applying for the consent an opportunity to be heard by them as regards his application.

(4) It shall be a condition of any construction consent that the construction be completed within such period, being a period of not less than three years from the date on which the consent is given, as the local roads authority may specify in writing in the consent; but the authority may subsequently by notice extend the period so specified.

(5) Without prejudice to section 22(b) of this Act, where a condition imposed by a construction consent has been contravened or not complied with, the local roads authority may, by notice served on the person holding the consent, require him to bring the new road into conformity with the construction consent within such reasonable period as they shall specify in the notice.

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(6) An applicant for construction consent may, within 28 days of the date of the intimation to him of a decision of the local roads authority—

(a) refusing his application; or

(b) granting it subject to conditions other than a condition that the construction be completed within 3 years of the date on which the consent was given,

appeal to the Secretary of State in accordance with the procedure prescribed by any regulations under subsection (7) below.

(7) The Secretary of State may by regulations prescribe the procedure to be followed in relation to an appeal to him under subsection (6) above, and such regulations may, without prejudice to the foregoing generality, make provision for the determination of any such appeal by a person appointed by the Secretary of State and for the powers and duties of such a person in that regard.

(8) The determination of an appeal under subsection (6) above may allow or dismiss the appeal, may modify any part of the decision of the local roads authority and shall be final.

22 Offences in relation to construction of new roads.

Any person (other than a roads authority)—

(a) who constructs a new road or an extension of an existing road without construction consent; or

(b) who contravenes, or fails to comply with, a condition (other than such condition as is mentioned in section 21(4) of this Act) imposed by a construction consent,

commits an offence, which shall be triable either summarily or on indictment.

23 Power to stop up or temporarily close new road where construction consent absent or not conformed with.

(1) The local roads authority may stop up or temporarily close any new road which another person (other than a roads authority) has constructed—

(a) without construction consent; or

(b) in contravention of, or non-compliance with, a condition imposed by a construction consent.

(2) Stopping up or temporary closure under subsection (1) above may take place whether or not proceedings are pending under section 22 of this Act but shall be ended if, in any such proceedings, it is found—

(a) in a case where the stopping up or closure took place on the basis that there was no construction consent, that there was such consent; or

(b) in any other case, that there was no contravention of, or failure to comply with, the construction consent condition to which the proceedings relate.

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PART IV

IMPROVEMENTS AND MAINTENANCE

Levels

24 Alteration of levels of public roads.

Subject to any order under section 9 or 12 of this Act, the roads authority may raise or lower or otherwise alter, as they think fit, the level of a public road.

Modifications etc. (not altering text)

C13 S. 24 power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(c)**

Safety

25 Provision of footways.

A roads authority shall provide, wherever it appears to them necessary or desirable for the safety or convenience of pedestrians so to do, proper and sufficient footways for public roads.

Modifications etc. (not altering text)

C14 S. 25 power to contract out functions of Secretary of State (16.3.1996)by S.I. !996/878, art. 2, Sch. para. 5(d)

26 Pedestrian subways and footbridges.

The roads authority may, for the purpose of making the crossing of a public road less dangerous for pedestrians or of protecting traffic along the road from danger, construct, light, and maintain subways under, or footbridges over, the road for the use of pedestrians.

27 Dual carriageways, roundabouts and refuges.

The roads authority may construct and maintain works in the carriageway of a public road—

(a) along any length of the road for separating a part which is to be used by traffic moving in one direction from a part which is to be used (whether at all times or at particular times only) by traffic moving in the other;

(b) at junctions of the road for regulating the movement of traffic; or

(c) for providing places of refuge for the protection of pedestrians crossing the road.

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28 Fences etc. to safeguard persons using public roads.

The roads authority may, for the purpose of safeguarding persons using a public road, provide and maintain such raised paving, pillars, walls, rails, fences or barriers as they think necessary at any of the following places—

(a) between any of the following and any other of the following—

(i) a footway;

(ii) a footpath;

(iii) a cycle track;

(iv) a carriageway,

(b) along a cycle track so as to segregate classes of users thereof,

(c) where a footpath gives direct access to the road on the footpath at or near the point of access, or

(d) along the sides of bridges, embankments or other dangerous parts of the road.

Modifications etc. (not altering text)

C15 S. 28: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, arts. 2, **Sch. para. 5(e)**

29 Further provision as to fences.

(1) Subject to subsection (2) below, the roads authority may erect and maintain—

(a) fences or posts for the purpose of preventing access to a road or proposed road; and

(b) fences, posts, stones or other markers for the purpose of delimiting the road or proposed road.

(2) The powers conferred by subsection (1) above shall not be exercised so as to—

(a) interfere with a fence or gate required for the purposes of agriculture;

(b) obstruct a public right of way;

(c) obstruct a means of access for the construction, formation or laying out of which planning permission has been granted under Part III of the [M15]Town and Country Planning (Scotland) Act 1972 (general planning control) or under any enactment replaced by the said Part III; or

(d) obstruct any means of access which was constructed, formed or laid out before 1st July 1948, unless it was so constructed, formed or laid out in contravention of restrictions in force under section 1 or 2 of the [M16]Restriction of Ribbon Development Act 1935.

Modifications etc. (not altering text)

C16 S. 29: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(f)**

Marginal Citations

M15 1972 c. 52.

M16 1935 c. 47.

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Natural dangers

30 Works for protecting roads against hazards of nature.

Without prejudice to section 28 of this Act, but subject to section 31 thereof, the roads authority may, for the purpose of protecting a public road or proposed public road against snow, flood, landslide or other hazards of nature, provide and maintain such barriers or other works as they consider necessary.

Modifications etc. (not altering text)

C17 S. 30: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(g)**

31 Drainage of roads.

(1) The roads authority may, for the purpose of draining a public road or proposed public road or of otherwise preventing surface water from flowing onto it—

(a) construct or lay, in it or in land adjoining or lying near to it, such drains as they consider necessary;

(b) erect and maintain barriers in it or in such land as aforesaid to divert surface water into or through any existing drain;

(c) scour, cleanse and keep open all drains in it or in such land as aforesaid;

(d) drain surface water from it into any inland waters (whether natural or artificial) or tidal waters.

(2) Without prejudice to subsection (1)(c) above, where any drain referred to therein was constructed or laid by the roads authority, they shall scour, cleanse and keep it open.

(3) Before carrying out any works under this section, the roads authority shall serve on the owner and the occupier of the land affected notice of the intention to do so, describing the proposed works, and informing them that they may object to the proposed works by notice to the authority within 28 days of service of the notice.

(4) Where an owner or occupier of the land affected objects in accordance with subsection (3) above to the proposed works and the objection is not withdrawn, then—

(a) if the roads authority is the Secretary of State, he shall not carry out the proposed works without having considered the objection; and

(b) if the roads authority is a local roads authority, they shall not carry out the proposed works without the consent of the Secretary of State who may grant such consent either unconditionally or subject to such terms and conditions as he thinks fit and whose decision shall be final.

(5) If a person, without the consent of the roads authority, alters, obstructs or interferes with any drain or barrier which has been constructed, laid or erected by the authority in exercise of their functions under subsection (1) above or which is under their control, then—

(a) the authority may carry out any work of repair or reinstatement necessitated by his action and may recover from him the expenses reasonably incurred by them in so doing, and

(b) without prejudice to their right to exercise that power, he commits an offence.

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(6) In the foregoing provisions of this section, except where the context otherwise requires, "drain" includes a ditch, gutter, watercourse, bridge, culvert, tunnel, pipe or holding pond and any pumping machinery associated with any of those things.

32 Contributions to drainage works and flood prevention operations.

Where it appears to the roads authority that the execution of any drainage works under the [M17]Land Drainage (Scotland) Act 1958 or flood prevention operations under the [M18]Flood Prevention (Scotland) Act 1961 is desirable for the protection or enjoyment of a public road or proposed public road they may make such contributions as they think fit towards any expenses incurred in the execution and maintenance of those works.

Marginal Citations
M17 1958 c. 24.
M18 1961 c. 47.

33 Snow gates.

(1) Gates (hereafter in this section referred to as "snow gates") may be provided and maintained by the roads authority for the purpose of temporarily closing a road to vehicular traffic on any occasion when snow is rendering or has rendered that road unsafe for such traffic; and where in the opinion of a constable such an occasion has arisen as respects a road he (or, where the constable is a chief constable, a person acting on his behalf) may, until the road is once again safe for vehicular traffic, close and secure any snow gate on the road against all such traffic except that engaged in the provision or restoration of essential services.

(2) In subsection (1) above—

"constable" and "chief constable" shall be construed in accordance with sections 50 and 51 of the [M19]Police (Scotland) Act 1967 (interpretation);

"engaged in the provision or restoration of essential services" means in the opinion of a constable so engaged; and

"safe" means in such opinion safe.

Marginal Citations
M19 1967 c. 77.

34 Clearance of snow and ice.

A roads authority shall take such steps as they consider reasonable to prevent snow and ice endangering the safe passage of pedestrians and vehicles over public roads.

Modifications etc. (not altering text)
C18 S. 34: power to contract out functions of Secretary of State (16.3.1996) S.I. 1996/878, art. 2, **Sch. para. 5(h)**

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Lighting

35 Provision of lighting by roads authorities.

(1) A local roads authority shall provide and maintain lighting for roads, or proposed roads, which are, or will be, maintainable by them and which in their opinion ought to be lit.

(2) In subsection (1) above, the reference to roads, or proposed roads, which will be maintainable by the local roads authority does not include a reference to—

(a) an existing road which is a prospective public road within the meaning of the **[**[F11]Part IV of the New Roads and Street Works Act 1991**]**;

(b) a new road in course of construction, or to be constructed, other than by or on behalf of the authority; or

(c) a road which would be maintainable by them only if application were made to them under section 16(1) of this Act.

(3) The Secretary of State may provide and maintain lighting for roads, or proposed roads, which are, or will be, maintainable by him.

(4) A local roads authority may, within their area, provide and maintain lighting for any road, or proposed road, which in their opinion ought to be lit and as regards which no duty is imposed on them by subsection (1) above.

(5) Without prejudice to the generality of this section and after giving 28 days notice to the owner or occupier of any land affected, a roads authority may, in acting under subsection (1), (3) or (4) above, fix to rails, walls or buildings fronting or abutting the road or proposed road, such lamps and related structures as they consider requisite.

(6) No compensation shall be payable by a roads authority by reason only of—

(a) the maintenance of lighting under subsection (1), (3) or (4) above; and

(b) such fixing as is mentioned in subsection (5) above.

(7) A person upon whom a notice has been served under subsection (5) above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Textual Amendments

F11 Words in s. 35(2)(a) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 81**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C19 S. 35 power to contract out functions of the Secretary of State (16.3.1996) by S.I. 1996/878, arts. 2, **Sch. para. 5(i)**

Road humps

36 Construction of road humps by roads authority.

A roads authority may construct road humps in a road maintainable by them if—

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(a) the road is subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or

(b) **[**[F12](whether or not the road is subject to such a limit)**]**the road humps are authorised.

Textual Amendments

F12 Words in s. 36(b) inserted (1. 7. 1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 38(1)**; S.I. 1992/1286, art. 2, **Sch.**, with S.I. 1992/1410

37 Consultation and local inquiries as regards road humps.

(1) Where a roads authority propose to construct a road hump under section 36 of this Act, they shall consult with—

(a) the chief officer of police for the area in which the road concerned is situated; and

(b) such other persons or bodies as may be prescribed by regulations made by the Secretary of State.

(2) The roads authority shall also—

(a) publish in one or more newspapers circulating in the area in which the road concerned is situated; and

(b) place at appropriate points on that road,

notice of the proposal stating the nature, dimensions and location of the proposed road hump and the address to which and the period within which any objections to the proposal may be sent.

(3) The period stated in the notice under subsection (2) above shall be not less than 28 days beginning with the date on which notice is first published in accordance with paragraph (a) of that subsection.

(4) The roads authority shall consider any objections sent to them in accordance with a notice under subsection (2) above and may, if they think fit, cause a local inquiry to be held.

(5) Subsections (2) to (8) of section 210 of the [M20]Local Government (Scotland) Act 1973 (provisions as to inquiries) shall apply to an inquiry under subsection (4) above as they apply to a local inquiry under that section, but with such modifications as may be prescribed by regulations made by the Secretary of State.

(6) Before making regulations under this section the Secretary of State shall consult such representative organisations as he thinks fit.

Marginal Citations

M20 1973 c. 65.

38 Regulations concerning construction and maintenance of road humps.

(1) The Secretary of State may by regulations make such provision in relation to the construction and maintenance of road humps as appears to him to be necessary or

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expedient in the interests of safety and the free movement of traffic, and may in particular—

(a) provide that road humps shall be constructed only on roads of such descriptions and in such circumstances as may be prescribed by the regulations;

(b) impose requirements as to—

(i) the nature, dimensions, location and spacing of road humps;

(ii) the placing of signs of such type or character as may be so prescribed;

(iii) the carrying out and maintenance of other ancillary or consequential works.

(2) Before making any regulations under this section the Secretary of State shall consult such representative organisations as he thinks fit.

(3) Regulations under this section shall not apply where a road hump is authorised but conditions attached by the Secretary of State to the authorisation may, in particular, relate to any of the matters with respect to which regulations may be made under this section.

39 Status of road humps.

(1) Where a road hump conforms to regulations under section 38 of this Act and the further condition mentioned in subsection (2) below as being applicable is satisfied, the road hump shall not be treated as constituting an obstruction to the road but as part of the road, so that in particular—

(a) the obligation of any person to maintain the road, and

(b) the obligation of any person having power to break open the road to make good any damage or otherwise reinstate the road,

extend to maintaining or, as the case may be, to making good any damage to, or otherwise reinstating, the road hump.

(2) The further condition applicable is that either—

(a) the road concerned is for the time being subject to a statutory speed limit for motor vehicles of 30 miles per hour or less; or

(b) the road hump is authorised.

(3) In relation to an authorised road hump the reference in subsection (1) above to conformity with regulations shall be construed as a reference to conformity with the conditions attached to the authorisation.

(4) In so far as it does not apply apart from this subsection **[**[F13]section 117 of the New Roads and Street Works Act 1991 (restricting road works following substantial works for roads purposes)**]** applies in relation to the construction, maintenance and removal of a road hump as if the works were executed for road purposes and were mentioned in **[**[F13]subsection (3) of that section**]** and as if the person executing them were the promoting authority within the meaning of that **[**[F13]section**]**.

Textual Amendments

F13 Words in s. 39(4) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para.82**; S.I. 1992/2990, art. 2(2), **Sch. 2**

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[F14 Other traffic calming works

Textual Amendments

F14 Heading before ss. 39A-39C inserted (16.5.1992) by Traffic Calming Act 1992 (c. 30), ss. 2(1), 3, **Sch. 2**

F15 39A Powers to carry out traffic calming works.

(1) A roads authority may, in a road maintainable by them, construct traffic calming works which—

(a) are of a description prescribed by regulations under section 39B of this Act, or

(b) are authorised,

and may remove such works (whenever constructed).

(2) A roads authority shall not exercise the powers conferred by subsection (1) above except in accordance with any requirements imposed by the regulations or authorisation concerned.

(3) Requirements imposed by an authorisation given under this section may relate to any matter with respect to which regulations may be made under section 39B of this Act.

(4) Nothing in this section shall prejudice any power of a roads authority to construct or remove traffic calming works which are neither of a description prescribed by regulations under section 39B of this Act nor authorised.

Textual Amendments

F15 S. 39A inserted (16. 5. 1992) by Traffic Calming Act 1992 (c. 30), ss. 2(1), 3, **Sch. 2**

F16 39B Prescribing of works.

(1) The Secretary of State may make regulations—

(a) prescribing any description of traffic calming works for the purposes of section 39A of this Act, and

(b) making such provision (if any) as appears to him necessary or expedient in relation to the construction, maintenance and removal of works of a prescribed description.

(2) Regulations under this section may in particular—

(a) provide that works of a prescribed description shall be constructed only in roads of such descriptions and in such circumstances as may be prescribed by the regulations;

(b) impose requirements as to—

(i) the dimensions and location of works;

(ii) the placing of signs;

(iii) the carrying out and maintenance of ancillary or consequential works;

(c) impose requirements as to consultation and publicity in respect of proposed works.

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Textual Amendments

F16 S. 39B inserted (16. 5. 1992) by Traffic Calming Act 1992 (c. 30), ss. 2(1), 3, **Sch. 2**

[F17]39C Status of works authorised by section 39A.

Works (whenever constructed) of a description prescribed by regulations under section 39B, or authorised under section 39A, of this Act, which conform to any requirements imposed by the regulations or authorisation shall not be treated as constituting an obstruction to the road but as part of the road, so that in particular—

(a) the obligation of any person to maintain the road, and

(b) the obligation of any person having power to break open the road to make good any damage or otherwise reinstate the road,

extend to maintaining or, as the case may be, making good any damage to or otherwise reinstating the works.**]**

Textual Amendments

F17 S. 39C inserted (16. 5. 1992) by Traffic Calming Act 1992 (c. 30), ss. 2(1), 3, **Sch. 2**

[*[F18]Interpretation: Road humps and other traffic calming works****]***

Textual Amendments

F18 Heading after s. 39C inserted (16.5.1992) by Traffic Calming Act 1992 (c. 30), ss. 2(1), 3, **Sch. 2**

40 Interpretation of sections 36 to [F19]39C].

In sections 36 to **[**[F19]39C**]** of this Act—

"authorised" means specially authorised by the Secretary of State;

"motor vehicle" has the same meaning as in the [M21]Road Traffic regulation Act 1984;

"road hump" means an artificial hump which is in, or on the surface of, a road and which is designed to control the speed of vehicles; and references to a road hump include references to any other works (including signs or lighting) required in connection with such a hump; [F20]. . .

"statutory", in relation to a speed limit, means having effect by virtue of an enactment **[**[F21]other than section 84(1)(b) or (c) of the Road Traffic Regulation Act 1984 (temporary and variable speed limits)**][**[F22]; and

"traffic calming works", in relation to a road, means works affecting the movement of vehicular and other traffic for the purpose of promoting safety or preserving or improving the environment through which the road runs.**]**

Textual Amendments

F19 Words in s. 40 substituted (16.5.1992) by virtue of Traffic Calming Act 1992 (c. 30), **ss. 2(a)**, 3

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F20 Words in s. 40 ceased to have effect (16.5.1992) by virtue of Traffic Calming Act 1992 (c. 30), **ss. 2(b)**, 3

F21 S. 40: words in definition of "statutory" added (1.7.1992) by Road Traffic Act 1991 (c. 40, 107:1), s. 48, **Sch. 4 para. 38(2)**; S.I. 1992/1286, art. 2, **Sch.** (with S.I. 1992/1410)

F22 Words in s. 40 added (16.5.1992) by Traffic Calming Act 1992 (c. 30), **ss. 2(c)**, 3

Modifications etc. (not altering text)

C20 S. 40 definition of "road hump" applied (14.7.1992) by New Roads and Street Works Act 1991 (c. 22, SIF 58, 108), **s. 145(3)(d)**, (with saving s. 167(4)(5)); S.I. 1992/1671, art. 2, **Sch.**

Marginal Citations

M21 1984 c. 27.

Cattle-grids

41 Provision of cattle-grids and by-passes.

(1) Where, whether on the representations of owners or occupiers of agricultural land or otherwise, and after such consultation with any such owners and occupiers as the roads authority consider requisite, it appears to the authority expedient so to do for controlling the passage of animals along a road, the authority may, subject to this section and sections 42 to 47 of this Act, provide and maintain a cattle-grid in the road, or partly in the road and partly in adjoining land; and such provision and maintenance may take place whether the road is in existence and open to public traffic or is a proposed road in course of construction.

(2) Where the roads authority provide a cattle-grid under this Act they shall also provide, either by means of a gate or other works on the road (or proposed road) or by means of a by-pass, or partly by one of those means and partly by the other, facilities for the passage under proper control of animals and all other traffic unable to pass over the cattle-grid, being traffic entitled by law to go along the road (or, where the road is a proposed road, which will on completion of that road be so entitled); and the authority shall maintain the facilities so provided.

(3) Subject to subsection (4) below, subsection (1) and (2) above do not confer power—

(a) to place any part of a cattle-grid on land not forming part of the road and not belonging to the authority; or

(b) to provide a by-pass over land not belonging to the authority,

except in so far as is authorised by any such agreement as is provided for by section 46 of this Act.

(4) Where, after complying with Schedule 4 to this Act, the authority determine, as respects any common or waste land adjoining the road or adjacent thereto, that it is expedient so to do, they may place any part of a cattle-grid, or provide a by-pass, on any of that land notwithstanding that the land does not form part of the road and does not belong to the authority.

(5) Without prejudice to subsection (3) above, the authority shall not provide a by-pass along any part of a road other than the road for which the cattle-grid is being provided unless, after complying with Schedule 4 to this Act, they determine that it is expedient to provide that by-pass.

(6) In this Act—

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"cattle-grid" means a device designed to prevent the passage of animals, or animals of any particular description, but to allow the passage of all or some other traffic, and includes any fence or other works necessary for securing the efficient operation of the said device; and

"by-pass", in relation to a cattle-grid provided for any road, means a way, over land not comprised within the limits of the road, for the traffic for which the by-pass is provided, with a public right of passage there-over for that traffic, or (if any part of the by-pass is provided along an existing road) for that traffic and for any other traffic entitled to use the road before the by-pass was provided.

(7) The roads authority may provide and maintain on a by-pass any gate or other works necessary for the proper control of traffic and the efficient operation of the cattle-grid for which the by-pass is provided.

(8) The roads authority may alter or improve any cattle-grid, by-pass, gate or other works provided under this section, but not so as to prevent traffic of any description which before the alteration or improvement could lawfully have gone along the road (either by passing over the cattle-grid or by going through any gate or along any by-pass provided under subsection (2) above) from so going along the road.

(9) Without prejudice to subsection (1) and (2) of this section, in subsections (3) to (7) of this section and in Schedule 4 to this Act references to a road shall be construed as including references to a proposed road.

42 Removal of cattle-grids and discontinuance of by-passes.

(1) Where it appears to the roads authority, after such consultation with owners and occupiers of agricultural land as the authority consider requisite, that a cattle-grid provided under this Act is no longer required, the authority may remove the cattle-grid and any gate or other works on the road which have been provided for use in connection with the cattle-grid, and shall make good the site thereof.

(2) Where a by-pass has been provided for use in connection with a cattle-grid and the authority remove the cattle-grid, they may direct that the by-pass shall be discontinued and may, where they give such a direction, remove all or any of the gates or other works provided for the purposes of the by-pass.

(3) If a direction under subsection (2) above so provides, then subject to subsection (4) below, as from such date as may be specified in the direction the public right of passage over the by-pass shall be extinguished.

(4) Where the whole or any part of a by-pass has been provided along an existing road then—

(a) notwithstanding subsection (3) above, a direction under subsection (2) above shall not extinguish any right of passage which existed before the by-pass was provided; and

(b) if the cattle-grid for which the by-pass was provided is removed, as soon as may be thereafter the authority shall (whether or not they direct that the by-pass shall be discontinued, but without prejudice to their powers under subsection (2) above to remove gates or other works if they so direct) remove so much of the gates or other works provided for the purpose of the by-pass as obstructs the exercise of the right of passage which existed before the by-pass was provided.

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43 Maintenance of cattle-grids and by-passes.

For the purposes of maintenance and management (including any liability in respect of loss, injury or damage arising therefrom) any cattle-grid, by-pass, gate or other works provided under sections 41 to 47 of this Act shall be deemed to be vested in the roads authority.

44 Exercise of powers in respect of cattle-grids etc. by agreement between neighbouring authorities.

(1) Where a public road is intersected, joined or continued by a road for which some authority other than the roads authority for the first-mentioned road are the roads authority, the following provisions of this section shall have effect.

(2) The two authorities may enter into an agreement as to the exercise, by one, of the other's powers under sections 41 and 42 of this Act; and any such agreement may provide for the defraying by the one of the whole or any part of the expenses incurred by the other in consequence of the agreement.

(3) An authority shall not unreasonably refuse to enter into an agreement under this section; and if any question arises as to the terms (including terms as to payments) to be included in such an agreement, or whether an authority has unreasonably refused to enter into such an agreement, the question shall be determined by arbitration.

(4) Any question which is required by this section to be determined by arbitration shall be determined by a single arbiter appointed, in default of agreement, by the Court of Session, or by the sheriff, on the application of either party to the question.

45 Supersession of gates by cattle-grids.

(1) Where—

(a) a person has the right to instal a gate in a road, and

(b) the roads authority providing or proposing to provide a cattle-grid in the road under section 41 of this Act determine, after complying with the provisions of Schedule 4 to this Act, that the purpose for which that right is exercisable will be adequately achieved by the provision of the cattle-grid,

the right shall not be exercisable, so long as the cattle-grid is provided, except with the approval of the authority, and they may require that any gate installed in the exercise of the right before the provision of the cattle-grid shall be removed or may themselves remove any such gate.

(2) The authority shall on demand repay any expenses reasonably incurred in removing a gate in compliance with a requirement under subsection (1) above.

(3) Where in pursuance of subsection (1) above a gate has been removed (whether by, or in compliance with a requirement of, the authority) and they subsequently remove the cattle-grid then, if within 12 months after the removal of the cattle-grid any person reinstals a gate in the exercise of a right the exercise of which was suspended while the cattle-grid was provided, the authority shall on demand repay the expenses reasonably incurred in reinstalling the gate.

(4) No objection shall be made or proceedings brought in respect of the purported exercise by the roads authority of their powers under subsection (1) above as respects any gate on the ground that no right to instal the gate existed; but the purported exercise by the

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authority of their powers under that subsection shall not affect the question whether any such right existed, or prejudice the powers of the authority or any other person under any enactment or rule of law to protect public rights of way or to prevent or remove obstructions.

46 Agreements for use of land for cattle-grids or by-passes.

(1) The roads authority may, for the purpose of providing, altering or improving a cattle-grid or by-pass under the powers conferred by this Act, enter into an agreement with persons having an interest in any land for the use of the land for that purpose; and there shall be exercisable by the authority and the public such rights over the land as may be specified in the agreement.

(2) An agreement under subsection (1) above—
- (a) may contain provisions for payment to persons who are parties to it in consideration of the use of the land or otherwise in respect of their entering into the agreement; and
- (b) shall not operate so as to prejudice the rights of any person not a party thereto or confer upon any other person any right against him.

(3) Section 5(3) and (4) of, and paragraph 4 of Schedule 2 to, the [M22]Forestry Act 1967 (enforcement of forestry dedication agreements and classes of person who may enter into such agreements) shall apply in relation to agreements under this section as they apply in relation to forestry dedication agreements, but with the substitution for the reference in the said section 5(3) to the Forestry Commissioners of a reference to the roads authority.

Marginal Citations
M22 1967 c. 10.

47 Contributions towards expenditure of roads authorities in connection with cattle-grids.

(1) A roads authority may enter into an agreement with any person at whose instance a cattle-grid has been or is to be provided by them under this Act, or with any other person willing to make a contribution towards expenses of the authority under this Act in connection with a cattle-grid, for the making by that person of such a contribution (whether by a single payment or by periodical payments) of such amount as may be specified in the agreement and either towards such description of such expenditure as may be so specified.

(2) An agreement under this section may contain such incidental and consequential provisions as appear to the parties thereto expedient for the purposes of the agreement; and in particular such an agreement providing for a contribution towards the cost of installing a cattle-grid may provide for repayment of the contributions, to such extent as may be specified in the agreement, in the event of the cattle-grid being removed.

(3) In determining whether or not to provide a cattle-grid the roads authority shall be entitled to have regard to the extent to which persons who in the opinion of the authority will derive special benefit from the provision of the cattle-grid are willing to enter into agreements under this section.

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Miscellaneous improvements

48 Contributions towards expenditure on constructing or improving roads.

The roads authority may enter into an agreement with any person willing to contribute to the construction or improvement of a road and may have regard to the extent of the contributions (if any) obtainable by virtue of such agreements in determining whether to undertake the construction of effect the improvement.

49 Provision of bus shelters, etc. by local roads authorities.

(1) In the [M23]Local Government, (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958, for the words "local authority" wherever they occur other than the places mentioned in subsection (2) below there shall be substituted the words "local roads authority".

(2) The expected places referred to in subsection (1) above are—
- (a) the first place where the words "local authority" occur in section 1(2) of the said Act of 1958;
- (b) section 3(2) of that Act;
- (c) the first place where those words occur in section 4(1) of that Act; and
- (d) section 7(1) of that Act.

Marginal Citations
M23 1958 c. 50.

[F23 Equipment for detection of traffic offences]

Textual Amendments
F23 S. 49A and preceding cross-heading inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 40(2)**; S.I. 1992/1286, art. 2, **Sch**

[F24 49A Power to install equipment for detection of traffic offences.

A roads authority may install and maintain on or near a road structures and equipment for the detection of traffic offences.**]**

Textual Amendments
F24 S. 49A and preceding cross-heading inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 40(2)**; S.I. 1992/1286, art. 2, **Sch**

50 Planting of trees, shrubs and grass or other plants by roads authority.

(1) The roads authority may plant trees, shrubs, grass or other plants within, or partly within, the boundaries of a public road or of a proposed public road which is in course of construction; and may erect and maintain guards of fences, and otherwise do

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anything expedient, for maintenance and protection of trees, shrubs, grass and other plants there planted (whether or not by them).

(2) No such tree, shrub, grass other plant, guard or fence shall be planted (or as the case may be erected) or allowed to remain in such a situation as to hinder the reasonable use of the road (or proposed road) by persons entitled to the use thereof, or so as to be a nuisance or injurious to the owner or occupier of any land fronting or abutting the road (or proposed road).

(3) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunication apparatus) shall, subject to subsection (4) below, apply, for the purposes of any works which may be done in exercise of the powers conferred by this section, to the roads authority.

(4) Where the roads authority is the Secretary of State, sub-paragraph (8) of paragraph 23 of the telecommunications code (offence) shall be omitted for the purposes of the application of that paragraph to him by subsection (3) above.

Modifications etc. (not altering text)

C21 S. 50: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(j)**

51 Planting of trees, shrubs and grass or other plants by person other than roads authority.

(1) The roads authority may in writing authorise an owner or occupier of land adjoining a public road, or any other person, to plant or maintain trees, shrubs, grass or other plants within, or partly within, the boundaries of that road subject to such conditions as the authority may specify in the authorisation.

(2) The conditions referred, to in subsection (1) above may include a requirement that the authorised person give any written undertaking which, in the opinion of the authority, is necessary—

(a) to ensure the safety and convenience of road users; or

(b) to protect the apparatus of statutory undertakers.

(3) The roads authority may at any time withdraw an authorisation under subsection (1) above by giving 28 days notice to the authorised person; and such notice may require that person within the 28 days—

(a) to remove all or any of the trees, shrubs, grass or other plants to which the authorisation related; and

(b) to reinstate the road.

Modifications etc. (not altering text)

C22 S. 51 power to contract out functions to the Secretary of State (16.3.1996) by S.I. 1998/878, art. 2, **Sch. para. 5(k)**

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52 Power to execute works to mitigate adverse effect of constructing or improving etc. road.

(1) A roads authority may carry out on—
- (a) land acquired by them under section 106 of this Act;
- (b) other land belonging to them;
- (c) a road for which they are the roads authority;
- (d) a road which they have been authorised to improve or, as the case may be construct, by an order under section 9 or 12 of this Act.,

works for mitigating any adverse effect which the construction, improvement, existence or use of any road has or will have on the surroundings of the last mentioned road.

(2) Without prejudice to the generality of subsection (1) above, the works that may be carried out under that subsection include the planting of trees. shrubs or plants of any other description and the laying out of any area as grassland.

(3) A roads authority may develop or redevelop land acquired by them under section 106 of this Act, or any other land belonging to them, for the purpose of improving the surroundings of a road or proposed road.

53 Agreements as to use of land near roads.

(1) For the purpose of mitigating any adverse effect which the construction, improvement, existence or use of a road (or proposed road) has or will have on its surroundings, a roads authority may enter into an agreement with any person having an interest in land adjoining or in the vicinity of the road (or proposed road) for restricting or regulating the use of the land either permanently or during such period as may be specified in the agreement; and any such agreement may, in particular, make provision for the planting and maintenance of trees, shrubs or plants of any other description on the land and for restricting the lopping or removal of trees, shrubs or other plants on the land.

(2) An agreement under this section may contain such incidental and consequential provisions (including provisions of a financial character) as appear to the roads authority to be necessary or expedient.

(3) Subject to subsection (4) below, the provisions of an agreement made under this section with a person interested in land shall be binding on persons deriving title from that person in respect of the land.

(4) No provision shall be enforceable by virtue of subsection (3) above against a third party who shall have in good faith and for value acquired right (whether completed by infeftment or not) to land prior to the agreement being registered in the Land Register of Scotland or, as the case may be, recorded in the Register of Sasines, or against any person deriving title from such third party.

(5) This section is without prejudice to section 50 of the [M24]Town and Country Planning (Scotland) Act 1972 (agreements regulating development or use of land).

Marginal Citations

M24 1972 c. 52.

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54 Power to instal refuse or storage bins in roads.

The roads authority may provide and maintain in or under a road, or a proposed road in course of construction, bins or other receptacles, of such dimensions and in such positions as the authority may determine, for the collection and temporary deposit of road refuse and waste paper, or the storage of sand, grit or other materials.

55 Provision of picnic sites for trunk roads etc.

(1) The Secretary of State may provide on land adjoining, or in the vicinity of, a trunk road, or a proposed public road which is to be a trunk road, a picnic site with space for parking vehicles and with means of access from and egress to the road or proposed road; and subject to subsection (3) below he may manage and maintain the site (including such buildings, works or facilities as are mentioned in subsection (2) below.)

(2) The Secretary of State may erect and equip buildings, and execute works, on the picnic site so as to provide such facilities as he considers appropriate for that site; and without prejudice to the generality of this subsection those facilities may include—
   (a) water closets, urinals, and washing facilities for use in connection with either; and
   (b) facilities for the provision and consumption of meals and refreshments.

(3) The Secretary of State shall not provide meals or refreshments on the picnic site but may make arrangements for some person other than a regional, islands or district council so to provide and may for the purpose of those arrangements lease the site, or a part thereof, to that other person.

[F25 55A Environmental assessment of certain road improvement projects.

(1) In any case where the Secretary of State has under consideration—
   (a) the making of an order such as is mentioned in paragraph 1 of Schedule 1 to this Act relating to the improvement of a road, or
   (b) the improvement of a road without such an order,

   he shall determine before the relevant date whether or not the project falls within Annex I or Annex II to Council Directive No. 85/337/EEC on the assessment of the effects of certain public and private projects on the environment.

(2) If he determines that the project falls within Annex I, or that it falls within Annex II and **[**F26 either the project is in respect of a special road or the project**]** has such characteristics that it should be made subject to an environmental assessment, he shall publish an environmental statement not later than the relevant date.

(3) In this section "the relevant date" means—
   (a) in a case falling within paragraph (a) of subsection (1) above, the date of the publication of the draft order; and
   (b) in a case falling within paragraph (b), the date of the publication of details of the project.

(4) If the Secretary of State publishes an environmental statement under this section, he shall ensure that the public concerned is given an opportunity to express an opinion before the project is initiated.

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(5) If on completion of the project any part of the road would lie on, or within 100 metres of, land such as is mentioned in section 20A(5) of this Act, the Secretary of State shall ensure that the appropriate environmental body is given an opportunity to express an opinion before the project is initiated.

(6) In a case falling within subsection (1)(b) above, the Secretary of State—

(a) shall consider

(i) the environmental statement;

(ii) any opinion expressed by a member of the public; and

(iii) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body; and

(b) shall publish his decision as to whether or not to initiate the project.

(7) This section does not apply—

(a) where a draft order relating to an improvement is published before the coming into force of the Environmental Assessment (Scotland) Regulations 1988; or

(b) where the Secretary of State has under consideration before that date the making of an improvement without an order.**]**

Textual Amendments

F25 S. 55A inserted by S.I. 1988/1221, **reg. 71**

F26 Words in s. 55A(2) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 58, 108), **s. 42(2)**(with savings s. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

VALID FROM 01/08/1999

[F27 55B Application of section 20B

The provisions of section 20B of this Act shall apply to a project in terms of section 55A of this Act as they apply to a project in terms of section 20A of this Act.**]**

Textual Amendments

F27 Ss. 55A and 55B substituted for s. 55A (1.8.1999) by S.S.I. 1999/1, **regs. 1**, 50

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PART V

ROADS AND BUILDING CONTROL

Works and excavations

56 Control of works and excavations.

(1) Subject to section 61 of this Act and without prejudice to any requirement imposed by, under or by virtue of any other enactment, no works shall be executed in, or excavation made under, a public road except with the roads authority's consent in writing and in accordance with any reasonable conditions which they think fit to attach to the consent.

(2) An application for the consent of a roads authority under subsection (1) above shall be in writing. On receipt of the application they shall give the applicant notice of all statutory undertakers whose apparatus is, in the opinion of the authority, likely to be affected by the works or excavation and the applicant shall then forthwith in writing intimate the application to those undertakers of whom he has received such notice.

(3) This section does not apply to works or excavations to which the **[**[F28]provisions of Part IV of the New Roads and Street Works Act 1991 apply**]**.

(4) A person shall, as soon as reasonably practicable after he—
   (a) executes such works as are, or
   (b) makes such excavation as is,

   mentioned in subsection (1) above, make good any damage to the road occasioned by the works or excavation and shall immediately thereafter give notice to the authority that the damage is made good; and without prejudice to section 66 of this Act, until twelve months have elapsed from the authority certifying that the damage has been made good to their satisfaction (which certificate shall not be withheld unreasonably) the person shall maintain so much of the road as is made good.

(5) At the completion of the works or excavation mentioned in subsection (1) above any opening left in the road shall be provided with a door or cover by the person executing the works or making the excavation; and such door or cover shall be constructed in such manner, and of such materials, as may be specified by the roads authority.

(6) A person who contravenes—
   (a) subsection (1) above; or
   (b) subsection (5) above,

   commits an offence.

(7) Works executed, or an excavation made, in contravention of subsection (1) above may be removed, or as the case may be filled in, by the roads authority; and the authority may recover such expenses as are reasonably incurred in so doing, or in maintaining an excavation which has under this subsection been filled in, from the person who executed those works or made that excavation.

(8) The roads authority shall, where practicable, notify the person mentioned in subsection (7) above about anything removed under that subsection; but if the person cannot be traced, or if he has not recovered the thing within a reasonable period of time after being so notified, the authority may dispose of the thing.

(9) Any proceeds of a disposal under subsection (8)

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above shall be used to meet any such expenses in relation to the removal or filling in as are mentioned in subsection (7) above. Thereafter any surplus shall be given to the person so mentioned if he can be traced and if he cannot may be retained by the roads authority.

(10) Where a person contravenes subsection (4) (other than by a failure duly to give information) or (5) above, the roads authority may make good the damage to the road, or as the case may be provide a door or cover for the opening, and recover from him such expenses as are reasonably incurred in so doing.

Textual Amendments

F28 Words in s. 56(3) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 83**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C23 S. 56: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(l)**

57 Dangerous works.

(1) Where, in the opinion of the roads authority, works which a person is executing in, or excavations which he is making under, a road are causing, or are likely to cause, a danger the authority may by notice to him require him within such period as may be specified in the notice to take such steps as will ensure that such danger is brought to an end or as the case may be does not arise.

(2) Notwithstanding any consent granted under section 56 or 61 of this Act and without prejudice to the generality of subsection (1) above, steps specified in the notice under that subsection may include the removal of the works or filling in of the excavations.

(3) Subsections (1) and (2) above do not apply to works or excavations which are in contravention of section 56(1) or 61(1) of this Act.

(4) Without prejudice to sections 56 and 61 of this Act, but notwithstanding any consent granted under either of those sections, a person executing works, or making excavations—

(a) which constitute a danger; or

(b) who permits them to become a danger,

commits an offence.

(5) This section does not apply to works or excavations to which the **[**[F29]provisions of Part IV of the New Roads and Street Works Act 1991 apply**]**.

(6) A person upon whom a notice has been served under subsection (1)

above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Textual Amendments

F29 Words in s. 57(5) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 84**; S.I. 1992/2990, art. 2(2), **Sch. 2**

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Modifications etc. (not altering text)

C24 S. 57: power to contract out functions of the Secretary of State (16.3.1996) art. 2, Sch. para. 5(m)

58 Occupation of parts of road for deposit of building materials etc.

(1) Subject to subsection (7) below, a person who without, or otherwise than in accordance with, the written permission of the roads authority, in conducting operations for the construction, repair, maintenance or demolition of any building, occupies for the purpose of depositing materials or otherwise in connection with those operations, a part of a road, whether public or private, or erects staging or scaffolding which projects over a part of a road, commits an offence.

(2) Such permission as is mentioned in subsection (1) above may be granted either unconditionally or subject to such conditions, including conditions as to the duration of the permission, as may be specified therein; and notwithstanding anything in any enactment or in any rule of law, a person who complies with the permission (including the conditions) does not by the occupation or erection in respect of which the permission is granted commit an offence:

Provided that the foregoing provisions of this subsection shall not constitute a defence as regards any such contravention as is mentioned in section 128(1) of this Act.

(3) Subject to subsection (7) below, where a person by such occupation as is mentioned in subsection (1) above commits an offence under that subsection, any other person who, in connection with the operations, either by himself or by his servant or agent, deposits materials on the part of the road so occupied commits an offence.

(4) Where a person is charged with an offence under subsection (1) above it shall be a defence for him to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(5) Where a person is charged with an offence under subsection (3) above, it shall be a defence for him to prove that the offence—

(a) took place on the instructions, or by the authority, of his employer or of the person conducting the operations, or

(b) was due to a mistake, or

(c) was due to reliance on information supplied to him,

and that he was unaware that he was depositing the materials otherwise than under and in accordance with a permission granted under subsection (1) above.

(6) If in any case the defence provided by subsection (5) above involves the allegation that the offence took place on the instructions, or by the authority, of another person, or was due to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven days before the hearing, he has served on the prosecutor notice giving such information identifying or assisting in the identification of that other person as is then in his possession.

(7) The occupation mentioned in the foregoing provisions of this section does not include occupation with a builder's skip (within the meaning of section 85 of this Act).

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Modifications etc. (not altering text)

C25 S. 58: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(n)**

59 Control of obstructions in roads.

(1) Subject to subsection (6) below, nothing shall be placed or deposited in a road so as to cause an obstruction except with the roads authority's consent in writing and in accordance with any reasonable conditions which they think fit to attach to the consent.

(2) A person who contravenes subsection (1) above commits an offence.

(3) Without prejudice to subsection (2) above, a person who contravenes subsection (1) above may be required by the roads authority or by a constable in uniform to remove the obstruction forthwith, and commits an offence if he fails to do so.

(4) Where—

(a) a requirement under subsection (3) above is not complied with;

(b) the person who placed or deposited the obstruction cannot be readily traced; or

(c) the case is one of emergency,

the roads authority or a constable may remove the obstruction (or cause it to be removed) and recover such expenses as are reasonably incurred in so doing from the said person.

(5) Subsections (8) and (9) of section 56 of this Act shall apply in relation to anything removed under subsection (4) above as they apply in relation to anything removed under subsection (7) of that section, except that where the removal is by a constable the said subsections (8) and (9) shall be read as if any reference therein to the roads authority were a reference to the police authority.

(6) The foregoing provisions of this section do not apply—

(a) where section 58, 85 or 86 of this Act or section 2 of the [M25]Refuse Disposal (Amenity) Act 1978 (penalty for unauthorised dumping of motor vehicles etc.) applies; or

(b) to works to which the **[**[F30]provisions of Part IV of the New Roads and Street Works Act 1991 apply**]**.

Textual Amendments

F30 Words in s. 59(6)(b) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 85**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C26 S. 59: power to contract out functions of the Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(o)**

Marginal Citations

M25 1978 c. 3.

Status: *Point in time view as at 01/01/1993. This version of this Act contains provisions that are not valid for this point in time.*
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60 Fencing and lighting of obstructions and excavations.

(1) Without prejudice to [F31]. . . sections 57 to 59 or section 85 of this Act, where any person places or deposits anything on a road so as to cause an obstruction, or executes works in a road, he shall, whether or not the obstruction is, or works are, on or in the road with the consent of the roads authority—

(a) cause the obstruction or works to be marked in such manner and with such materials as may, for the purpose of making it or them immediately visible to oncoming traffic, be specified;

(b) provide such lighting of the obstruction or works during the hours of darkness as is necessary for preventing danger to traffic and for warning traffic of danger;

(c) erect such fences, barriers and traffic signs for preventing danger to traffic, for regulating traffic, and for warning traffic of danger, as may be necessary and remove them as soon as they cease to be necessary therefor; and

(d) in the case of an obstruction or works whose nature so requires, cause any building adjoining the road to be shored up or otherwise protected.

(2) If the person referred to in subsection (1) above fails to fulfil a requirement imposed on him by that subsection, the roads authority may fulfil the requirement and recover the expenses reasonably incurred by them in so doing from that person.

(3) A person who fails to fulfil a requirement imposed on him by subsection (1) above commits an offence.

(4) A person who, without lawful authority or reasonable excuse, takes down, alters or removes any fence, barrier, shoring or other support or protection, or any traffic sign erected in pursuance of subsection (1) or (2) above, or removes, interferes with or extinguishes any light placed in pursuance of either of those subsections to indicate an obstruction or works on or in any road commits an offence.

(5) In this section—

"hours of darkness" means the time between half an hour after sunset and half an hour before sunrise; and

"specified" means specified by the Secretary of State in regulations.

[[F32](6) This section shall not apply to an undertaker executing road works, within the meaning of Part IV of the New Roads and Street Works Act 1991.**]**

Textual Amendments

F31 Words in s. 60(1) omitted (1.1.1993) by virtue of New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 86(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F32 S. 60(6) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 86(b)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C27 S. 60: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(p)**

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61 Granting of permission to place and maintain etc. apparatus under a road.

(1) Subject to subsections (3) and (5) below, the roads authority may permit, subject to such reasonable conditions as they consider appropriate (including, without prejudice to the generality of this subsection, conditions as to future cessation or withdrawal of the permission and indemnification of the authority against claims arising out of what is so permitted), a person to place and leave, or to retain, and thereafter (in either case) to maintain, repair and reinstate, apparatus in or under a public road or proposed public road and to break open, and to have access to, the road or proposed road, for those purposes **[**[F33]; and such permission shall be in writing**]**.

(2) In subsection (1) above, "proposed public road" means a new road in course of construction by or on behalf of the roads authority.

(3) Before giving permission under subsection (1) above, the roads authority shall give not less than 28 days notice of their intention so to do to any other person whose apparatus is, or plans for the installation of apparatus are, likely to be affected by the works which would thereby be authorised.

(4) **[**[F34]Works carried out by a person in pursuance of permission under subsection (1) above are not**][**[F35]road works within the meaning of section 107 of the New Roads and Street Works Act 1991**]**.

(5) Subsection (1) above does not apply to the apparatus of statutory undertakers or of local authorities **[**[F36]nor does it apply to apparatus in respect of which permission has been granted under section 109 of the New Roads and Street Works Act 1991 to execute road works**]**.

Textual Amendments

F33 Words in s. 61(1) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 87(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F34 Words in s. 61(4) substituted by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 30, Sch. 17 paras. 33, **35(1)**

F35 Words in s. 61(4) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 87(b)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F36 Words in s. 61(5) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 87(c)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C28 S. 61 power to contract out functions of the Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(q)**

[61A [F37]Charge for occupation of road.

(1) The Secretary of State may make provision by regulations requiring a person who occupies a public road by doing anything to which this section applies to pay a charge to the roads authority if the duration of the occupation exceeds the longer of the following periods—

(a) such period as may be prescribed; or

(b) such period as is agreed by the authority and the person to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.

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(2) This section applies to the occupation of a public road by doing anything which would require the consent or permission of a roads authority under any of the following provisions of this Act—

section 56 (works executed in or excavations under a public road);

section 58 (occupation of road for deposit of building materials and erection of scaffolding);

section 59 (placing or depositing anything in a road);

section 61 (placing, leaving, retaining, maintaining, repairing and reinstating apparatus in or under a public road); or

section 85 (depositing a builder's skip).

(3) For the purposes of paragraph (b) of subsection (1) above, in default of agreement, the roads authority's view as to what is a reasonable period shall be acted upon pending the decision of the arbiter.

(4) The regulations may provide that if a person applying to the roads authority for consent or permission under any of the provisions of this Act specified in subsection (2) above submits together with his application an estimate of the likely duration of the occupation, the period stated in the estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(5) The regulations may provide that if it appears to the person occupying the road that by reason of matters not previously foreseen or reasonably foreseeable the duration of the occupation—

(a) is likely to exceed the prescribed period,

(b) is likely to exceed the period stated in the previous estimate, or

(c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the roads authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(6) The amount of the charge shall be determined in such manner as may be prescribed by reference to the duration and extent of the occupation and different rates of charge may be prescribed according to the purpose of the occupation and such other factors as appear to the Secretary of State to be relevant.

(7) The regulations may make provision as to the time and manner of making payment of any charge.

(8) The regulations shall provide that a roads authority may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as they may decide or as may be prescribed, or generally.

(9) In this section "prescribed" means prescribed by the Secretary of State by regulations.**]**

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Textual Amendments

F37 S. 61A inserted (1.1.1993) by New Roads and Street Works Act (c. 22, SIF 59, 108), s. 168(1), Sch. 8 para. 88; S.I. 1992/2990, art. 2(2), **Sch. 2**

Control of traffic

62 Temporary prohibition or restriction of traffic etc. on roads for reasons of public safety or convenience.

(1) Where, as regards any road, an order under section 14 of the [M26]Road Traffic Regulation Act 1984 (which makes provision for the temporary prohibition or restriction of traffic and foot passage on roads in certain circumstances) cannot be made but in the opinion of the roads authority considerations of public safety or convenience require, or make it desirable that there should be, a temporary restriction on, or temporary prohibition of, traffic or foot passage on the road, the authority may make an order imposing such restriction or prohibition and (where practicable) specifying an alternative route or alternative routes.

(2) An order under subsection (1) above—

(a) shall not have the effect of preventing at any time access for foot passengers to any premises situated on or adjacent to the road or to any other premises accessible for foot passengers only from the road;

(b) may relate to vehicles, or persons, in general or to a class thereof; and

(c) without prejudice to paragraph (a) above may be subject to such conditions or exceptions as are considered necessary by the roads authority.

(3) In subsection (1) above "temporary" means for a period not exceeding seven days.

(4) Notice of an order under subsection (1) above shall be given by the authority by advertisement in a newspaper circulating in the area to which the order relates; and the order shall not come into effect before the date of the advertisement.

(5) A person who contravenes a restriction or prohibition imposed by virtue of subsection (1) above commits an offence.

Marginal Citations

M26 1984 c. 27.

Footpaths, footways and verges

63 New access over verges and footways.

(1) Where, in the opinion of the roads authority, vehicles when driven to or from premises adjacent to a public road are habitually being taken across that road's verge or footway other than by way of a satisfactory vehicular crossing they may serve a notice on the owner or occupier of the premises requiring that—

(a) by such date as is specified in the notice he shall have commenced; and

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(b) within such period thereafter as is, and to such detailed specifications as are, so specified he shall have completed,

the construction of such a crossing over the affected part of the verge or footway.

(2) A vehicular crossing constructed under or by virtue of this section shall on completion be part of the public road.

(3) A person upon whom a notice has been served under sub-section (1) above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Modifications etc. (not altering text)

C29 S. 63 power to contract out functions of the Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(r)**

64 Use of appliances etc. on footways, footpaths and cycle tracks.

(1) No enactment prohibiting or restricting the use of footways, footpaths or cycle tracks shall affect the use of appliances or vehicles—

(a) for the construction, maintenance, improvement or cleansing of a road;

(b) subject to subsection (2) below, by statutory undertakers for works on footways, footpaths or cycle tracks maintainable by a roads authority, in connection with apparatus belonging to the statutory undertakers.

(2) Statutory undertakers may exercise rights enjoyed by them by virtue of subsection (1)(b) above only if they have obtained the consent of the roads authority; and such consent may be subject to such reasonable conditions as the authority think fit.

(3) In this section "statutory undertakers" includes an authority responsible for sewerage.

Modifications etc. (not altering text)

C30 S. 64: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(s)**

Horse traffic etc.

65 Regulation of drivers of horsedrawn carts etc.

(1) The driver of a drawn vehicle commits an offence if he conveys on it on any road anything which is not adequately secured and which, were it to fall off, might be expected to endanger other road users.

(2) The owner of a drawn vehicle commits an offence if he permits a child of under—

(a) 14 years of age to drive that vehicle on a road; or

(b) 16 years of age (not being such child as is mentioned in paragraph (a) above) to drive that vehicle on a road other than under the immediate supervision of a person of 18 years of age or more.

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(3) In subsections (1) and (2) above, "drawn vehicle" means a vehicle pulled by one or more draught animals.

Miscellaneous

66 Maintenance of vaults and cellars etc.

(1) As regards any road, the following things shall be kept in good condition and repair by their owners or occupiers or by occupiers of the premises to which the thing belong—

(a) every vault, arch, cellar and tunnel under the road;

(b) every opening into any such vault, arch, cellar or tunnel from the surface of the road;

(c) every door or cover (whether fixed or removable) to any such opening;

(d) every pavement light in the surface of the road; and

(e) every wall or other structure supporting any such vault, arch, cellar, tunnel, door or cover.

(2) Where an owner or occupier is in contravention of sub-section (1) above the roads authority may by notice to him require him within 28 days of the date of service of the notice to replace, repair or put into good condition the thing in respect of which the contravention arises.

(3) A person upon whom a notice has been served under subsection (2) above may, within the 28 days mentioned in that subsection, refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

(4) A local roads authority may, if they think fit, pay the whole or any part of any expenditure incurred by a person in complying with subsection (1) or (2) above.

Modifications etc. (not altering text)

C31 S. 66: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(t)**

67 Power to direct that doors etc. should not open outward into road.

Where a door, gate, window, window shutter or bar opens outward into a road so as to interfere with the safety or convenience of road users the roads authority may by notice to the owner or occupier of the premises to which the thing belongs require him within such period as may be specified in the notice to take such steps as will ensure that such interference no longer occurs.

Modifications etc. (not altering text)

C32 S. 67: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(u)**

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PART VI

ACCESS AND STOPPING UP

68 Power of roads authorities to stop up roads by order.

(1) Subject to section 71(1) and (2) of this Act, the roads authority may, either on their own initiative or at the request of any person, make an order stopping up any road which they consider—

(a) has become dangerous to the public other than by reason of its crossing or entering the route of another road which is a public road or of its being affected by the construction or improvement of such other road; or

(b) is or will become unnecessary.

(2) Before making an order under—

(a) subsection (1)(a) above; or

(b) subsection (1)(b) above on the ground that the road is unnecessary,

the roads authority shall satisfy themselves that a suitable alternative road exists or that no alternative road is necessary.

(3) An order under subsection (1)(b) above made only on the ground that a road will become unnecessary shall not come into operation until—

(a) the road has become unnecessary; and

(b) a suitable alternative road exists.

(4) An order under subsection (1) above—

(a) may provide for the stopping up of a road subject to the reservation of a means of passage along the road for pedestrians, cyclists or both; and

(b) shall, except in a case to which section 132 of this Act applies, include provisions for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the road to which the order relates.

69 Stopping up of dangerous access from public road to land.

(1) Subject to section 71(1) and (2) of this Act, where the roads authority consider that a private means of access from a road or proposed road to land is likely to cause danger to, or to interfere unreasonably with, traffic on the road, they may make an order stopping up the access and may provide a new means of access to the land.

(2) A private means of access shall not be stopped up under this section—

(a) before all objections to the making of the order have been disposed of,

(b) before the expiry of 6 weeks from the date of the first public notification of the proposal to make the order, and

(c) in a case where a new means of access is to be provided by the roads authority, before it has been so provided.

70 Stopping up of access to land from certain roads being constructed.

(1) Without prejudice to section 69 of this Act, an order under section 9 or 12 of this Act may authorise the roads authority—

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(a) to stop up any private means of access to land adjoining or adjacent to land comprised in the route of the special, or as the case may be main, road, or forming the site of any works authorised by the order;

(b) to provide a new means of access to any such land.

(2) The references in subsection (1) above to a special road and to a main road shall be construed as including references to a proposed such road.

71 Provisions supplementary to sections 68 to 70.

(1) Subject to subsection (2) below, the Secretary of State may by regulations prescribe the procedure to be followed in making an order under section 68 or 69 of this Act; and such regulations may in particular make provision as to—

(a) the content of the order; and

(b) the means of public notification of the proposal to make such an order.

(2) Where a roads authority propose to make an order under the said section 68 or 69, then, before the expiry of 28 days from the date of the first public notification, in accordance with regulations under subsection (1) above, of the proposal to make the order, any person may object to it to the authority, and—

(a) where the roads authority is a local roads authority—

(i) if no such objection is made, or objection is made but withdrawn, they may confirm the order themselves; and

(ii) if such objection is made and not withdrawn, the Secretary of State shall determine the matter, and may confirm the order with or without modification or refuse to confirm it;

(b) where the roads authority is the Secretary of State, he shall not make the order without having considered any such objection.

(3) Before stopping up the access to any land under section 69 or by virtue of section 70 of this Act, the roads authority shall satisfy themselves—

(a) that no access to the land is reasonably required; or

(b) that another reasonably convenient means of access to the land is available or will be provided in pursuance of an order made under the said section 69, or by virtue of the said section 70 as the case may be.

(4) The roads authority may stop up a means of access under section 69 or by virtue of section 70 of this Act in any way which seems to them appropriate, but not so as to obstruct any public right of way on foot.

(5) A person who uses a means of access which has been stopped up under section 69 or by virtue of section 70 of this Act, other than a person exercising a public right of way on foot, commits an offence.

(6) Where access to any land has been stopped up under section 69 or by virtue of section 70 of this Act, or, as the case may be, is limited by virtue of the restrictions imposed under this Act on the use of a special road, and any person has suffered damage in consequence thereof by the depreciation of any interest in the land to which he is entitled or by being disturbed in his enjoyment of the land, he shall be entitled to recover from the roads authority compensation in respect of that damage; and in assessing such compensation regard shall be had to any new means of access provided by the roads authority.

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72 Stopping up private access to land by agreement.

(1) Without prejudice to sections 69 and 70 of this Act, the roads authority may agree with the occupier of land and with any other person having an interest in the land that a private means of access from a public road, or proposed public road, to the land shall be stopped up by the authority; and such agreement may provide for the payment by the roads authority to the other party of compensation in respect of any damage suffered in consequence of the stopping up.

(2) The roads authority may stop up a means of access by virtue of this section in any way which seems to them to be appropriate; but not so as to obstruct any public right of way on foot.

(3) Without prejudice to subsection (4) below, the provisions of any agreement made under this section shall be binding on persons deriving title from the occupier or the other person; except that no provision shall be enforceable by virtue of this subsection against a third party who shall have in good faith and for value, acquired right (whether completed by infeftment or not) to land prior to the agreement being either registered in the Land Register of Scotland or as the case may be recorded in the Register of Sasines.

(4) A person who uses a means of access which has been stopped up by virtue of this section, other than a person exercising a public right of way on foot, commits an offence.

73 Expenses incurred under section 69 or by virtue of section 70 or 72.

Any expenses incurred under section 69, or by virtue of section 70 or 72, of this Act by a local roads authority shall be deemed for the purposes of section 3 of this Act to be incurred in road construction or improvement.

74 Temporary provision of substitute road.

(1) Where proposed works for the maintenance, repair or improvement of a road are such as, in the opinion of the roads authority, will require a complete temporary prohibition of a class, or classes, of or all traffic on the road the authority may, through any land adjoining the road, make a substitute road to accommodate the traffic so prohibited.

(2) At least 28 days before a roads authority commence making a road under subsection (1) above, they shall serve on the owner and the occupier of the land concerned notice in that regard; and without prejudice to section 136 of this Act that notice shall contain a statement of when it is intended the works proposed in relation to the substitute road will commence and of the length of time for which the authority estimate that road will be required.

(3) The roads authority shall, as soon as is practicable after the substitute road is no longer required, reinstate the land.

(4) A person upon whom a notice has been served under subsection (2) above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

(5) A substitute road made under subsection (1) above—

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(a) shall be managed and maintained by the roads authority but shall not be entered by the authority in their list of public roads or, as the case may be, in the list of roads kept under section 2(2) of this Act; and

(b) shall vest in the authority for the purposes of their functions as roads authority; but such vesting shall not confer on them any heritable right in relation to the substitute road.

(6) Without prejudice to section 116(1) of this Act, from the commencement of the making of a road through land under subsection (1) above until reinstatement of the land under subsection (3) above, rent shall by the roads authority be payable for so much of the land as is taken for the road; and the amount of that rent, and the person or persons to whom it is so payable, shall, in the absence of agreement between the roads authority and each person on whom they have served notice under subsection (2) above as regards the road, be determined by the Lands Tribunal for Scotland, whose decision on the matter shall be final.

PART VII

BRIDGES, TUNNELS AND DIVERSION OF WATER

75 Bridges over and tunnels under navigable waters.

(1) Provision may be made by an order under section 5 of this Act or under this subsection for the construction of a bridge over or a tunnel under any specified navigable waters as part of a trunk road.

(2) Provision may be made by a scheme under section 7 of this Act for the construction, as part of a special road, of a bridge over or a tunnel under any specified navigable waters.

(3) Provision may be made by a scheme under this subsection—

(a) made by a local roads authority and confirmed by the Secretary of State, or

(b) where the Secretary of State is the roads authority, made by him.

for the construction, as part of a public road (other than a special road) of a bridge over or a tunnel under any specified navigable waters.

(4) Parts I and III of Schedule 1 to this Act shall have effect as to the making of an order under subsection (1) above, Parts II and III of that Schedule shall have effect as to the making of a scheme under subsection (3) above and Schedule 2 to this Act shall have effect as to the validity and date of operation of any such order or scheme.

(5) A scheme under subsection (3)(a) above may be submitted to the Secretary of State jointly by any two or more local roads authorities, and any such scheme may determine which of those authorities shall be the roads authority for the bridge or tunnel or any part of it, and may provide—

(a) for the performance by that authority, in relation to the bridge or tunnel or that part of it, of any of the roads functions of any other authority who are party to the application, and

(b) for the making of contributions by that other authority to the roads authority in respect of expenditure incurred in the performance of those functions.

(6) The reference in—

(a) subsection (1) above to a trunk road;

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(b) subsection (2) above to a special road; or

(c) subsection (3) above to a public road,

shall be construed as including a reference to a proposed trunk, special or public road as the case may be.

(7) References in this section, in relation to any order or scheme, to "specified navigable waters" are references to such navigable waters (whether the sea, a river or other waters) as may be specified in the order or scheme.

(8) References in section 76 of this Act to an order or scheme which provides for the construction of a bridge over or a tunnel under navigable waters are references to any order or scheme made under or, as the case may be, by virtue of subsection (1), (2) or (3) above.

(9) Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunications apparatus) shall, subject to subsection (10) below, apply, for the purposes of any works authorised by a scheme made under subsection (3) above, to the roads authority.

(10) Where the roads authority is the Secretary of State, subparagraph (8) of paragraph 23 of the telecommunications code (offence) shall be omitted for the purposes of the application of that paragraph to him by subsection (9) above.

76 Provisions supplementary to section 75.

(1) Before making or confirming an order or scheme which provides for the construction of a bridge over or a tunnel under navigable waters, the Secretary of State shall take into consideration the reasonable requirements of navigation in the waters affected by the order or scheme.

(2) An order or scheme which provides for the construction of such a bridge shall include such plans and specifications as may be necessary to indicate the position, clearances for the passage of vessels and dimensions of the proposed bridge; and in the case of a swing bridge shall contain such provisions as the Secretary of State considers expedient for regulating its operation.

(3) An order or scheme which provides for the construction of such a tunnel shall include such plans and specifications as may be necessary to indicate the position and dimensions of the proposed tunnel, including the depth thereof below the bed of the sea, river or other navigable waters, as the case may be.

(4) If an objection to an order or scheme proposed to be made or, as the case may be, to an order or scheme made and proposed to be confirmed, is duly made in accordance with Schedule 1 to this Act by any navigation authority or water authority on whom notice is required to be served under paragraph 3 of that Schedule or, as the case may be, paragraph 10 of that Schedule, on the ground that the bridge or tunnel is likely to obstruct or impede the performance of their functions under any enactment, or to interfere with the reasonable requirements of navigation in the waters affected by the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure and Part IV of that Schedule shall have effect for the purposes of the application of the [M27] Statutory Orders (Special Procedure) Act 1945 to the order.

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Marginal Citations
M27 9 & 10 Geo. 6 c.18.

77 Discontinuation of operation of certain swing bridges.

(1) Subject to subsections (2) and (3) below, where, as regards navigable waters over which there is a swing bridge carrying a road, the Secretary of State is of the opinion that the number of ships using those waters and requiring the bridge to be opened has so declined over a period of years that the bridge ought no longer to be so operated, or ought to be so operated only in special circumstances, he may by order amend or repeal accordingly any enactment providing for such operation.

(2) Parts I and III of Schedule 1 to this Act shall have effect in connection with the making of an order under this section; and Schedule 2 to this Act shall have effect in connection with the validity and date of operation of any such order.

(3) If the objection to an order under this section is duly made in accordance with Schedule 1 to this Act by a navigation authority on whom notice is required to be served under paragraph 3 of that Schedule and that objection is not withdrawn the order shall be subject to special parliamentary procedure, and Part IV of that Schedule shall have effect for the purposes of the application to the order of the [M28] Statutory Orders (Special Procedure) Act 1945.

Marginal Citations
M28 9 & 10 Geo. 6 c. 18.

78 Power to divert waters when constructing or improving public road etc.

(1) Subject to subsections (2) and (3) below, the roads authority may divert, or carry out works in relation to, inland waters (whether natural or artificial) or tidal waters where, in the opinion of the authority, such diversion is, or as the case may be works are, necessary for the construction, improvement or protection of a public road (or proposed public road) or of a site or facilities provided under section 55 of this Act.

(2) Before proceeding under subsection (1) above, the roads authority shall—

(a) serve on the owner and the occupier of any land affected, and on any navigation authority concerned with or having jurisdiction over the waters or over the area comprising those waters, notice of their intention so to proceed, describing the proposed diversion or works and informing them that they may object to the proposed diversion or works by notice to the authority within 28 days after service of the notice of intention on them; and

(b) consult any local authority in whose area the waters are situated and any other body acting under statutory powers, being powers the exercise of which may, in the opinion of the roads authority, be affected by the works:

Provided that, as regards any diversion or works, consultation under paragraph (b) above shall not be required with an authority or body receiving notice under paragraph (a) above.

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(3) Where such objection as is provided for in subsection (2)(a) above is made in accordance with that subsection and is not withdrawn, then—

(a) if the roads authority is the Secretary of State, he shall not carry out the diversion or works without having considered the objection; and

(b) if the roads authority is a local roads authority, they shall not carry out the diversion or works without the consent of the Secretary of State who may grant such consent either unconditionally or subject to such terms and conditions as he thinks fit and whose decision shall be final.

(4) In subsection (2)(b) above the reference to a body acting under statutory powers includes a reference to the operator of a telecommunications code system (whether or not a body) acting in pursuance of any right conferred by or in accordance with the telecommunications code **[**[F38]and a reference to the operator of a driver information system (whether or not a body) acting in pursuance of a right conferred by or in accordance with section 12 of the Road Traffic (Driver Licensing and Information Systems) Act 1989**]**.

Textual Amendments

F38 Words inserted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 13(1), **Sch. 4 para. 5(1)(2)**

79 Powers of roads authorities and bridge owners to enter into agreements.

(1) Without prejudice to section 14(1) of this Act, the roads authority may agree with the owner of a bridge—

(a) for the payment by the authority of contributions towards the cost of the maintenance, improvement or reconstruction of the bridge, or the road carried thereby, or the approaches thereto;

(b) for the transfer to the authority of the responsibility for the maintenance and improvement of the road carried by the bridge or the approaches thereto;

(c) that the bridge, or the road carried thereby, or the approaches to the bridge, shall heritably vest in the authority;

and it shall be lawful for the owner of the bridge, notwithstanding that the bridge was constructed under statutory powers, to enter into and carry into effect any such agreement.

(2) Where any such agreement provides for the transfer to the roads authority of any rights or obligations attaching to a bridge, then, as from the date of the transfer, it shall be lawful for the authority to exercise the rights, and they shall, to the exclusion of the owner, be subject to the obligations so transferred.

80 Transfer to Secretary of State of privately maintainable bridges carrying trunk roads.

(1) Where, and on the date ("the transfer date") that, a road comprising a bridge to which this section applies becomes a trunk road, the bridge by which that road is carried shall be transferred to the Secretary of State by virtue of this section.

(2) Where a bridge is transferred to the Secretary of State by virtue of this section then, subject to subsection (3) below—

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(a) the bridge, including any building or structure comprised in it and the road carried by it shall by virtue of this section vest heritably in the Secretary of State, and

(b) any statutory provision in force in relation to the bridge for the protection or benefit of statutory undertakers shall have effect, subject to any necessary modifications, as if for any reference therein to the owner of the bridge there were substituted a reference to the Secretary of State.

(3) The Secretary of State and the owner may by agreement in writing made either before or after the transfer date agree that the provisions of subsection (2) above with respect to the transfer of property shall not apply, or as the case may be shall be deemed not to have applied, to such property comprised in the bridge as may be specified in the agreement.

(4) Subject to section 119(1) of the [M29]Transport Act 1968 (ending of liability of certain Boards to make payments on being relieved of responsibility for bridges carrying trunk or special roads), in respect of any bridge which is transferred to the Secretary of State by virtue of this section, the owner shall pay to the Secretary of State such sum as may be agreed between the Secretary of State and the owner or, in default of agreement as to the sum, such sum as may be determined by arbitration to represent the value, to the owner, of the extinguishment of any liability of the owner for the maintenance or improvement of the bridge and the Secretary of State shall pay to the owner such sum as may be so agreed or determined to represent the value, to the owner, of the bridge as an asset productive of revenue. Any arbitration under the foregoing provisions of this subsection shall be by a single arbiter appointed, in default of agreement as to the appointment, by the Court of Session, or by the sheriff, on the application of either party.

(5) For the purposes of subsection (4) above, a bridge shall not be treated as an asset productive of revenue unless at the time when the bridge is transferred by virtue of this section—

(a) a contract is in force under which payments have been made or will accrue to the owner in respect of the use of the bridge; or

(b) the bridge includes any building constructed or adapted for use by the owner for the purposes of his undertaking or for letting to any other person.

(6) Where any bridge transferred to the Secretary of State by virtue of this section carries the road over any railway, canal, road or other works used for the purposes of any undertaking carried on by the owner, them, so long as those works are so used—

(a) the Secretary of State shall, before entering on any land of the owner for the purpose of executing any works for the maintenance, improvement or alteration of the bridge, give notice to the owner specifying the general nature of the works proposed to be executed;

(b) except with the consent of the owner, the Secretary of State shall not reduce the headway or any span of the bridge; and

(c) if the headway of the bridge is reduced in consequence of subsidence due to mining operations, or of works carried out by the owner for the purpose of raising the railway, canal, road or other works to a level not higher than their level before the subsidence occurred, the Secretary of State shall, if so required by the owner, raise the bridge so far as may be necessary to give the same headway as before the subsidence occurred.

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(7) Any consent required for the execution of any works by the Secretary of State under subsection (6) above shall not be unreasonably withheld, and any question whether the withholding of such a consent is unreasonable shall be determined by such arbitration as is mentioned in subsection (4) above.

(8) Any dispute between the Secretary of State and any person as to the property or liabilities transferred by virtue of this section, or as to the liability imposed on the Secretary of State by subsection (6)(c) above to carry out any works, shall be determined by such arbitration as is mentioned in subsection (4) above.

(9) This section applies to all bridges which carry the road over any railway or road, over any canal, river, watercourse, marsh or other place where water flows or is collected, or over any ravine or other depression, other than—
   (a) swing bridges;
   (b) bridges which carry a railway as well as the road;
   (c) bridges to which a right to levy tolls is attached; or
   (d) bridges maintainable by a roads authority.

(10) In the foregoing provisions of this section "owner" means the person who immediately before the transfer of the bridge to the Secretary of State was responsible for the maintenance and repair of it and includes any person who, in pursuance of any agreement with the person so responsible, was then discharging that responsibility on his behalf.

(11) Where a road carried by a bridge transferred to the Secretary of State under this section ceases to be a trunk road, the Secretary of State may contribute towards the expenses incurred in the maintenance and repair of the bridge by the authority who become the local roads authority for the road.

Marginal Citations
M29 1968 c. 73.

81 Transfer to special road authority of privately maintainable bridges carrying special roads.

(1) Where the route prescribed by a scheme under section 7 of this Act authorising the provision of a special road by a local roads authority includes a road carried by a bridge which, if the special road were a trunk road, would be transferred to the Secretary of State by virtue of section 80 of this Act, any order under section 9 of this Act by which that road is appropriated or transferred to the special road authority may provide for the transfer of the bridge to that authority.

(2) Where any bridge is so transferred subsections (2) to (8) of the said section 80 shall apply as they apply in relation to a bridge transferred under that section, and accordingly shall have effect as if for references therein to the Secretary of State and to the trunk road there were substituted references to the special road authority and the special road; and no order shall be made by virtue of section 113(1) of this Act in respect of liabilities of the owner of the bridge.

(3) In this section "owner" has the same meaning as in section 80 of this Act.

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VALID FROM 06/04/1995

[F39 81A Roads authority for boundary bridges.

(1) This section applies where a public road is carried by a bridge over a waterway and the bridge lies partly in the areas of two local roads authorities.

(2) Where this section applies, the authorities concerned may make arrangements as to—
- (a) which of them shall be the roads authority in relation to that bridge;
- (b) the performance by such roads authority in relation to the bridge of any of the roads functions of the other authority; and
- (c) the making of contributions by that other authority to the roads authority in respect of expenditure incurred in the performance of those functions.

(3) Where arrangements are not made as mentioned in subsection (2) above, the Secretary of State may, on the application of one of the roads authorities concerned, make a determination in respect of the matters mentioned in paragraphs (a) to (c) of that subsection.

(4) A determination of the Secretary of State under subsection (3) above shall be binding.**]**

Textual Amendments

F39 S. 81A added (6.4.1995) by 1994 c. 39, **s. 39** (with s. 7(2)); S.I. 1995/702 art. 4(1), Sch. 2

82 Protection of bridges and railways.

(1) The roads authority shall not, in the exercise of functions conferred by those provisions of this act which relate to cattle-grids, carry out any work in—
- (a) so much of a road as passes over, or is comprised within the immediate approaches to, a bridge which is repairable by a person other than the authority;
- (b) so much of a road passing under such a bridge as is within three metres of any part of the bridge or of the foundations thereof; or
- (c) so much of a road passing above a tunnel provided for the purpose of a railway undertaking as is within three metres of any part of the tunnel,

except with the consent of the person liable to repair the bridge or the person carrying on the railway undertaking as the case may be.

(2) Where the consent mentioned in subsection (1) above is withheld, then—
- (a) if the roads authority is the Secretary of State; or
- (b) if the roads authority is a local roads authority and they refer the matter to the Secretary of State,

he may, after affording the person whose consent is required an opportunity of being heard by a person appointed by the Secretary of State for the purpose, and after considering the report of any such hearing, direct that the work be carried out notwithstanding that the consent has been withheld but subject to compliance with any conditions which the Secretary of State may impose.

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PART VIII

INTERFERENCE AND DAMAGE

Obstruction of view

83 Prevention of obstruction of view at corners, bends and junctions.

(1) Where the roads authority are of the opinion that it is necessary, for the prevention of danger arising from obstruction of the view of road users, to impose restrictions with respect to land at or near a corner, bend or junction in a road they may serve a notice (in this section referred to as an "obstruction notice")—

(a) upon the owner or occupier of the land directing him, within such period (being not less than 28 days) as may be specified in the notice, to alter the height or character of any wall (not being a wall forming part of the structure of any other permanent building), fence, advertising hoarding, hedge, tree or shrub thereon so as to cause it to conform with any requirements specified in the notice;

(b) upon the owner, occupier and any lessee of the land restraining him, either absolutely or subject to such conditions as may be specified in the notice, from permitting any building, wall, fence or advertising hoarding to be erected or hedge, tree or shrub to be planted, on the land:

Provided that an obstruction notice shall not inhibit reconstruction, or repair, which does not create any new obstruction of the view of road users.

(2) In subsection (1) above "advertising hoarding" means a hoarding or similar structure used, or adapted for use, for the display of advertisements.

(3) Restrictions imposed by an obstruction notice shall come into force upon its service and shall remain in force until it is withdrawn by the roads authority; and such restrictions shall, while in force, be binding upon any successor in title to the owner or occupier of the land to which they relate unless that successor proves that when he became the owner or occupier of the land he had, after making due inquiries, no reasonable cause to suspect that any such restrictions were in force.

(4) A person may, within 28 days of the receipt of an obstruction notice, object in writing (specifying the grounds of objection) to the roads authority; and the question whether the notice shall be withdrawn as respects any requirement or restriction objected to shall then be determined in the manner provided by section 84 of this Act.

(5) A person upon whom an obstruction notice is served shall have power, notwithstanding anything in any conveyance or in any lease or other agreement, to do all such things as may be necessary for complying with the requirements of the notice.

(6) Without prejudice to section 141 of this Act, where an obstruction notice has been served upon a person the roads authority may, with the consent of that person, do on his behalf anything necessary for complying with the requirements of the notice.

(7) Subject to subsections (4) and (6) above, and without prejudice to any other proceedings which may be instituted against him, a person who fails to comply with the requirements of, or acts in contravention of, an obstruction notice served on him commits an offence.

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(8) A person upon whom an obstruction notice is served shall be entitled to recover from the roads authority any expenses reasonably incurred by him in carrying out any directions contained in the notice; and a person sustaining loss in direct consequence of any requirement of such a notice or a person who proves that his property is injuriously affected by restrictions imposed by such a notice shall, if he makes a claim within six months after its service, be entitled to recover from the roads authority compensation for the injury sustained.

(9) Nothing in this section shall authorise the service by a local roads authority of an obstruction notice with respect to—

(a) any wall—

(i) forming part of an ancient monument or other object of archaeological interest, except with the consent in writing of the Secretary of State; or

(ii) forming part of, or necessary for the maintenance of, a railway, canal, inland waterway, dock or harbour;

(b) a protected tree; or

(c) a listed building.

(10) In subsection (9) above—

"protected tree" means a tree which is subject to a tree preservation order under section 58(1) of the [M30]Town and Country Planning (Scotland) Act 1972; and

"listed building" has the meaning assigned to it by section 52(7) of that Act.

Marginal Citations

M30 1972 c. 52.

84 Determination of questions arising out of section 83.

(1) A question as to whether—

(a) a notice served under subsection (1) of section 83 of this Act shall be withdrawn as respects any requirement or restriction objected to under subsection (4) of that section; or

(b) any expenses were reasonably incurred by any person in carrying out directions contained in a notice served under that section,

shall be decided—

(i) if the parties so agree, by a single arbiter appointed by them; or

(ii) in default of such agreement by the sheriff.

(2) In determining any such question as is mentioned in paragraph (a) of subsection (1) above, the arbiter or sheriff shall have power to order that the requirement or restriction shall have effect subject to such modifications, if any, as he may direct.

General obstruction

85 Control of builders' skips on road.

(1) A builders' skip shall not be deposited on a road without—

(a) the **[**[F40]written**]** permission of the roads authority; and

(b) its being clearly and indelibly marked with its owner's name and with his telephone number or address.

(2) Such permission as is mentioned is subsection (1)(a) above may be granted either unconditionally or subject to such conditions as may be specified in the permission; and the conditions may in particular relate to the siting and lighting of the skip, the care of the contents of the skip and the removal of the skip at the end of the period of permission.

(3) An owner of a skip who uses it, or causes or permits it to be used, on a road in contravention of this section commits an offence.

(4) In proceedings for an offence under subsection (3) above it shall be a defence, except in relation to a contravention of subsection (1)(b) above, to prove that some other person undertook the responsibility of complying with the permission or condition contravened, and that the offence was committed without the consent or connivance of the owner; and that other person may be charged with and convicted of the contravention as if he were the owner.

(5) In this section and in section 86 of this Act, "builders' skip" means a container designed to be carried on a road vehicle and to be placed on a road for the removal and disposal of builders' materials, rubble, waste, household and other rubbish or earth.

Textual Amendments

F40 Word in s. 85(1)(a) inserted (1.1.1993) by New Roads and Street Works Act (c. 22, SIF 59, 108), s. 168(1), Sch. 8 para. 89; S.I. 1992/2990, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C33 S. 85: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(v)**

86 Removal of builders' skips causing danger or obstruction.

(1) Notwithstanding that there is in force a permission granted under section 85 of this Act for the depositing of a builders' skip on a road, a constable in uniform may require the removal or repositioning of, or himself cause to be removed or repositioned, any builders' skip which, in his opinion, is causing, or is likely to cause, a danger or obstruction

(2) The roads authority may require the removal or repositioning of a builders' skip where there is a contravention of section 85 of this Act, and failing removal or repositioning within a reasonable period of time after so requiring, may remove or reposition it themselves.

(3) Subsections (1) and (2) above are without prejudice to section 129(2) of this Act.

(4) Any expenses reasonably incurred by the police authority under subsection (1), or the roads authority under subsection (2), above in the removal or repositioning of a builders' skip may be recovered from its owner.

(5) The police authority or, as the case may be, the roads authority shall, where practicable, notify the owner of the skip of its removal under subsection (1) or (2) above; but if

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the owner cannot be traced or if a reasonable period of time after his being so notified has elapsed and he has not recovered the skip, the police authority or roads authority may dispose of the skip and its contents.

(6) Any proceeds of a disposal under subsection (5) above shall be used in the first place to meet the expenses reasonably incurred in the said removal and thereafter any surplus shall be given to the owner if he can be traced and if he cannot may be retained by the police authority, or roads authority, as the case may be.

Modifications etc. (not altering text)

C34 S. 86: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(w)**

87 Power to remove structures from roads.

(1) Without prejudice to sections 59 and 129(2) of this Act, where a structure has been erected, deposited or placed on a road otherwise than under or by virtue of an enactment the roads authority may, by notice, require that within such period as may be specified in the notice the person having control or possession of the structure—

(a) shall remove it; and

(b) if the authority consider reinstatement of the road to be requisite, shall carry out such reinstatement.

(2) In subsection (1) above, "structure" includes any machine, pump, post or other object of such a nature as to be capable of causing obstruction; and a structure may be treated for the purposes of that subsection as having been erected notwithstanding that it is on wheels.

Modifications etc. (not altering text)

C35 S. 87: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(x)**

88 Removal of projections which impede or endanger road users.

(1) Without prejudice to section 129(8) of this Act, the roads authority may, after giving 28 days notice to the owner and occupier of any building, remove or alter any such projection therefrom as interferes with safe or convenient passage along a road and is specified in the notice.

(2) Subject to subsection (3) below, the roads authority shall pay compensation to any person who sustains damage by reason of the removal or alteration of a projection in pursuance of subsection (1) above.

(3) No compensation shall be payable under subsection (2) above in respect of a projection made without any consent which was, by or under any enactment, required for it.

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Modifications etc. (not altering text)

C36 S. 88: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, arts. 2, **Sch. para. 5(y)**

89 Removal of accidental obstructions from roads.

(1) Where an object has fallen onto a road so as to cause an obstruction, the roads authority shall, where practicable, intimate to the owner of the object that he must remove it forthwith; and if the owner cannot be traced or if he fails to remove the object within a reasonable period of time after being so notified or if the case is one of emergency, the roads authority shall remove it themselves.

(2) Pending the removal of such an object by the owner or by the roads authority, the authority may take all reasonable steps (including the placing of lights, signs and fences on the road) for the purpose of warning road users of the obstruction.

(3) Any expenses reasonably incurred by the roads authority under this section may be recovered from the owner; but no such expenses shall be recoverable if the owner proves that he took reasonable care to secure that the object did not cause or contribute to an obstruction.

(4) The roads authority shall, where practicable, give notice to the owner of an object of its removal by them under subsection (1) above; but if the owner cannot be traced or if after a reasonable period of time after being so notified he has not recovered the object, the roads authority may dispose of it.

(5) Any proceeds of a disposal under subsection (4) above shall be used in the first place to meet the expenses reasonably incurred by the roads authority under this section and thereafter any surplus shall be given to the owner if he can be traced and if he cannot may be retained by the roads authority.

Modifications etc. (not altering text)

C37 S. 89: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(z)**

90 Restriction on placing bridges, beams, rails etc. over roads.

(1) No overhead bridge, beam, rail, pipe, cable, wire or other similar apparatus shall be fixed or placed over, along or across a road without the consent of the roads authority; and that authority may attach to their consent such reasonable terms and conditions as they think fit.

(2) A person who contravenes subsection (1) above or the terms or conditions of any consent given thereunder commits an offence.

(3) Subsection (1) above does not apply to any works or apparatus of statutory undertakers.

(4) A person aggrieved by the refusal of a consent required by this section, or by any terms or conditions attached to any such consent, may, within 28 days of the refusal

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or consent, refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Modifications etc. (not altering text)

C38 S. 90: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(aa)**

91 Prevention of danger to road from nearby vegetation and fences etc. or from retaining walls being inadequate.

(1) Where a hedge, tree or shrub overhangs a road so as to—

(a) endanger or obstruct the passage of vehicles or pedestrians;

(b) obstruct or interfere with—

(i) road users' view of the road;

(ii) the light from a public lamp; or

(iii) a traffic sign; or

(c) increase the likelihood of obstruction of the road by drifting snow,

the roads authority may, by notice served either on the owner of the hedge, tree or shrub, or on the occupier of the land on which it is growing, require him within 28 days from the date of service of the notice to carry out such work on the hedge, tree or shrub as is necessary to remove the cause of danger, obstruction or interference.

(2) Subject to subsections (3) and (4) below, where it appears to the roads authority that a hedge, tree, shrub, fence or wall on or near a road is in such condition that it, or part of it, is likely to cause danger by falling on the road, or that a retaining wall (whether or not near the road) is in such condition that there is constituted a danger to the road or to road users, they may, by notice served either on the owner of the hedge, tree, shrub, fence or wall, or on the occupier of the land on which it is situated, require him within 28 days from the date of the service of the notice to carry out such work as will obviate the danger.

(3) Subject to subsection (4) below, if in the opinion of the roads authority the danger referred to in subsection (2) above is imminent they may dispense with the service of the notice required by that subsection, may themselves carry out the work forthwith, and may recover the expenses reasonably incurred in so doing from the owner or occupier.

(4) Subsection (3) above does not apply, and subsection (2) above does not except in any case with the consent of the Secretary of State apply, as regards a wall (or retaining wall) forming part of an ancient monument or other object of archaeological interest; and any such consent may direct that the said subsection (2) shall apply in that case with such modifications as may be specified in the consent:

Provided that where in the opinion of the roads authority the danger referred to in the said subsection (2) is imminent, they may before obtaining such consent (and without service of the notice required by that subsection) carry out such work, or take such other steps, as will for the time being safeguard road users.

(5) The roads authority may make such contribution as they think fit towards any expenses reasonably incurred by a person in carrying out necessary work in pursuance of subsection (1) or (2) above.

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(6) As soon as may be after the necessity for work under this section on a protected tree or on a wall (or retaining wall) forming part of a listed building arises and before any such work is commenced, the roads authority shall give notice of the proposed work to the planning authority:

Provided that, if in the opinion of the roads authority there is imminent danger of the tree or wall falling on the road, they may dispense with the giving of such notice.

(7) Nothing in this section shall impose on the roads authority any liability in respect of injury to persons or damage to property.

(8) In—

(a) subsection (2) above, "retaining wall" means a wall which serves, or is intended to serve, as a support for earth or other material on only one side; and

(b) subsection (6) above—

(i) "planning authority" has the meaning assigned by section 172 of the [M31]Local Government (Scotland) Act 1973; and

(ii) "protected tree" means a tree which is subject to a tree preservation order under section 58(1) of the [M32]Town and Country Planning (Scotland) Act 1972.

(9) A person upon whom a notice has been served under subsection (1) or (2) above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Modifications etc. (not altering text)

C39 S. 91: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(ab)**

Marginal Citations

M31 1973 c. 65.

M32 1972 c. 52.

92 Restriction on planting of trees etc. near carriageway.

(1) No tree or shrub planted in accordance with section 51 of this Act shall be planted within 5 metres of the edge of a made-up carriageway without the roads authority's consent which shall not be unreasonably withheld.

(2) If a tree or shrub is planted in contravention of this section, the roads authority may, by notice served either on the owner or on the occupier of the land in which the tree or shrub is planted, require him to remove it within 28 days from the date of the service of the notice.

(3) A person who fails to comply with a notice given under subsection (2) above commits an offence.

(4) In this section, "made-up carriageway" means a carriageway, or part thereof, which has been metalled or in any way provided with a surface suitable for the passage of vehicles.

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Modifications etc. (not altering text)

C40 S. 92: power to contract out functions of the Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(ac)**

Roadside dangers

93 Protection of road users from dangers near a road.

(1) If, in the opinion of the roads authority, anything which is on land beside or near to a road—

(a) but is not itself a building constitutes a danger to road users and there is no other provision of this Act under or by virtue of which they may take steps to obviate the danger, they shall, under this subsection, take such steps;

(b) and is a building constitutes a danger to road users and there is no other such provision as aforesaid, they shall under this subsection take such steps by way of enclosure or screening,

as they consider appropriate to afford protection from the danger or to ensure that the danger is not so constituted; and they may, subject to subsection (6)(a) below, recover the expenses reasonably incurred in so doing from the owner of the land.

(2) Where there is on land adjoining a road—

(a) a fence made with barbed wire, or in or on which barbed wire has been laid;

(b) an electrified fence; or

(c) a wall or window-sill incorporating spikes, broken glass, barbed wire or a similar device,

and such wire, electrified fence, spikes, glass or device is in the opinion of the roads authority likely to be injurious to persons or animals lawfully using the road, the roads authority may serve a notice on the occupier of the land requiring him, within such period as may be specified in the notice, to take such steps as may be so specified to remove the risk of injury.

(3) Where the roads authority are occupiers of land adjoining a road, and there is on that land any such thing as is described in paragraphs (a) to (c) of subsection (2) above, then—

(a) in the case of a local roads authority, any ratepayer within the region or islands area; and

(b) in the case of the Secretary of State, any person,

may, if of the opinion required of a roads authority by the said subsection, serve a notice on the authority requiring them to take such steps as may be specified in the notice to remove the risk of injury.

(4) If the period specified in a notice served under subsection (3) above expires without the steps so specified having been taken, the person who served the notice may apply to the sheriff who may, if he is satisfied that the steps specified in the notice are necessary, order the roads authority to take those steps.

(5) In subsection (2) above "barbed wire" means any wire or strip metal with spikes or jagged projections.

(6) A person who considers that in all the circumstances he should not be required—

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(a) to pay such expenses as are mentioned in subsection (1) above, may within 28 days of the first written intimation to him by the roads authority of their intention to recover those expenses from him; or

(b) to take such steps as are specified in a notice served on him under subsection (2) above, may within 28 days of such notice,

refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

Modifications etc. (not altering text)

C41 S. 93 power to contract out functions of the Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(ad)**

94 Power to fill in roadside ditches etc.

(1) If it appears to the roads authority that a ditch on land adjoining or lying near to a public road constitutes a danger to road users, the authority may—

(a) if they consider the ditch unnecessary for drainage purposes and the owner and every occupier of the land known to the authority agree in writing that it is unnecessary for those purposes, fill it in; or

(b) place in the ditch or in land adjoining or lying near to it, such pipes as they consider necessary in substitution for the ditch, and thereafter fill it in.

(2) If a person, without the consent of the roads authority, opens up or keeps open any ditch which has been filled in under subsection (1) above, the authority may carry out any work of reinstatement or repair necessitated by his action and may recover from him the expenses reasonably incurred in so doing; and without prejudice to their right to exercise that power, the person commits an offence.

(3) In this section—

"ditch" includes a gutter or watercourse and any part of a ditch;

"pipes" includes culverts, tunnels and other works; and

"public road" includes a proposed public road.

Modifications etc. (not altering text)

C42 S. 94(1)(a): power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(ae)**

Vehicles

95 Deposit of mud from vehicles on roads.

(1) A person who, being in charge of a vehicle on a road, allows such quantity of mud, clay, farmyard manure, or other material (of whatever nature) from the vehicle, or from anything carried on the vehicle, to drop onto or be deposited on the road so as to create, or be likely to create, a danger or substantial inconvenience to road users and who fails to remove the material as soon as reasonably practicable commits an offence.

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(2) Expenses reasonably incurred by the roads authority or by the district council and necessitated by a contravention of this section may be recovered by them from the person in default.

(3) In this section any reference to a person in charge of a vehicle shall be construed as a reference to a person who as owner or otherwise has the immediate charge or control of the vehicle or who being present is entitled to give orders to the person having such charge or control.

(4) In this section, "vehicle" includes anything towed or pushed by a vehicle, and any appliance.

Modifications etc. (not altering text)

C43 S. 95: power to contract out functions of the Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(af)**

96 Extraordinary expenses in repairing roads damaged by heavy vehicles etc.

(1) Subject to subsection (3) below, where as respects any public road it appears to the roads authority (where they are a local roads authority from a certificate of the proper officer of the authority) that having regard to the average expense of maintaining the road, or other similar roads in their area, extraordinary expenses have been, or will be, incurred by them in maintaining the road by reason of damage caused to it by excessively heavy, or other extraordinary, vehicles or traffic, they may recover from any person (in this section referred to as the "operator") by or in consequence of whose orders the vehicles have, or traffic has, been on the road, so much of the expenses of maintenance as is, or is likely to be, attributable to that damage.

(2) In subsection (1) above the expenses incurred by a roads authority in maintaining a road are (without prejudice to the application of this section to a by-pass provided under this Act for use in connection with a cattle-grid) to be taken to include expenses incurred by them in maintaining a cattle-grid provided for the road under this Act.

(3) If, before operations which may cause such damage commence, the operator admits liability in respect of the vehicles or traffic, he and the authority may agree the payment by him to them of a sum by way of a composition of such liability, or either party may require that a sum to be so paid shall be determined by arbitration; and where a sum has been so agreed or determined the operator shall be liable to pay that sum to the roads authority and shall not be liable to proceedings for such recovery as is mentioned in subsection (1) above.

(4) Subject to subsection (5) below, sums recoverable under this section shall be recoverable before the sheriff.

(5) Such proceedings as are provided for in subsection (4) above shall not be commenced later than 12 months after the damage has been done unless that damage is the consequence of a particular building contract or of work extending over a long period, in which case they may, notwithstanding that such period of 12 months has elapsed, be commenced within six months of completion of the contract or work.

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Miscellaneous

97 Trading.

(1) Without prejudice to section 129(9) of this Act and subject to subsections (2) and (4) below, no person shall, for the purpose of selling anything, or offering or exposing anything for sale, use any stall or similar structure or any container or vehicle, kept or placed on—

(a) any part of a trunk or principal road; or

(b) unenclosed land within 15 metres of any part of any such road,

except with the consent in writing of the roads authority and in accordance with such reasonable conditions as the authority think fit.

(2) Without prejudice to the generality of subsection (1) above, the references in that subsection and in subsection (4) below to selling anything or offering or exposing anything for sale include supplying a service for profit or offering to do so.

(3) A person who contravenes this section commits an offence.

(4) The foregoing provisions of this section do not apply to—

(a) the sale or offer or exposure for sale of things from or on a vehicle which is used only for—

(i) the purpose of itinerant trading with the occupiers of premises; or

(ii) that purpose and purposes other than trading;

(b) the sale or offer or exposure for sale of things in, and as part of, a relevant public market;

(c) the sale or offer or exposure for sale of newspapers;

(d) street trading under and in accordance with a street trader's licence;

(e) carrying on a private market under and in accordance with a market operator's licence; or

(f) any activity in respect of which a certificate under the [M33]Pedlars Act 1871 has been granted.

(5) This section is without prejudice to any other restriction, prohibition or requirement for consent, whether statutory or otherwise, which may apply to the activities mentioned in subsection (1) above.

(6) In this section—

"market operator's licence" shall be construed in accordance with section 40 of the [M34]Civic Government (Scotland) Act 1982 (market operators' licences);

"principal road" means a road which for the time being is classified as such by the Secretary of State under section 11(1) of this Act;

"private market" has the same meaning as in the said section 40;

"relevant public market" means a market or fair—

(a) held by virtue of a grant from the crown or of prescription or under statutory authority; and

(b) established, held or having its place fixed, by a regional, islands, or district council:

Provided that in establishing or holding, or fixing the place of, the market and in regulating it the council shall consult the roads authority and shall,

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so far as the council consider it practicable to do so, give effect to any recommendations as respects the market made to them by the roads authority in the interests of road users;

"street trading" has the same meaning as in section 39 of the said Act of 1982 (street traders' licences); and

"street trader's licence" shall be construed in accordance with the said section 39.

Marginal Citations

M33 1871 c. 96.

M34 1982 c. 45.

98 Control of stray and other animals on roads.

(1) An animal which is left on, or allowed to stray onto, a road other than at a place where that road is running through unenclosed **[**[F41]land**]** may be seized and detained by the roads authority or by a constable; and the person so leaving an animal or allowing it so to stray commits an offence.

(2) Subject to subsection (3) below, the owner of an animal seized or detained under subsection (1) above may recover it from the roads authority, or as the case may be from the police authority, on payment to them of their reasonable expenses in acting under the said subsection (1):

Provided that no such payment shall be exigible where the owner took all reasonable steps to ensure that the animal was not so left as is mentioned in subsection (1) above or, as the case may be, did not so stray as is there mentioned.

(3) Subject to the proviso to subsection (2) above, the roads authority, or as the case may be police authority, may sell, or otherwise dispose of, an animal so detained by them if, within three days of their giving intimation, in a newspaper circulating in their area, of the seizure, detention and prospective sale or disposal, the said expenses are not paid.

(4) Any proceeds of a sale or disposal under subsection (2) above shall be used to meet the said expenses. Thereafter any surplus shall be given to the owner of the animal if he can be traced and if he cannot may be retained by the roads authority or as the case may be police authority.

(5) In proceedings for an offence under subsection (1) above, it shall be a defence for a person accused of allowing an animal to stray onto a road to prove that he took all reasonable steps to prevent such straying.

[F42](6) . . . . . .

Textual Amendments

F41 Word in s. 98(1) substituted (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(1), **Sch. 10 para. 11(3)**; S.I. 1991/2633, **art. 4**

F42 S. 98(6) repealed (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 27(2), **Sch. 11**; S.I. 1991/2633, **art. 4**

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Modifications etc. (not altering text)

C44 S. 98: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(ag)**

99 Prevention of flow of water etc. onto roads.

(1) The owner and the occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water or of filth, dirt or other offensive matter from, or any percolation of water through, the land onto the road.

(2)

A person may, with the consent of the roads authority and subject to such reasonable conditions as may be imposed by that authority, at his own expense carry out such works in, or make such excavations under, the road as appear to him to be necessary for the purposes of his complying with subsection (1) above.

(3) Without prejudice to subsections (1) and (6) of this section, where there is onto a road such flow or percolation as is mentioned in subsection (1) above, the roads authority may by notice served on the owner or occupier of the land require him, within 28 days from the date of service of, or within such longer period from that date as may be specified in, the notice, to carry out such works or make such excavations as may be so specified, being works or excavations in their opinion necessary for compliance by him with subsection (1) above.

(4) A person upon whom a notice has been served under subsection (3) above may within 28 days of such service refer the matter by summary application to the sheriff; and the decision of the sheriff on the matter shall be final.

(5) Subsections (4) and (10) of section 56 of this Act shall apply in respect of works and excavations executed as is mentioned in subsection (2) or (3) above as the said subsections (4) and (10) apply in respect of works and excavations executed as is mentioned in subsection (1) of that section.

(6) A person failing to comply with subsection (1) above commits an offence.

Modifications etc. (not altering text)

C45 S. 99: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(ah)**

Offences

100 Damage to roads etc.

A person who without lawful authority or reasonable excuse—

(a) deposits anything whatsoever on a road so as to damage the road;

(b) paints or otherwise inscribes or affixes upon the surface of a road or upon a tree, traffic sign, milestone, structure or works on or in a road, a picture, letter, sign or other mark; or

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(c) by lighting a fire within, or by permitting a fire for which he is responsible to spread to within, 30 metres of a road, damages the road or endangers traffic on it,

commits an offence.

101 Placing rope, wire or other apparatus in road without adequate warning.

A person who, for any purpose, places or causes to be placed in a road rope, wire or other apparatus in such manner as endangers road users and who fails to take all necessary steps to give adequate warning of the danger, commits an offence.

102 Ploughing of unenclosed land.

A person who, in ploughing unenclosed land adjoining a public road, fails to make side ridges at least 3 metres in breadth along the sides of the road, commits an offence.

PART IX

ACQUISITION, TRANSFER, VESTING AND COMPENSATION

Acquisition

103 General provision as to acquisition of land.

Subject to any express provision to the contrary, any power under this Act to acquire land may be exercised compulsorily or by agreement.

104 Acquisition of land for construction, improvement or protection of public roads etc.

(1) Subject to section 109 of this Act, a roads authority may acquire land required—

(a) in connection with the construction, improvement or protection of a public road under or by virtue of this Act; or

(b) for the purpose—

(i) of providing or improving a road which is to be provided or improved in pursuance of an order under section 198, 198A or 201 of the [M35]Town and Country Planning (Scotland) Act 1972; or

(ii) of providing a public right of way which is to be provided as an alternative to a right of way extinguished under section 203(1)(a) or (b) of that Act,

or for any other purpose for which land is required in connection with such an order as is mentioned in sub-paragraph (i) above.

(2) Subject to section 109 of this Act, the Secretary of State may acquire land which is required in connection with—

(a) the carrying out of any works authorised by an order relating to a trunk road under section 12 of this Act; or

(b) the provision of buildings or facilities for the purposes of constructing, improving, maintaining or servicing a trunk road other than a special road.

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(3) Subject to section 109 of this Act, the special road authority may acquire land which is required—

(a) in connection with the improvement of a road which is included in the route of a special road but has not been transferred to the authority by means of an order under section 9 of this Act,

(b) for the purpose of any order made in relation to a special road under the said section 9, or

(c) in connection with the provision of service stations or other buildings or facilities to be used in connection with a special road.

(4) Where, in the exercise of any of the powers conferred by subsections (1) to (3) above or section 106 of this Act, a roads authority have acquired, or propose to acquire, land forming part of a common or open space, and other land is required for the purpose of being given in exchange for the first-mentioned land, the authority may acquire that other land as if it were land required by them in connection with the construction or improvement of a public road; and nothing in section 109 of this Act applies to an acquisition by virtue of this subsection.

(5) In the foregoing provisions of this section any reference to—

(a) a public road shall be construed as including a reference to a proposed public road;

(b) a trunk road shall be construed as including a reference to a proposed public road which is to be a trunk road; and

(c) a special road shall be construed as including a reference to a proposed public road which is to be a special road.

Modifications etc. (not altering text)

C46 S. 104(3)(c) extended (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 39(3)**(with savings in s. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

Marginal Citations

M35 1972 c. 52.

105 Further provision as regards acquisition of land for construction, improvement etc. of public roads.

(1) The roads authority may acquire, but, under this subsection, only by agreement, any land in the neighbourhood of a public road (or proposed public road) being land which they consider it desirable to acquire for preserving or improving the amenity of the road.

(2) Subject to section 109 of this Act, the roads authority may acquire land wherever situated which in their opinion is required in connection with the carrying out of works authorised by section 12, 69 or 70 of this Act.

(3) The local roads authority may acquire land wherever situated which in their opinion is required for the provision of any buildings or facilities needed for the purpose of constructing, improving, maintaining or servicing a public road (or proposed public road).

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(4) The foregoing provisions of this section are without prejudice to section 104 of this Act.

(5) Any power of a roads authority under section 104 of this Act or subsection (1) or (3) above to acquire land by agreement for the purpose mentioned in the provision in question shall be exercisable in respect of any land which, in the opinion of the roads authority, may be required for that purpose, notwithstanding that the land is not immediately required for that purpose.

106 Acquisition of land for mitigating adverse effects of construction of road.

(1) Subject to subsection (3) below, the roads authority may acquire land for the purpose of mitigating any adverse effect which the existence or use of a road constructed or improved by them, or proposed to be constructed or improved by them, has or will have on the surroundings of the road.

(2) Subject to subsection (3) below, the roads authority may acquire, but only by agreement—

(a) land the enjoyment of which is seriously affected by the carrying out of works by the authority for the construction or improvement of a road;

(b) land the enjoyment of which is seriously affected by the use of a road which the authority have constructed or improved,

if the interest of the seller is one which falls within section 181(3) to (5) of the [M36]Town and Country Planning (Scotland) Act 1972 (interests qualifying for protection under blight provisions) taking references to the date of service of a notice under section 182 of that Act as references to the date on which the purchase agreement is made.

[[F43](2A) Where the roads authority propose to carry out works on land to which this subsection applies for the construction or improvement of a road, they may acquire by agreement land the enjoyment of which will in their opinion be seriously affected by the carrying out of the works or the use of the road if the interest of the seller is an interest such as is mentioned in subsections (3) to (5) of section 181 (interests qualifying for protection under blight provisions) of the [M37]Town and Country Planning (Scotland) Act 1972.

(2B) Subsection (2A) above applies to any land such as is mentioned in subsection (1) of the said section 181.**]**

(3) The powers conferred by subsections (1) and (2)(a) above shall not be exercisable unless the acquisition is begun before the date on which the road or, as the case may be, the improved road is opened to public traffic; and the powers conferred by subsection (2)(b) above shall not be exercisable unless the acquisition is begun before the end of one year after that date.

(4) For the purposes of subsection (3) above the acquisition of land is begun—

(a) if it is compulsory, on the date on which the notice required by paragraph 3(1)(a) of Schedule 1 to the [M38]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 is first published;

(b) if it is by agreement, on the date on which the agreement is made;

and where the compulsory acquisition of land under subsection (1) above is begun in accordance with subsection (3) above but is not proceeded with, any subsequent compulsory acquisition of that land under the said subsection (1) shall be treated for the purposes of this section as begun in accordance with the said subsection (3).

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(5) For the purpose of assessing the compensation payable on the compulsory acquisition of land under this section the land shall be treated as if it were being acquired for the construction of the road or, as the case may be, the improvement in question.

(6) In this section references to the construction or improvement of a road include references to the construction or improvement of a road under an order under section 9 or 12 of this Act.

(7) In section 181(1)(e) of the [M39]Town and Country Planning (Scotland) Act 1972—

(a) the reference to a power of compulsory acquisition there mentioned shall include a reference to the power of compulsory acquisition conferred by subsection (1) above; and

(b) the reference to land acquired for purposes of construction, improvement or alteration as indicated in an order or scheme there mentioned shall include a reference to land required for the purposes of subsection (1) above.

(8) The said section 181(1)

shall have effect as if the land specified therein included land which—

(a) is land shown in plans approved by a resolution of a local roads authority as land proposed to be acquired by them for the purposes of subsection (1) above; or

(b) is land shown in a written notice given by the Secretary of State to the local planning authority as land proposed to be acquired in connection with a trunk road or special road which he proposes to provide.

Textual Amendments

F43 S. 106(2A)(2B) inserted (25.09.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), **s. 76(2)**(with saving s. 84(5)); S.I. 1991/2092, **art. 3**.

Marginal Citations

M36 1972 c. 52
M37 1972 c. 52
M38 1947 c. 42
M39 1972 c. 52

107 Acquisition of land in connection with cattle-grids.

A roads authority may acquire land for the purpose of providing, altering or improving a cattle-grid (or a by-pass in relation to a cattle-grid) in the exercise of powers conferred by this Act; and where they so acquire land by agreement the acquisition may be by way of purchase, lease or otherwise.

108 Acquisition of land for provision of picnic site.

Subject to section 109 of this Act, the Secretary of State may acquire land required in connection with the provision under section 55 of this Act of a picnic site.

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109 Distance limits for purposes of compulsory acquisition.

(1) Subject to subsection (3) below, a roads authority shall not, in the exercise of a power to acquire land under any of the provisions of this Act specified in column 1 of Part I of Schedule 5 to this Act, acquire compulsorily land lying beyond the limit specified in relation to that power in column 2 of that Part of that Schedule.

(2) Part II of that Schedule shall have effect with respect to limits specified in Part I of that Schedule.

(3) Nothing in this section applies to land required for purposes connected with the drainage or protection of a public road.

(4) In subsection (3) above and in Schedule 5 to this Act, references to a road and to a public road shall be construed, respectively, as including references to a proposed road and to a proposed public road.

110 General provisions as to acquisition of land.

(1) Any power to acquire land compulsorily conferred by sections 104 to 107 of this Act on a local roads authority shall be exercisable in any particular case on their being authorised to do so by the Secretary of State.

(2) Any power to acquire land compulsorily conferred by any of the said sections shall include power to acquire a servitude or other right in or over land by the creation of a new right.

(3) In relation to the compulsory acquisition of land under any of sections 104 to 108 of this Act by a roads authority, the [M40]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall have effect as if this Act had been in force immediately before the commencement of that Act and, in a case where the compulsory acquisition is by the Secretary of State, as if the said sections were included among the enactments specified in section 1(1)(b) of that Act.

(4) In assessing the compensation payable in respect of the compulsory acquisition of land by a roads authority under powers conferred by section 104 or sections 106 to 108 of this Act, the Lands Tribunal for Scotland—

(a) shall have regard to the extent to which the remaining contiguous land belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired;

(b) without prejudice to the generality of paragraph (a) above shall, in the case of land authorised to be acquired for widening a public road, set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue to him by reason of the creation of a frontage to the road as widened;

(c) shall take into account, and embody in its award, any undertaking given by the authority as to the use to which the land, or any part of it, will be put;

and the [M41]Land Compensation (Scotland) Act 1963 shall, in its application to a compulsory acquisition by a roads authority under any of the said sections, have effect subject to the provisions of this subsection.

(5) Where under any of sections 104 to 108 of this Act a roads authority are authorised to acquire land by agreement, the Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections 120 to 125 of the [M42]Lands Clauses

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Consolidation (Scotland) Act 1845) and sections 6 and 70 of the [M43]Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act, as originally enacted and not as amended for certain purposes by section 15 of the [M44]Mines (Working Facilities and Support) Act 1923, shall be incorporated with this Act; and in construing those Acts for the purposes of this subsection this Act shall be deemed to be a special Act, and the roads authority to be the promoters of the undertaking or company, as the case may require, and the word "land" shall have the meaning assigned to it by Schedule 1 to the [M45]Interpretation Act 1978.

Marginal Citations

M40 1947 c. 42.
M41 1963 c. 51.
M42 1845 c. 19.
M43 1845 c. 33.
M44 1923 c. 20.
M45 1978 c. 30.

111 Concurrent proceedings for special and trunk roads schemes and orders.

(1) Proceedings required by Schedule 1 to the [M46]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to be taken in respect of the compulsory acquisition of land for purposes connected with a special road or trunk road may be taken concurrently with proceedings required to be taken for the purposes of a scheme under section 7, or an order under section 9, of this Act relating to the special road, or, as the case may be, an order under section 5 or 12 of this Act relating to the trunk road.

(2) An order under section 9 or 12 of this Act or an order for the compulsory acquisition of land for purposes connected with a special road or trunk may be made to come into operation on the same day as a scheme under section 7 of this Act authorising the provision of a special road or, as the case may be, an order under section 5 of this Act directing that a road shall become a trunk road.

(3) In the foregoing provisions of this section, references to special roads or to trunk roads shall be construed as including references to proposed public roads which are to be special roads or as the case may be are to be trunk roads.

Marginal Citations

M46 1947 c. 42.

Vesting and transfer

112 Transfer of property and liabilities upon road becoming or ceasing to be a trunk road.

(1) Where a road becomes a trunk road, then, subject to the provisions of this section, as from the date on which it does so ("the operative date"), there shall, by this section, be transferred to and shall vest in the Secretary of State for the purposes of his functions as roads authority—

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(a) the road in so far as it was, immediately before the operative date, vested in the former roads authority;

(b) all property in so far as it was, immediately before the operative date, vested in the former roads authority for the purposes of their functions in relation to the road;

(c) all liabilities which have been incurred by the authority for the purposes mentioned in paragraph (b) above and have not been discharged before the operative date, other than loans and loan charges.

(2) In subsection (1) above, "property"—

(a) includes the unexpended balances of any grants paid by the Secretary of State to any such authority for the purposes of their functions in relation to the road but not of any loans raised by any such authority for those purposes; and

(b) does not include—

(i) land vested in the authority for the storage of materials required wholly or partly for the maintenance, repair or improvement of other roads;

(ii) land acquired for the improvement or development of frontages or of land abutting on or adjacent to the road; and

(iii) materials for maintenance, repair or improvement of the road.

(3) Such vesting as is mentioned in subsection (1) above shall not confer on the Secretary of State any heritable right in relation to a road.

(4) There shall not be transferred to the Secretary of State by this section any right or liability in respect of—

(a) work done, services rendered, goods delivered, or money due for payment, before the operative date;

(b) damages or compensation for any act or omission before that date; or

(c) the price of, or compensation for, any land purchased, or for which a contract to purchase has been made, before that date.

(5) Anything vested in the Secretary of State by this section shall be held by him subject to all covenants, conditions and restrictions subject to which it was held by the former roads authority and to all liabilities affecting it (except a liability referred to in subsection (4) above).

(6) The Secretary of State may enter into an agreement with the former roads authority—

(a) that any property or liabilities (except loans and loan charges) acquired or incurred by the authority for the purposes of their functions in relation to a road which has become a trunk road, other than properties or liabilities transferred to the Secretary of State by this section, shall be transferred to him, or

(b) that any property or liabilities transferred to the Secretary of State by this section shall be transferred back to the authority.

(7) Any dispute between the Secretary of State and any authority or person as to the property or liabilities transferred by this section shall be determined by arbitration by a single arbiter appointed in default of agreement by the Court of Session, or the sheriff, on the application of either party.

(8) The foregoing provisions of this section shall apply where a road ceases to be a trunk road in like manner as they apply where a road becomes a trunk road, with the substitution—

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(a) for references to the former roads authority of references to the Secretary of State, and

(b) for references to the Secretary of State of references to the local roads authority who become the roads authority for the road.

(9) The former roads authority for a road which becomes a trunk road shall produce to the Secretary of State such documents and other information as he may require relating to their functions, property and liabilities in respect of the road.

(10) Schedule 6 to this Act shall have effect for the purpose of providing for transitional matters arising where a road becomes or ceases to be a trunk road and for making certain other transitional provisions.

(11) In the foregoing provisions of this section—

"former roads authority" means, in relation to a road which has become a trunk road, the roads authority in whom the road was vested immediately before it became a trunk road; and

"property", subject to subsections (2) and (3) above, includes property, rights and powers of every description.

113 Transfer of property and liabilities in connection with special roads etc.

(1) Where provision is made by an order under section 9 or, as the case may be, 12 of this Act—

(a) for transferring a road from one roads authority to another;

(b) for enabling a roads authority to alter a road vested in another; or

(c) for authorising or requiring any functions of a regional council to be exercised by a roads authority,

the order may transfer to the roads authority to whom the road is transferred or, as the case may be, in whom it is vested, or by whom those functions are to be exercised, any property, rights or liabilities (other than loans or loan charges) vested in or incurred by the other authority in connection with the road, or the alteration, or for the purposes of those functions.

(2) An order transferring property, rights or liabilities under section 9 or 12 of this Act may for that purpose (whether or not the road in question is a trunk road) apply any of the provisions of section 112 of this Act or any of the transitional provisions contained in Schedule 6 to this Act, subject to such modifications as may be specified in the order.

(3) No order under section 9 or 12 of this Act shall provide for transferring to any authority (except by agreement with that authority) any bridge over or tunnel under the road as distinct from any approaches to the bridge or tunnel.

VALID FROM 04/01/1995

[F44 113A Dissolution of certain bodies in consequence of order under section 9.

(1) Where—

(a) an order under section 9 of this Act transfers to a special road authority a road for the management and maintenance of which a body other than a roads

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authority was, prior to the coming into force of the order, responsible under any enactment; and

(b) the functions of that body relate solely to that road,

the Secretary of State may by order (in this section referred to as a "dissolution order") dissolve the body.

(2) A dissolution order may transfer or provide for the transfer to—

(a) the special road authority referred to in subsection (1)(a) above; or

(b) such other person as the Secretary of State considers appropriate,

of such of the property, rights and liabilities of the body dissolved by the order as the Secretary of State considers appropriate.

(3) A dissolution order may make provision in connection with the transfer of staff employed by or for the purposes of the body.

(4) Without prejudice to the generality of subsection (2) above, a dissolution order may make provision regarding liability for the payment of any pensions, allowances or gratuities which would otherwise have been the responsibility of the body.

(5) A dissolution order may make incidental provision as to the interests, rights and liabilities of third parties with respect to property, rights and liabilities transferred by the order.

(6) In subsection (5) above the reference to third parties is a reference to persons other than the body and the persons referred to in subsection (2)(a) and (b) above.

(7) A dissolution order may repeal or amend—

(a) any enactment in a private Act; and

(b) any provision of an order made under or confirmed by a private Act,

which, in consequence of the making of the order, is no longer required or, as the case may be, requires to be amended.**]**

Textual Amendments

F44 S. 113A added (4.1.1995) by 1994 c. 39, **s.147**; S.I. 1994/2850, art. 3(a), **Sch. 2**

114 Transfers of officers and property in connection with lighting and bus shelters, etc.

(1) This section applies where, by virtue of section 35 or 49 of this Act, a function which was, before the commencement of this Act, exercisable by a district council (whether or not concurrently with another local authority) is exercisable by a local roads authority.

(2) An officer of a district council who, in the period immediately before the coming into force of this Act, was wholly or mainly employed in duties pertaining, irrespective of how his office or employment was formally described, to a function referred to in subsection (1) above, shall be transferred into the employment of the local roads authority; but such transfer shall not affect any legal right or entitlement of the officer.

(3) Subject to any such agreement as is provided for in subsection (4) below, any heritable or moveable property of a district council which is wholly or mainly used, or held, by

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the council in relation to the discharge of a function referred to in subsection (1) above shall transfer to and vest in the local roads authority.

(4) If or in so far as the district council and the local roads authority agree that property shall not be transferred by subsection (3) above, that subsection shall have no effect as regards the property; but the property shall no longer be used or held by the district council in relation to the discharge of a function referred to in subsection (1) above.

(5) Any dispute between a district council and a local roads authority as to whether or when a transfer falls to take place under subsection (2) or (3) above or as to any other matter concerning such a transfer shall be determined by arbitration by a single arbiter appointed in default of agreement by the Court of Session, or the sheriff, on the application of either party.

115 Vesting of solum of stopped up road.

(1) Where a road is stopped up under this Act or any other enactment and has ceased to be used as a road, the solum of the road shall, subject to any prior claim of any person by reason of title, vest in the owner or owners of the land which adjoins the road.

(2) Any dispute arising under this section as to the vesting of the solum may be referred on summary application by any interested party to the sheriff, and the decision of the sheriff on the matter shall be final.

Compensation

116 Right to compensation for damage from works.

(1) Without prejudice to any right of compensation enjoyed apart from this section, a person who sustains damage by reason of the execution of works authorised by section 24, 28, 30, 31(1) or (2), 50(1), 74(1), 78(1), 94 or 124(1) of this Act, or subject to section 35(6) thereof, by section 35(1) or (3) thereof, shall be entitled to recover compensation for that damage from the person executing the works.

(2) For the purposes of the application of subsection (1) above—
   (a) to section 50 of this Act, in that subsection "works" includes such planting as is mentioned in subsection (1) of that section; and
   (b) to section 124 of this Act, in that subsection "works" includes experiments or trials conducted under that section.

117 Determination of disputes as to compensation.

(1) Any question of disputed compensation under section 71, 72, 83(8), 88(2), 106, 116, 121 or 140 or disputed expenditure under section 134(3) or 135(3) of this Act shall be determined in the same manner as compensation for the acquisition of land falls to be determined under the [M47]Land Compensation (Scotland) Act 1963, and sections 8, 9 and 11 of that Act shall have effect accordingly subject to any necessary modifications.

(2) Section 167(1) and (2) of the [M48]Town and Country Planning (Scotland) Act 1972 (assessment of compensation for the purposes of Part VIII of that Act) shall apply in relation to the assessment of the disputed compensation mentioned in subsection (1) above, being compensation in respect of the depreciation in value of any interest in

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land, as that section applies in relation to the assessment of compensation payable under the said Part VIII.

Marginal Citations

M47 1963 c. 51.

M48 1972 c. 52.

118 Compensation where interest in land subject to heritable security.

Subsection (4) of section 167 of the Town and Country Planning (Scotland) Act 1972 (provisions as to compensation where an interest in land is subject to a heritable security) shall apply in relation to such compensation as is mentioned in section 71(6), 72(1), 83(8) or 88(2), or as may be provided for in an agreement under section 53(2), of this Act as the said subsection (4) applies in relation to compensation to which the said section 167 applies.

119 Compensation for land acquired as service area for special road.

(1) Where land is compulsorily acquired—

(a) under section 104(3)(c) of this Act in a case where the acquisition is authorised by a compulsory purchase order which does not also authorise the acquisition of land required for the provision of the adjacent length of special road;

(b) in pursuance of a notice under section 169, 177 or 178 of the Town and Country Planning (Scotland) Act 1972 (protection of owners of land affected by certain planning decisions) in a case where the Lands Tribunal for Scotland is satisfied that there are proposals for using the whole or part of the relevant land for such purposes in connection with a special road as are mentioned in the said section 104(3)(c) and that the amount of the compensation would apart from this section be affected by the provision or proposed provision of the special road; or

(c) in pursuance of a notice under section 182 of the said Act of 1972 or section 73 of the [M49]Land Compensation (Scotland) Act 1973 (protection of owner-occupiers of land affected by planning proposals) in a case where the appropriate enactment for the purposes of section 185 of the said Act of 1972 is or includes the said section 104(3)(c),

then, for the purpose of assessing compensation in respect of the compulsory acquisition, the value of the relevant interest shall be ascertained—

(i) so far as it is attributable to any relevant planning permission, on the assumption that traffic carried by the special road will not have direct or indirect access to the relevant land; and

(ii) so far as it is not attributable to any such planning permission, on the assumption that traffic carried by the special road will not have direct access to the relevant land.

(2) In this section—

"direct access" means access by means of a special road or private road and "indirect access" means access by means of a public road which is not a special road;

"relevant planning permission" means any planning permission for service area development which is in force on the date of service of the notice to

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treat, or as to the grant of which any assumption is required to be made by virtue of section 23 or 24 of the [M50]Land Compensation (Scotland) Act 1963, or the possibility of the grant of which is taken into account in assessing the compensation;

"service area development" means development of the relevant land, or of any part thereof, for the purpose of providing such service stations or other buildings or facilities as are mentioned in the said section 104(3)(c) or of providing any other buildings or facilities designed to cater to a significant extent for traffic carried or to be carried by the special road;

and any expression which is also used in the said Act of 1963 has the same meaning as in that Act.

Marginal Citations

M49 1973 c. 56.

M50 1963 c. 51.

PART X

MISCELLANEOUS

120 Duty to have regard to needs of disabled and blind in executing works etc.

(1) A roads authority, local authority or other person exercising a statutory power to execute works in a road shall have regard to—

(a) the needs of disabled or blind persons whose mobility may be impeded by the works; and

(b) without prejudice to the generality of paragraph (a) above, the needs of blind persons to have any openings, whether temporary or permanent, in the road properly protected.

(2) An authority or person mentioned in subsection (1) above shall have regard to the needs of disabled persons and blind persons when placing lamp-posts, bollards, traffic signs, apparatus or other permanent obstructions in a road.

(3) A roads authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.

(4) Section 28 of the [M51]Chronically Sick and Disabled Persons Act 1970 (power to define certain expressions for the purposes of provisions of that Act) shall have effect as if any reference in it to a provision of that Act included a reference to this section.

(5) In the foregoing provisions of this section, references to a road shall be construed as including references to a proposed road.

Modifications etc. (not altering text)

C47 S. 120: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(ai)**

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Marginal Citations

M51 1970 c. 44.

121 Power to obtain road-making materials.

(1) The roads authority may enter land to search for, dig and carry away materials for the purpose of making or repairing a public road or of repairing a prospective public road and may carry such materials through any land.

(2) In subsection (1) above "prospective public road" has the same meaning as in the **[**[F45]Part IV of the New Roads and Street Works Act 1991**]**.

(3) Before carrying out any operations under this section, the roads authority shall serve on the owner and occupier of the land affected notice of their intention to carry out the operations, describing the proposed works and informing him that he may object to the proposed works by notice to the authority within 28 days of the notice of intention being served on him.

(4) Where an owner or occupier of land affected objects to the proposed works in accordance with subsection (3) above and the objection is not withdrawn, then—

(a) if the roads authority is the Secretary of State, he shall consider the objection before carrying out the proposed works, and

(b) if the roads authority are a local roads authority, they shall not carry out the proposed works without the consent of the Secretary of State who may grant such consent either unconditionally or subject to such conditions as he thinks fit.

(5) The roads authority shall pay compensation to the owner or occupier of the land for any damage done to it by exercise of their powers under this section and for the value of the materials carried away by them.

(6) Where an excavation is made by the roads authority in exercise of their powers under this section, they shall—

(a) while the work is in progress, and thereafter so long as the excavation remains open, keep the excavation sufficiently fenced to prevent accidents to persons or animals;

(b) as soon as reasonably practicable after completion of the work either—

(i) fill up the excavation; or

(ii) slope it down and fence it off, if the owner or occupier so requires, and thereafter keep it so fenced;

(c) so far as is reasonably practicable, when filling up the excavation, make good, and level, the ground.

Textual Amendments

F45 Words in s. 121(2) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 90**; S.I. 1992/2990, art. 2(2), **Sch. 2**

122 Saving for Coast Protection Act 1949.

Nothing in this Act authorises—

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(a) the excavation or removal of any materials the excavation or removal of which is prohibited by section 18 of the [M52]Coast Protection Act 1949 (prohibition of excavation, etc., of materials on or under seashore); or

(b) the carrying out of any operation in contravention of section 34 of that Act (restriction of works detrimental to navigation).

Marginal Citations

M52 1949 c. 74.

123 Saving for obligation to obtain planning permission.

Subject to any express provision to the contrary, nothing in this Act authorises the carrying out of any development of land for which permission is required by virtue of section 20 of the [M53]Town and Country Planning (Scotland) Act 1972 (development requiring planning permission) and which is not authorised by permission granted or deemed to be granted under or for the purposes of Part III of that Act.

Marginal Citations

M53 1972 c. 52.

124 Power to conduct experiments as regards roads construction etc.

(1) The Secretary of State may, either by himself or through any authority or other organisation approved by him, conduct experiments or trials for the improvement of the construction of roads, or for testing the effect of various classes of vehicles on various types of roads, and may construct such roads and works, erect such plant, provide such accommodation and, subject to the approval of the Treasury, incur such expenditure as may be necessary.

(2) An experiment or trial under this section shall not be conducted on a road which is maintainable by a local roads authority except with the consent of that authority.

125 Extension of section 34 of Road Traffic Regulation Act 1984.

Section 34 of the [M54]Road Traffic Regulation Act 1984 (which makes provision for access to premises through off-street parking places) shall extend to Scotland; and accordingly in subsection (1) of that section the words “in England and Wales” shall cease to have effect.

Marginal Citations

M54 1984 c.27

126 Restricted roads: amendment of Road Traffic Regulation Act 1984.

Schedule 7 to this Act (which amends provision regarding restricted roads under the Road Traffic Regulation Act 1984) shall have effect.

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[F46]127 . . . . . .

Textual Amendments

F46 S. 127 repealed (01.11.1991) by New Road Works and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1991/2286, art. 2(2), **Sch. 2**

128 Saving for, and extension of section 80 of, Health and Safety at Work etc. Act 1974.

(1) Nothing in this Act authorises the carrying out of any operation in contravention of "the relevant statutory provisions" defined in Part I of the [M55]Health and Safety at Work etc. Act 1974 or in contravention of any regulation made, or prohibition notice or improvement notice served, under or by virtue of that Act or any of those provisions.

(2) For the purpose of the application of section 80 (1) of the said Act of 1974 (general power to repeal or modify Acts and instruments where such repeal or modification appears expedient in consequence of or in connection with any provision made by or under Part I of that Act), this Act shall be deemed an Act passed before that Act.

Marginal Citations

M55 1974 c. 37.

PART XI

OFFENCES

129 Miscellaneous summary offences.

(1) A person who in or beside any road leaves open and unfenced, or insufficiently covered or insufficiently fenced, an opening into a vault or cellar commits an offence:

Provided that the foregoing provisions of this subsection do not apply in relation to the duty under section 56(5) of this Act first to provide a door or cover.

(2) A person who, without lawful authority or reasonable excuse, places or deposits anything in a road so as to obstruct the passage of, or to endanger, road users commits an offence:

Provided that no person shall, in respect of the same acting be convicted both under the foregoing provisions of this subsection and under section 59(2), 90, 95, 100(a) or 101 of this Act, or subsection (9) of this section, of an offence.

(3) A person who, in a road, as the case may be drives, leads or propels a vehicle or animal commits an offence if any load which is thereby being carried projects beyond the vehicle or animal so as in any way to obstruct or endanger other road users.

(4) Without prejudice to subsection (2) above, a person who, in a road, pitches a tent or encamps commits an offence.

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(5) Subject to section 64 of this Act, a person who, in a footway, footpath or cycle track, as the case may be drives, rides, leads or propels a vehicle or horse, or any swine or cattle, commits an offence:

Provided that the foregoing provisions of this subsection do not apply—

(a) where and in so far as the vehicle or animal is being taken across the footway, footpath or cycle track;

(b) in relation to a pedal cycle which is either not being ridden or is being ridden on a cycle track;

(c) except on a cycle track where there is no public right of passage on foot, in relation to—

(i) a perambulator, push-chair or other form of baby carriage; or

(ii) an invalid carriage whose motive power is provided solely by its rider or some other person, or by an electric motor, or by a combination of these sources; or

(d) where there is a specific right so to drive, ride, lead or propel.

(6) A person who parks a motor vehicle ("motor vehicle" having the same meaning as in the [M56]Road Traffic Act 1972) wholly or partly on a cycle track commits an offence.

(7) A person who in a road rides or drives furiously, recklessly or carelessly a horse or other animal (whether or not that horse or animal is attached to a cart or carriage) commits an offence.

(8) Without prejudice to subsection (2) above, a person who, over or along a footway, places a shade, awning or other projection less than either or both—

(a) 2.25 metres above the level of the footway;

(b) 50 centimetres inwards from a carriageway,

commits an offence.

(9) A person who displays goods for sale by placing them in, or hanging them over, a footway or footpath commits an offence:

Provided that the foregoing provisions of this subsection do not apply to—

(a) the offer or exposure for sale of newspapers;

(b) the display of goods for sale by a street trader trading under and in accordance with a street trader's licence;

(c) the display of goods for sale in connection with the carrying on of a private market under and in accordance with a market operator's licence; or

(d) any activity in respect of which a certificate under the [M57]Pedlars Act 1871 has been granted,

and in the foregoing paragraphs of this proviso "street trader's licence", "private market" and "market operator's licence" shall be construed in accordance with section 97(6) of this Act.

(10) Where materials, tools, machinery or other equipment—

(a) have been deposited in any place for use by the roads authority in constructing or maintaining a road; or

(b) are in a quarry which has been opened by the authority for the purpose of their obtaining such materials for that use,

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a person who without reasonable excuse takes away, or displaces, the materials, tools, machinery or equipment commits an offence.

Marginal Citations
M56 1972 c. 20.
M57 1871 c.96,

130 Offences by bodies corporate.

(1) Where an offence under or by virtue of this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in such capacity, he as well as the body corporate is guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

131 Penalties and mode of trial.

(1) An offence under this Act shall, unless there is express provision to the contrary, be triable only summarily.

(2) The penalty on conviction of any offence under this Act shall be determined in accordance with Schedule 8 thereto; and in that Schedule—
  (a) column 1 specifies the provision of this Act creating the offence and column 2 the maximum penalty which may be imposed in respect of that offence;
  (b) references to a level on the standard scale are references to the standard scale as defined in section 75 of the [M58]Criminal Justice Act 1982; and
  (c) "the statutory maximum" has the meaning ascribed to it by section 74 of that Act.

Marginal Citations
M58 1982 c. 48.

PART XII

STATUTORY UNDERTAKERS

132 Saving for operators of telecommunications code systems.

(1) Subject to the provisions of this section, nothing in this Act or in any scheme or enactment under or by virtue of this Act—

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(a) shall affect any rights conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code; or

(b) applies to any telecommunication apparatus kept installed for the purposes of any such system.

(2) Where in pursuance of an order under this Act (or under an Act repealed by this Act) a road is (or was) stopped up or diverted and, immediately before that order comes (or came) into force, there is (or was) under, in, upon, over, along or across the road any telecommunications apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not come into force; but any person entitled to land over which the road subsisted may require the alteration of the apparatus.

(3) Where an order under this Act (or under an Act repealed by this Act) provides for the alteration of a road and, immediately before the date on which the order comes (or came) into force, there is (or was) under, in, upon, over, along, or across the road any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the roads authority shall be entitled to require the alteration of the apparatus. This subsection does not have effect so far as it relates to the alteration of any telecommunication apparatus for the purpose of authority's works as defined in **[**[F47]Part IV of the New Roads and Street Works Act 1991**]**.

(4) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of subsections (1) to (3) above as it applies for the purposes of that code.

(5) Paragraph 21 of the telecommunications code (restriction on removal of telecommunication apparatus) shall apply in relation to any right conferred by this section to require the alteration, moving or replacement of any telecommunications apparatus as it applies in relation to a right to require the removal of such apparatus.

Textual Amendments

F47 Words in s. 132(3) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 91**; S.I. 1992/2990, art. 2(2), **Sch. 2**

[F48]133 . . . . . .

Textual Amendments

F48 S. 133 repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1992/2990, art. 2(2), **Sch. 2**

134 Extinguishment of rights of statutory undertakers to apparatus etc. in connection with schemes under section 7 and orders under section 9.

(1) [F49]. . . section 219 of the [M59]Town and Country Planning (Scotland) Act 1972 (extinguishment of certain subsisting rights of statutory undertakers over land required under Part VI of that Act) shall apply—

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(a) in relation to land acquired or appropriated by a special road authority for the purpose of carrying out works in pursuance of a scheme under section 7 or an order under section 9 of this Act; and

(b) in relation to land forming the site of any part of an existing road which is appropriated or transferred to a special road authority under this Act,

as it applies in relation to land acquired under the said Part VI; and sections 220 and 222 to 225 of the said Act of 1972 (which contain provisions consequential upon the extinguishment of any right under the said section 219) shall have effect accordingly.

(2) The provisions of the said Act of 1972 mentioned in subsection (1) above shall have effect, as applied for the purposes of this section, with the substitution for references therein to the purchasing authority of references to the special road authority.

(3) Where apparatus of statutory undertakers supplying electricity, gas, hydraulic power or water is removed in pursuance of a notice or order given or made under the said section 219 (as applied for the purpose of this section), any person who is the owner or occupier of premises to which a supply was given from that apparatus shall be entitled to recover from the special road authority expenditure for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given if that expenditure was reasonably incurred in consequence of the removal.

Textual Amendments

F49 Words in s. 134(1) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Modifications etc. (not altering text)

C48 S. 134(1)(2) modified by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 13(1), **Sch. 4 para. 2**

Marginal Citations

M59 1972 c. 52.

135 Restriction of powers of local authority in whom sewer is vested.

(1) **[**[F50]Section 134**]** of this Act (including the provisions of the [M60]Town and Country Planning (Scotland) Act 1972 applied by subsection (1) of the said section 134), shall, so far as applicable, apply in relation to the sewers and sewage disposal works of any local authority as they apply in relation to the apparatus of statutory undertakers.

(2) In the said provisions of the said Act of 1972 applied for the purposes of this section, references to the appropriate Minister shall be construed, in relation to a local authority, as references to the Secretary of State.

(3) Where a public sewer is removed in pursuance of a notice or order given or made under section 219 of the said Act of 1972 as applied for the purposes of this section, a person who is the owner or occupier of premises the drains of which communicated with that sewer, or the owner of a private sewer which communicated with that sewer, shall be entitled to recover from the special road authority expenditure for the purpose of

(a) linking his drain or sewer with—

(i) any other public sewer; or

(ii) a private sewage disposal plant; or

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(b) constructing a private sewage disposal plant and linking his drain or sewer to that plant,

if that expenditure was reasonably incurred in consequence of the removal.

Textual Amendments

F50 Words in s. 135(1) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 92**; S.I. 1992/2990, art. 2(2), **Sch. 2**

Marginal Citations

M60 1972 c. 52.

PART XIII

GENERAL

Notices

136 Contents of notices.

Except where and in so far as otherwise expressly provided in this Act, a notice issued or served by a roads authority under this Act regarding the doing of anything in relation to land, shall—

(a) so far as necessary and reasonably practicable give details, including the location, of the land;

(b) so far as necessary and reasonably practicable specify the nature of any works which have to be carried out and of any requirements which have to be met;

(c) specify any period within which the notice has to be complied with;

(d) state any power of the authority, if the notice is not complied with, to enter the land and carry out the works specified in the notice and to recover their expenses in so doing; and

(e) intimate any right of appeal under this Act against the notice.

Modifications etc. (not altering text)

C49 Ss. 136-139 applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 47(2)**(with savings s. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

137 Service of notices.

Section 192 of the [M61]Local Government (Scotland) Act 1973 (service of notices) shall apply to notices under this Act relating to land as that section applies to notices under that Act relating to premises.

Modifications etc. (not altering text)

C50 Ss. 136-139 applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 47(2)**(with savings s. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

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Marginal Citations

M61 1973 c. 65.

138 Time for enforcing certain notices.

Subject to any express provision in this Act to the contrary, a notice containing a requirement which may be appealed against under this Act shall not be acted upon by a roads authority or a person authorised by them until the time for appealing against the notice has expired or, if an appeal has been lodged, until that appeal has been disposed of or abandoned.

Modifications etc. (not altering text)

C51 Ss. 136-139 applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 47(2)**(with savings ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

Inquiries

139 Holding of inquiries.

(1) Without prejudice to any express provision in this Act in that regard, the Secretary of State may hold an inquiry—

(a) in connection with any matters as to which he is under this Act authorised to act; or

(b) for the purpose of determining any matter which he is required under this Act to determine.

(2) subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 shall apply to an inquiry under subsection (1) above as they apply to a local inquiry under that section.

(3) The [M62]Tribunals and Inquiries Act **[**[F51]1992**]** shall apply to an inquiry under subsection (1) above as that Act applies to a statutory inquiry held by the Secretary of State.

Textual Amendments

F51 Word in s. 139(3) substituted (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(1), 19(2), **Sch. 3 para. 16**

Modifications etc. (not altering text)

C52 Ss. 136-139 applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 47(2)**(with savings ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

Marginal Citations

M62 1971 c. 62.

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Powers of entry etc.

140 Powers of entry.

(1) A person authorised by a roads authority shall, on producing, if so required, some duly authenticated document showing his authority in that regard, have a right to enter any land at all reasonable hours for the purpose of—

(a) surveying that or any other land in connection with the exercise of the functions of the roads authority under this Act;

(b) laying and leaving on the land apparatus for the purpose of the survey or removing such apparatus;

(c) searching or boring to ascertain for the purpose of the survey—

(i) the nature of the subsoil or the presence of minerals; or

(ii) the nature of any mining operations or other activity taking place beneath the surface of the land which may affect the stability of a public road;

(d) inspecting anything which any person is under a duty to maintain under this Act;

(e) ascertaining whether any work required to be done by or under this Act by any person in relation to any land has been done;

(f) inspecting any work to which a consent or authorisation granted by the authority under this Act relates;

(g) carrying out anything which is required, by a notice served by the authority under this Act, to be done by any person in relation to any land and which the person has failed to do in accordance with the notice; or

(h) taking any other action, or executing any work, authorised or required by, under or by virtue of this Act to be taken or executed by the roads authority.

(2) Without prejudice to subsection (8) below, and subject to any provision of this Act which allows an authority to act in an emergency, entry to land shall not be demanded as of right under or by virtue of this Act unless at least 7 days notice of the intended entry has been given to the occupier.

(3) Without prejudice to any other provision of this Act which requires notice of proposed works to be given, works shall not be carried out on any land in pursuance of subsection (1)(b) or (c) above by a person unless at least 7 days notice of the intention to do so has been given by that person—

(a) to the owner and occupier of the land; and

(b) in the case referred to in subsection (1)(c) above, to the **[**[F52]British Coal Corporation**]**, and any other proprietor of underground mineral workings, where the **[**[F52]Corporation's**]** or other proprietor's interests are liable to be affected by the searching or boring.

(4) Statutory undertakers or the **[**[F53]British Coal Corporation**]** may object to the roads authority about the carrying out of works proposed to be carried out under subsection (1)(b), (c) or (h) above on the grounds that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking; and in that event the works shall not be carried out except with the authority of the Secretary of State after consultation with the Minister responsible for the undertaking.

(5) A person contravening subsection (3) or (4) above commits an offence.

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(6) A roads authority shall be entitled to recover the expenses reasonably incurred by them in doing anything in relation to any land under—

(a) subsection (1)(e) above from the person who has been required to do the work;

(b) subsection (1)(f) above, from the person to whom the consent or authorisation has been granted,

but may remit any sum, or any part of that sum, due to them under this subsection as they think fit.

(7) Where such expense as is mentioned in subsection (6) above is recoverable under that subsection from more than one person, the roads authority may apportion such expense among them.

(8) If it is shown to the satisfaction of the sheriff, or of a magistrate or justice of the peace having jurisdiction in the place where the land is situated, on evidence on oath—

(a) that admission to land which any person is entitled to enter by virtue of this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, and

(b) that there are reasonable grounds for entry to the land for any purpose for which the right of entry is exercisable,

the sheriff, magistrate or justice may by warrant authorise the person to enter the land.

(9) A person who wilfully obstructs a person upon whom a right of entry has been conferred by any of the provisions of this section or by a warrant issued thereunder commits an offence.

(10) Where, in the exercise of a power of entry conferred by this section, damage has been caused to land or to corporeal moveables, any person having an interest in the land or moveables may recover compensation in respect of that damage from the roads authority by whom or on whose behalf the power was exercised; and where in consequence of the exercise of such power a person is disturbed in his enjoyment of land or corporeal moveables, he may recover from the roads authority compensation in respect of the disturbance.

Textual Amendments

F52 Words substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(2), **Sch. 1 para. 46**

F53 Words substituted by Coal Industry Act 1987 (c. 3, SIF 86), s. 1(2), **Sch. 1 para. 46**

141 Power of roads authority to execute works etc. on default of person required to do so.

(1) Where by notice under this Act a roads authority require works or excavations to be executed within a specified period then, subject to subsection (3) below, if those works or excavations are not timeously executed they may themselves execute them:

Provided that this section does not apply as regards any particular such requirement for which this Act makes express provision analogous to the foregoing provisions of this subsection.

(2) Subsections (6) and (7) of section 140 of this Act shall apply in relation to works or excavations executed by a roads authority under subsection (1) above and to the person

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who had been required to execute the works or excavations as those subsections apply to entry and inspection under subsection (1)(f) of that section and to the person who has been granted the consent or authorisation.

(3) The roads authority may in writing grant an extension of the period specified in any such notice as is mentioned in subsection (1) above.

(4) In the application to the foregoing provisions of this section of the definition of "works" in section 151(1) of this Act the expression shall also include such—
- (a) removal and reinstatement as is mentioned in section 51(3) or 87(1);
- (b) steps as are mentioned in section 57(1), 67 or 93(2);
- (c) replacement, repair or putting into good condition as is mentioned in section 66(2);
- (d) alteration as is mentioned in section 83(1);
- (e) work as is mentioned in section 91(1) or (2); and
- (f) removal as is mentioned in section 92(2),

of this Act.

Modifications etc. (not altering text)

C53 S. 141: power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, **Sch. para. 5(aj)**

142 Power to require occupier to permit work to be executed by owner.

If, on an application made by the owner of any land, it appears to the sheriff that the occupier of that land is preventing the owner from executing work which the owner is by this Act required to execute, the sheriff may order the occupier to permit the execution of the work.

Regulations, orders and schemes

143 Regulations, orders and schemes.

(1) Where a power to make regulations or orders, or to make or confirm schemes, is exercisable by the Secretary of State by virtue of this Act, the exercise of that power shall be by statutory instrument under this subsection, and may—
- (a) make different provision in relation to different cases or classes of case;
- (b) exclude certain cases or classes of case.

(2) A statutory instrument—
- (a) made under subsection (1) above and containing—
  - (i) regulations other than such regulations as are mentioned in paragraph (b)(i) below; or
  - (ii) an order under section **[**[F54]8 or**]** 154 of this Act,

  shall be subject to annulment in pursuance of a resolution of either House of Parliament;

and
- (b) containing—

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(i) regulations under section 17 of this Act **[**[F55]or regulations made for the first time under section 61A of this Act**]**; or

(ii) an order under section [F56] . . . 153 of this Act,

shall not be made under subsection (1) above unless a draft of the instrument has been laid before Parliament and has been approved by resolution of each House of Parliament.

Textual Amendments

F54 Words in s. 143(2)(a)(ii) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 93(a)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

F55 Words in s. 143(2)(b)(i) inserted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 93(b)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F56 Words in s. 143(2)(b)(ii) repealed (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1)(2), Sch. 8 para. 93(c), **Sch. 9**; S.I. 1991/2286, art. 2(1), **Sch. 1**

144 Regulations for procedure in schemes and orders for special roads and trunk roads.

(1) Subject to section 143 of, and Schedules 1 and 2 to, this Act, the Secretary of State may make regulations prescribing the procedure to be followed in connection with the making and confirmation of schemes under section 7 and orders under sections 5, 9 and 12 of this Act.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may provide for securing that the centre-line of—

(a) a special road authorised by a scheme under section 7 of this Act,

(b) a road directed by order to become a trunk road under section 5 of this Act, or

(c) a road affected by an order under section 9 or 12 of this Act,

shall be indicated on a map on such scale as may be prescribed by the regulations.

(3) The centre-line of any road referred to in subsection (2) above as constructed may deviate from the centre-line as indicated on the map referred to in that subsection within such limits of deviation, not exceeding 50 metres, as may be specified in the scheme or order.

145 Revocation and variation of certain schemes and orders.

(1) A scheme or order made by a roads authority under this Act or confirmed by the Secretary of State under section 5, 7, 9, 12 or 75(3) of this Act may, subject to subsection (5) below and to subsection (7)(i) of the said section 5, be revoked or varied by a subsequent scheme or order so made or confirmed; and subject to the provisions of this section any such revoking or varying scheme or order may make such consequential provision as appears to the Secretary of State to be expedient.

(2) Where a scheme under section 7 of this Act is revoked by a subsequent scheme, any part of the special road authorised by the scheme, being a part constructed before the date on which the revoking scheme comes into operation, and any road appropriated by or transferred to the special road authority before that date, shall cease on that date to be a special road within the meaning of this Act, but shall, where the special road is a trunk road, continue to be a trunk road.

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(3) Where a scheme under section 7 of this Act is varied by a subsequent scheme, subsection (2) above shall apply in relation to any part of the special road which ceases to form part of the route of that road in consequence of the variation.

(4) Subject to the foregoing provisions of this section, the revocation or variation of a scheme under section 7 or 75(3) of this Act shall not affect the validity of anything done in pursuance of the scheme before the date on which the revoking or varying scheme comes into force, or the validity of any order under section 9 of this Act before that date in connection with the special road to be provided under the scheme.

(5) Where—

(a) a scheme under section 7 or 73(3) of this Act; or

(b) an order under section 9 or 12 of this Act in relation to—

(i) a special road; or

(ii) a main road (within the meaning of the said section 12),

which has not been opened for the purposes of through traffic,

is revoked at any time before the special road, main road, bridge or tunnel is opened for the purposes of through traffic, Schedules 1 and 2 to this Act shall have no effect as regards the revocation but, within 28 days of the revocation, notice of it shall be published by the Secretary of State in the Edinburgh Gazette and in such other manner as he thinks best adapted for informing persons affected.

Crown application

146 Application of Act to Crown land.

(1) Subject to the following provisions of this section, nothing in this Act shall apply in relation to any land belonging to Her Majesty in right of the Crown or otherwise, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

(2) The appropriate Crown authority in relation to any land and a roads authority may agree that any provisions of this Act specified in the agreement shall apply to that land and, while the agreement is in force, those provisions shall apply to the land accordingly, subject however to the terms of the agreement.

(3) An agreement under subsection (2) above may contain such consequential and incidental provisions, including provisions of a financial character, as appear to the appropriate Crown authority to be necessary or equitable, but the approval of the Treasury shall be required in so far as those provisions are of a financial character in an agreement which relates to land referred to in subsection (4)(b) below.

(4) In the foregoing provisions of this section "the appropriate Crown authority" means—

(a) in relation to land belonging to Her Majesty in right of the Crown or otherwise, the Crown Estates Commissioners or such other government department or other person as has the management of the land in question; and

(b) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department;

and if any question arises as to what authority is the appropriate Crown authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

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Modifications etc. (not altering text)

C54 S. 146 applied (21. 10. 1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 167(1)**; S.I. 1991/2286, art. 2(1), **Sch. 1**.

Financial provisions

147 Recovery of costs of certain orders.

Where a person requests a roads authority to make an order under section 68(1) of this Act the authority may require him, as a condition of their compliance with the request, to make such provision as they consider reasonable as regards any costs to be incurred by them in so complying.

148 Exemption from stamp duty.

Where the Secretary of State certifies that stamp duty which, but for this section, would be payable on an instrument made by, to or with him in relation to a road which is, or is to become, a trunk road would be payable as an expense by him under this Act, that stamp duty shall not be payable.

149 Interest on expenses.

Where under any provision of this Act a roads authority are entitled to recover expenses, they shall also be entitled to interest thereon at the rate for the time being prescribed under section 40 of the [M63]Land Compensation (Scotland) Act 1963 from the date on which a demand for the expenses is served until payment; but they may remit any sum or part of any sum due to them as interest if they think fit.

Marginal Citations

M63 1963 c. 51.

150 Expenses.

There shall be paid out of money provided by Parliament—

(a) any administrative expenses incurred by the Secretary of State under this Act;

(b) any sums required for the payment of grants or advances under, and any other expenses of the Secretary of State under, this Act; and

(c) any increase attributable to this Act in the sums so payable under any other Act.

Interpretation

151 Interpretation.

(1) In this Act, unless the context otherwise requires—

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"approaches", in relation to a bridge or tunnel, includes the facings of any embankment or cutting adjacent to the bridge or tunnel;

[[F57]"appropriate environmental body" is to be construed in accordance with section 20A(6) of this Act;**]**

"building" includes any erection, however, and with whatever material, it is constructed and any part of a building;

"carriageway" shall be construed in accordance with subsection (2) below;

"cattle-grid" has the meaning given by section 41(6) of this Act;

"classified road" shall be construed in accordance with section 11 of this Act;

"common" has the same meaning as in the [M64]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

"cycle track" shall be construed in accordance with subsection (2) below;

"days" means clear days;

[[F58]"driver information system" has the same meaning as in Part II of the Road Traffic (Driver Licensing and Information Systems) Act 1989, and references to an "operator" of a driver information system are references to an operator licensed under that Part of that Act;**]**

"enactment" includes an enactment in this Act or in a local or private Act and a provision of an order, a scheme, regulations or any other instrument made under or confirmed by a public general, local or private Act;

[[F57]"environmental assessment" means an assessment in accordance with Council Directive No. 85/337/EEC;**]**

[[F57]"environmental statement" has the meaning provided by section 20A(2) of this Act;**]**

"footpath" shall be construed in accordance with subsections (2) and (3)(a) and (b), and "footway" in accordance with subsection (2), below;

"frontager", in relation to a road or proposed road, means the owner of any land fronting or abutting it;

"improvement", in relation to a road, means the doing of anything for the benefit of road users, or any class of road users, beyond that which is essential to placing the road in a proper state of repair, and includes the improvement of the amenity—

(a) of the road; and

(b) of land abutting on, or adjacent to, the road;

"local authority" means a regional or islands council;

"local roads authority" has the meaning given by paragraph (a) of the definition of "roads authority" in this subsection;

"maintenance" includes—

(a) repair; and

(b) watering to allay dust but, without prejudice to subsection (1) of section 25 of the [M65]Local Government and Planning (Scotland) Act 1982 (restriction of powers of local authorities as regards street cleansing), not such cleansing as an islands or district council are required by subsections (1) and (3) of that section to undertake;

"navigation authority" means persons authorised by any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

"notice" means notice in writing;

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"obstruction" includes obstruction of view;

"occupier" means the person in occupation or having the charge, management or control of land, either on his own account or as the agent of another person;

"open space" has the same meaning as in the [M66]Acquisition of Land (Authorisition Procedure) (Scotland) Act 1947;

"operator", in relation to a telecommunications code system, has the same meaning as in paragraph 1 of Schedule 4 to the [M67]Telecommunications Act 1984;

"owner"—

(a) in relation to land means, subject to paragraph (b) below, the person for the time being entitled to receive, or who would, if the same were let, be entitled to receive, the rents of the land, and includes a trustee, factor, tutor or curator, and in the case of public or municipal property applies to the persons to whom the management thereof is entrusted; and

(b) in relation to special roads (whether existing or proposed) includes any person who under the Lands Clauses Acts would be entitled to sell and convey the land to promoters of an undertaking and also includes a lessee under a lease the unexpired portion of which exceeds three years;

"pedal cycle" means a cycle whose motive power is provided solely by the legs of its rider or riders or which complies with the requirements specified in Regulation 4 of the [M68]Electrically Assisted Pedal Cycles Regulations 1983;

"private road" means any road other than a public road;

"proposed road" means (without prejudice to the definition in this subsection of "proposed public road") a new road in course of construction, or proposed to be constructed, by or on behalf of any person;

"proposed public road" means either—

(a) a new road in course of construction, or proposed to be constructed, by or on behalf of a roads authority; or

(b) an existing road which is a prospective public road within the meaning of the **[**[F59]Part IV of the New Roads and Street Works Act 1991**]**;

"public road" means a road which a roads authority have a duty to maintain;

"railway undertakers" means persons authorised by any enactment to carry on a railway undertaking;

"road" means, subject to subsection (3) below, any way (other than a waterway) over which there is a public right of passage (by whatever means **[**[F60]and whether subject to a toll or not**]**) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes; and any reference to a road includes a part thereof;

"roads authority" means—

(a) in relation to a road or proposed road other than any such as is mentioned in paragraph (b) of this definition, the regional or islands council within whose area the road is (such council being in this Act referred to as a "local roads authority"); and

(b) in relation to a trunk road (whether existing or in course of construction) or, without prejudice to section 4 of this Act, to a special road provided by him

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under section 7(5) (or to be provided by him under section 7(5)(a) or (b)) or to any other road constructed (or to be constructed) by him under section 19(1) of this Act, the Secretary of State; and references to "they" in relation to a roads authority shall be taken to relate also to the Secretary of State;

"special road authority" has the meaning given by section 7(4) of this Act;

"special road" means a road provided or to be provided in accordance with a scheme under section 7 of this Act;

"statutory undertakers" has the same meaning as in section 275 of the [M69]Town and Country Planning (Scotland) Act 1972 except that it includes

(a) [F61]the Post Office

(b) [F62]except in sections 133 and 140(4) of this Act, the operator of any telecommunications code system **[**[F63]and

(c) except in section 140(4) of this Act, the operator of any driver information system;**]**

"swing bridge" includes any opening bridge operated by mechanical means;

"telecommunication apparatus", "the telecommunications code" and "telecommunications code system" have the same meanings as in paragraph 1 of Schedule 4 to the [M70]Telecommunications Act 1984;

"tidal waters" has the same meaning as in section 35(1) of the [M71]Rivers (Prevention of Pollution) (Scotland) Act 1951;

"traffic" includes pedestrians and animals;

"traffic sign" has the same meaning as in section 64(1) of the [M72]Road Traffic Regulation Act 1984;

"trunk road" means a road which is a trunk road by virtue of section 5 of this Act or of an order or direction under that section or section 198(2) of the [M73]Town and Country Planning (Scotland) Act 1972;

"use", in relation to a road, includes crossing;

"vehicle" means a vehicle of any description and includes a machine or implement of any kind drawn or propelled along roads (whether or not by mechanical power);

"water authority" shall be construed in accordance with section 3 of the [M74]Water (Scotland) Act 1980; and

"works", as regards any road, includes—

(a) making an alteration to it;

(b) breaking up or opening it;

(c) constructing or laying anything under it;

(d) building anything into it; and

(e) carrying out any other operations of a like nature;

and cognate expressions shall be construed accordingly.

(2) For the purpose of this Act, where over a road the public right of passage referred to in the definition of "road" in subsection (1) above—

(a) is by foot only, the road is—

(i) where it is associated with a carriageway, a "footway"; and

(ii) where it is not so associated, a "footpath";

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(b) is by pedal cycle only, or by pedal cycle and foot only, the road is a "cycle track";

(c) includes such a right by vehicle, other than a right by pedal cycle only, the road is a "carriageway".

(3) This Act does not confer any power or impose any duty as regards a road or proposed road which—

(a) being a footpath only, is a public path created under section 30 of the [M75]Countryside (Scotland) Act 1967 (power of planning authority to create public paths by agreement);

(b) being a footpath only, forms part of a long-distance route the proposals for which have been approved by the Secretary of State under section 40(1) of that Act (approval of proposals relating to a long-distance route); or

(c) forms part of land owned or managed by an islands or district council and used by them for the provision of facilities for recreational, sporting, cultural or social activities in the discharge of their duties under section 14 of the [M76]Local Government and Planning (Scotland) Act 1982.

(4) Any reference in this Act to apparatus belonging to statutory undertakers shall, in relation to the operator of a telecommunications code system, have effect as a reference to telecommunication apparatus kept installed for the purposes of that system.

Textual Amendments

F57 Definitions inserted by S.I. 1988/1221, **reg. 72**

F58 Definition inserted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 13(1), **Sch. 4 para. 5(1)(3)(a)**

F59 Words in s. 151(1) in the definition of "proposed public road" substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 94(a)**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F60 Words in s. 151(1) in the definition of "road" inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 94(b)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

F61 "(a)" inserted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 13(1), **Sch. 4 para. 5(1)(3)(b)**

F62 "(b)" substituted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 13(1), **Sch. 4 para. 5(1)(3)(b)**

F63 Words added by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 13(1), **Sch. 4 para. 5(1)(3)(b)**

Modifications etc. (not altering text)

C55 S. 151(1) definitions of "trunk road" and "classified road" applied (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 136(3)** (with saving s. 167(4)(5)); S.I. 1992/2990, art. 2(2), **Sch. 2**

C56 S. 151(1) definition of "improvement" applied (14.7.1992) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 145(2)(b)** (with saving s. 167(4)(5)); S.I. 1992/1671, art. 2, **Sch.**

C57 S. 151(1) definitions of "roads authority" "local roads authority" applied (14.7.1992) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 145(1)** (with saving s. 167(4)(5)); S.I. 1992/1671, art. 2, **Sch.**

Marginal Citations

M64 1947 c. 42.

M65 1982 c. 43.

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M66 1947 c. 42.
M67 1984 c. 12.
M68 S.I. 1983/1168.
M69 1972 c. 52.
M70 1984 c. 12.
M71 1951 c. 66
M72 1984 c. 27.
M73 1972 c. 52.
M74 1980 c. 45.
M75 1967 c. 86.
M76 1982 c. 43.

152 Further provision as to interpretation and certain ancillary powers.

(1) A power conferred on a roads authority by, under or by virtue of this Act to provide, erect, construct, lay or plant includes a power to alter, remove, re-lay, or, as the case may be, re-plant; and in relation to the power conferred by section 25 of this Act also includes the power temporarily to close:

Provided that the foregoing provisions of this subsection shall not apply where the context otherwise requires or where or in so far as such application would result in overlap with, or would admit avoidance of, express provisions of this Act.

(2) The power conferred on a roads authority by section 1(1)

or 2(1)

of this Act to determine the means of exercise of a public right of passage includes the power to redetermine by order under this subsection such means of exercise.

(3) Subsections (1) and (2) of section 71 of this Act shall apply in relation to an order under subsection (2) above as they apply to an order under section 68 or 69 of this Act.

(4) A local roads authority shall have power to carry out any works necessary for giving effect to an order by them under subsection (2) above; and in so far as the carrying out of any such works, or any change in the use of land resulting from any such order, constitutes development within the meaning of the [M77]Town and Country Planning (Scotland) Act 1972, permission for that development shall be deemed granted under Part III of that Act.

Modifications etc. (not altering text)
C58 S. 152(4) restricted (30.10.1994) by S.I. 1994/2716, **reg. 70**

Marginal Citations
M77 1972 c. 52.

Supplementary

153 Consequential provision.

The Secretary of State may by order make such incidental, consequential, transitional or supplementary provision as appears to him to be necessary or proper—

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(a) for the general or any particular purposes of this Act or in consequence of any of the provisions of, or for giving full effect to, this Act; or

(b) in consequence of such of the provisions of any other Act passed in the same session as this Act as apply to any area or authority affected by this Act;

and nothing in any other provision of this Act shall be construed as prejudicing the generally of this subsection.

154 Local enactments.

(1) Subject to subsection (2) below, where any local enactment provides for any matter which is also provided for by any provision of this Act or of any statutory instrument made thereunder, the provision of this Act, or, as the case may be, of that statutory instrument, shall have effect in substitution for the local enactment, which shall cease to have effect.

(2) The Secretary of State may by order except from the operation of subsection (1) above such local enactments as may be specified in the order and direct that the corresponding provisions of this Act or of any statutory instrument made thereunder as may to so specified shall not have effect in the areas in which the specified local enactments have effect.

(3) If it appears to the Secretary of State that any local enactment, not being an enactment which has ceased to have effect by virtue of subsection (1) above, is inconsistent with any provision of this Act or of any statutory instrument made thereunder, or is no longer required, or requires to be amended, having regard to any provision of this Act or of any statutory instrument made thereunder, he may by order repeal or amend the local enactment as he may consider appropriate.

155 General adaptation of subordinate legislation etc.

Without prejudice to section 153 or 154 of this Act and except where the context otherwise requires or the Secretary of State by order under either of those sections otherwise provides, in any order, scheme, regulation or other instrument which before 1st January 1985 was made under or confirmed by a public general or local Act and in any local Act passed before or during the same session as this Act (such order, scheme, regulation, instrument or local Act not being an enactment which has ceased to have effect by virtue of subsection (1) of the said section 154) any reference—

(a) to a street, to a highway or to a road shall be construed as a reference to a road within the meaning of this Act;

(b) to a turnpike road, to a public carriage road, to a public highway, to a maintainable highway, to a public street or to a public road shall be construed as a reference to a public road within the meaning of this Act;

(c) to a private street or to a private road shall be construed as a reference to a private road within the meaning of this Act;

(d) to a prospective public road or to a prospective public street shall be construed as a reference to a road which is declared likely to become a public road in a declaration made by the local roads authority under **[**[F64]section 146 of the New Roads and Street Works Act 1991**]**;

(e) to a highway authority or to a street authority shall be construed as a reference to a roads authority within the meaning of this Act;

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(f) to a roadway or to a carriageway shall be construed as a reference to a carriageway within the meaning of this Act; and

(g) to a cycle track, to a footpath or to a footway shall be construed in accordance with this Act.

Textual Amendments

F64 Words in s. 155(d) substituted (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 95**; S.I. 1992/2990, art. 2(2), **Sch. 2**

156 Amendments, transitional provisions and repeals.

(1) The enactments specified in Schedule 9 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the foregoing provisions of this Act).

(2) The transitional provisions and savings contained in Schedule 10 to this Act shall have effect.

(3) Subject to the provisions of the said Schedule 10, the enactments specified in Schedule 11 to this Act (which include enactments already obsolete or unnecessary) are hereby repealed to the extent specified in the third column of that Schedule.

157 Short title, commencement and extent.

(1) This Act may be cited as the Roads (Scotland) Act 1984.

(2) Subject to subsection (3) below, this Act, except this section, shall come into force on 1st January 1985 (in this Act referred to as "the commencement of this Act").

(3) The following provisions of this Act shall come into force on such day as the Secretary of State may by order appoint, and different purposes and for different areas—

section 36 to 40;

section 126 and Schedule 7;

section 156(3) and Schedule 11 in so far as they relate to Schedule 10 to the [M78]Road Traffic Regulation Act 1984.

(4) This Act applies to Scotland only.

Modifications etc. (not altering text)

C59 Power of appointment conferred by s. 157(3) fully exercised: S.I. 1985/1953, 1989/1094, 1990/2622

Marginal Citations

M78 1984 c. 27.

Status: *Point in time view as at 01/01/1993. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULES

SCHEDULE 1

Sections, 5, 7, 9, 12, 75 and 77.

PROCEDURES FOR MAKING OR CONFIRMING CERTAIN ORDERS AND SCHEMES

Modifications etc. (not altering text)

C60 Sch. 1 excluded (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **ss. 30(6)**, 34(7)(with savings ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

PART I

ORDERS

1 Where the Secretary of State proposes to make an order under section 5, 9, 12, 75 or 77 of this Act he shall publish in at least one newspaper circulating in the area in which any road to which the order relates is situated and in the Edinburgh Gazette a notice—

(a) stating the general effect of the proposed order;

(b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected free of charge at all reasonable hours during a period specified in the notice, being not less than six weeks from the date of the publication of the notice; and

(c) stating that, within the said period, any person may by notice to the Secretary of State object to the making of the order.

2 Where an order under the said section 9 or 12 is submitted to the Secretary of State by a local roads authority, that authority shall publish in the manner specified in paragraph 1 above the notice there referred to, and that paragraph shall have effect in relation to a notice published by any such authority as if the references to the draft order and the making of the order were references to the order as submitted to the Secretary of State and the confirmation of the order respectively.

3 Not later than the day on which the said notice is published or, if it is published on two or more days, the day on which it is first published, the Secretary of State or the local roads authority, as the case may be, shall serve on each person (other than himself or as the case may be themselves) specified in such head or heads of the Table set out at the end of this paragraph as apply in the case of the order in question—

(a) a copy of the notice;

(b) a copy of the draft order or, as the case may be, the order; and

(c) a copy of any relevant map or plan.

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TABLE

Persons to be served with copies of the documents specified in paragraph 3 of this schedule

	Nature of order or proposed order	***Persons to be served***
(i)	Order proposed to be made under section 5, 12 or 75.	The council of every region, islands area and district in which any road to which the proposed order applies is situated.
(ii)	Order proposed to be made under section 5, 9 or 12 which provides for the construction of a bridge over or a tunnel under navigable waters, and order under section 75.	Every navigation authority or water authority concerned with or having jurisdiction over the waters affected or over the area comprising those waters.
(iii)	Order proposed to be made under section 12 authorising the carrying out of new works.	The council of every region, islands area and district on whose area works authorised by the proposed order are to be carried out.
(iv)	Order under section 9 transferring a road from one roads authority to another.	The roads authorities to and from whom the road is to be transferred.
(v)	Order proposed to be made under section 77.	The council of every region, islands area and district in which the bridge or its approaches is situated and every navigation authority concerned with or having jurisdiction over the waters affected or over the area comprising those waters.
(vi)	Order proposed to be made under section 9 or 12 which authorises the stopping up of a private means of access to land.	The owner and the occupier of the land.

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(vii)	Order proposed to be made under section 9 or 12 which authorises the stopping up or diversion of a public road.	The council of every region, islands area and district in which the road is situated, and any statutory undertakers having apparatus under, in, upon, over, along or across the road.
(viii)	Order proposed to be made under section 9 which authorises entry by the special road authority on land.	The occupier of that land.

4 Where the order provides for the stopping up or diversion of a public road, the Secretary of State shall, not later than the day on which the notice is published or, if it is published on two or more days, the day on which it is first published, cause a copy of it to be displayed in a prominent position at the ends of so much of any road as is proposed to be stopped up or diverted under the order.

5 If before the expiration of the period specified in pursuance of paragraph 1(b) above an objection is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 3 above, or from any other person appearing to the Secretary of State to be affected, and the objection is not withdrawn, the Secretary of State shall, subject to paragraphs 6 and 19 below, cause a local inquiry to be held.

6 Except where the objection is made by any person on whom a copy of the notice is required to be served by virtue of paragraph 3 above as read with such one or more of heads (i) to (v) of the Table at the end of that paragraph as apply in the case of the order in question, the Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry under paragraph 5 above is not necessary, dispense with such an inquiry.

7 (1) Subject to paragraph 19 below, after considering objections (if any) to the proposed order or, as the case may be, the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make of confirm the order either without modification or subject to such modifications as he thinks fit.

[[F65](1A) Where the Secretary of State has published an environmental statement, the matters to be considered before an order is made under this paragraph include—

(a) the statement;

(b) any opinion expressed by a member of the public; and

(c) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body.**]**

(2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as he thinks fit) while deferring consideration of the remaining part.

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Textual Amendments

F65 Sch. 1 para. 7(1A) inserted by S.I. 1988/1221, **reg. 73**

8 In this Part of this Schedule references to a proposed order or an order proposed to be made include references to an order made by a local roads authority and submitted to the Secretary of State.

PART II

SCHEMES UNDER SECTIONS 7 AND 75(3)

9 Where the Secretary of State proposes to make a scheme under section 7 or 75(3) of this Act, or where a scheme under either of those sections is submitted to the Secretary of State by a local roads authority, the Secretary of State or that authority, as the case may be, shall publish in at least one newspaper circulating in the area in which the road, or as the case may be the site of the bridge or tunnel, to which the scheme relates is situated and in the Edinburgh Gazette a notice—

(a) stating the general effect of the proposed scheme;

(b) specifying a place in the said area where copies of a draft of the scheme, or of the scheme as submitted to the Secretary of State, as the case may be, and of any relevant map or plan may be inspected free of charge, at all reasonable hours during a period specified in the notice, being not less than six weeks from the date of the publication of the notice; and

(c) stating that, within the said period, any person may by notice to the Secretary of State object to the making or confirmation of the scheme.

10 Not later than the day on which the said notice is published or, if it is published on two more days, the day on which it is first published, the Secretary of State or the local roads authority, as the case may be, shall serve a copy of it (together with a copy of draft scheme or of the scheme, as the case may be, and of any relevant map of plan)—

(a) on the council of every region, islands area and district in whose area any part of the route of the special road, or as the case may be the site of the bridge or tunnel, is situated; and

(b) where the scheme provides for the construction of a bridge over or tunnel under any navigable waters, on every navigation authority or water authority concerned with or having jurisdiction over the waters affected or over the area comprising those waters.

11 If before the expiration of the period specified in pursuance of paragraph 9(b) above an objection is received by the Secretary of State from any person on whom a copy of the notice is required to be served under paragraph 10 above of from any other person appearing to him affected by the proposed scheme, and the objection is not withdrawn, the Secretary of State shall, subject to paragraphs 12 and 19 below, cause a local inquiry to be held.

12 Except where the objection is made by any person on whom notice is required to be served under paragraph 10 above, the Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry under paragraph 11 above is unnecessary, dispense with such an inquiry.

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13 (1) Subject to paragraph 19 below, after considering objections (if any) to the proposed scheme which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make or confirm the scheme either without modification or subject to such modifications as he thinks fit.

[[F66](1A) Where the Secretary of State has published an environmental statement, the matters to be considered before a scheme is made include—

(a) the statement;

(b) any opinion expressed by a member of the public; and

(c) if the statement relates to land such as is mentioned in section 20A(5) of this Act, any opinion expressed by the appropriate environmental body.**]**

(2) The power under this paragraph to make or confirm the scheme includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as the Secretary of State thinks fit) while deferring consideration of the remaining part.

Textual Amendments

F66 Sch. 1 para. 13(1A) inserted by S.I. 1988/1221, **reg. 74**

14 In this Part of this Schedule "proposed scheme" includes a scheme made by a local roads authority and submitted to the Secretary of State.

[[F67]PART IIA

TOLL ORDERS UNDER SECTION 27 OF THE NEW ROADS AND STREET WORKS ACT 1991

Textual Amendments

F67 Sch. 1 Pt. IIA inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(1)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

Modifications etc. (not altering text)

C61 Sch. 1 Pt. IIA applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 27(3)**(with savings s. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

[F68]14A(1) Where the Secretary of State proposes to make a toll order under section 27 of the New Roads and Street Works Act 1991, he shall prepare a draft of the order and shall publish in at least one newspaper circulating in the area in which the proposed special road is to be situated, and in the Edinburgh Gazette, a notice—

(a) stating the general effect of the proposed order;

(b) naming a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and

(c) stating that, within that period, any person may by notice to the Secretary of State object to the making of the order.

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(2) Where a toll order is submitted to the Secretary of State by a local roads authority, the authority shall publish in at least one newspaper circulating in the area in which the proposed special road is to be situated, and in the Edinburgh Gazette, a notice—

(a) stating the general effect of the order as submitted to the Secretary of State;

(b) naming a place in that area where a copy of the order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and

(c) stating that, within that period, any person may by notice to the Secretary of State object to the confirmation of the order.

(3) Where it is intended that the proposed toll order shall authorise the special road authority to assign their rights to charge and collect tolls, the Secretary of State or, as the case may be, the local roads authority shall make a statement containing such information as may be prescribed with respect to that assignation and the person to whom the rights are intended to be assigned and—

(a) the statement shall be made available for inspection with the copy of the order to which the notice under subparagraph (1) or (2) relates; and

(b) the notice shall state that such a statement will be so available.

(4) In sub-paragraph (3) "prescribed" means prescribed by the Secretary of State by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F68 Sch. 1 Pt. IIA (paras. 14A-14E) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(1)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

[F69]14B The Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry is unnecessary, dispense with such an inquiry.

Textual Amendments

F69 Sch. 1 Pt. IIA (paras. 14A-14E) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(1)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

[F70]14C(1) Subject to paragraph 19 below, after considering objections (if any) to the proposed order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.

(2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as the Secretary of State thinks fit) while deferring consideration of the remaining part.**]**

Textual Amendments

F70 Sch. 1 Pt. IIA (paras. 14A-14E) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(1)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

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[F71] 14D (1) A toll order shall be subject to special parliamentary procedure where—

(a) the relevant special road scheme provides for the appropriation by or transfer to the special road authority of an existing public road comprised in the route prescribed by the scheme, and

(b) the toll order authorises the charging of tolls for the use of that existing road or any part of it,

unless the Secretary of State is satisfied as regards all classes of traffic entitled to use the existing road that another reasonably convenient route free of toll is available, or will be provided before the date on which the appropriation or transfer takes effect, and certifies accordingly.

(2) Where the Secretary of State proposes to give such a certificate, he shall—

(a) give public notice of his intention to do so,

(b) afford an opportunity to all persons interested to make representations and objections, and

(c) cause a public local inquiry to be held if it appears to him to be expedient to do so, having regard to representations or objections made,

and before deciding whether to give the certificate he shall consider any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry.

(3) As soon as may be after giving a certificate, the Secretary of State shall publish in the Edinburgh Gazette, and in such other manner as he thinks best for informing persons affected, a notice stating that the certificate has been given.

Textual Amendments

F71 Sch. 1 Pt. IIA (paras. 14A-14E) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(1)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

[F72] 14E In this Part of this Schedule "proposed order" includes an order made by a local roads authority and submitted to the Secretary of State.

Textual Amendments

F72 Sch. 1 Pt. IIA (paras. 14A-14E) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(1)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

PART III

GENERAL

15 Any person who objects to the making or confirmation of an order or scheme pursuant to this Schedule shall include in the notice of objection a statement of the grounds of objection; and the Secretary of State may disregard any such notice of objection which does not contain such a statement.

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Modifications etc. (not altering text)

C62 Sch. 1 para. 15 applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 27(3)**(with savings ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

16 The Secretary of State may, by notice served on a person objecting to the making or confirmation of an order or scheme pursuant to this Schedule who submits that any road to which the order or scheme relates should follow an alternative route, require such person within such period as may be specified in the notice to give sufficient details of the alternative route to enable it to be identified and may disregard so much of the objection as consists of a submission to which the notice applies unless the person making the objection has complied with the notice.

17 Proceedings required to be taken for the purposes of an order under section 9 of this Act relating to a special road or for the purposes of an order under section 12 of this Act relating to a trunk road may be taken concurrently with proceedings required by this Schedule to be taken for the purposes of an order under section 5 of this Act or, as the case may be for the purposes of a scheme under section 7 of this Act, relating to that road.

18 Section 210(2) to (8) of the [M79]Local Government (Scotland) Act 1973 shall apply to any inquiry held under paragraph **[**[F73]5, 11 or 14B**]** above as it applies in relation to a local inquiry under that section, but without prejudice to paragraph 19 below.

Textual Amendments

F73 Words in Sch. 1 para. 18 substituted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(2)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

Modifications etc. (not altering text)

C63 Sch. 1 para. 18 applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 27(3)**(with savings ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

Marginal Citations

M79 1973 c. 65.

PART IV

APPLICATION OF STATUTORY ORDERS (SPECIAL PROCEDURE)ACT1945

Modifications etc. (not altering text)

C64 Sch. 1 Pt. IV applied (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 27(3)**(with savings ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

19 In relation to a scheme or order to which this Schedule applies which is subject to special parliamentary procedure—

(a) the publication of a notice in accordance with paragraph 1 **[**[F74]or 14A**]**above shall be deemed to be sufficient compliance with the requirements of

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section 2(1) as read with section 10 of the Statutory Orders (Special Procedure) Act 1945 with regard to advertisement of notice;

(b) any inquiry required by paragraph 5 or 11 above **[**[F75]or held under paragraph 14B above**]** shall, if the Secretary of State so directs, be held by commissioners under the [M80]Private Legislation (Procedure) (Scotland) Act 1936; and any directions so given shall be deemed to have been given under section 10 of the said Act of 1945; and

(c) where any such directions are given, paragraph 18 above shall not apply, and paragraphs 7 **[**[F76], 13 and 14C**]** above shall have effect as if for references to a local inquiry and to the person who held the inquiry there were substituted, respectively, references to an inquiry by the commissioners and to the commissioners.

Textual Amendments

F74 Words in Sch. 1 para. 19(a) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(3)(a)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

F75 Words in Sch. 1 para. 19(b) inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(3)(b)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

F76 Words in Sch. 1 para. 19(c) substituted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 96(3)(c)**; S.I. 1991/2286, art. 2(1), **Sch. 1**

Marginal Citations

M80 1936 c. 52.

SCHEDULE 2

Sections, 5, 7, 9, 12, 75 and 77.

VALIDITY AND DATE OF OPERATION OF CERTAIN ORDERS AND SCHEMES

Modifications etc. (not altering text)

C65 Sch. 2 excluded (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), **s. 30(6)**, 34(7) (with savings ss. 47(4), 167(2)); S.I. 1991/2286, art. 2(1), **Sch. 1**

1 As soon as may be after a scheme or order to which this Schedule applies has been made or confirmed by the Secretary of State, he shall publish in the Edinburgh Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice, stating that the scheme or order has been made or confirmed and naming a place where a copy thereof may be inspected free of charge at all reasonable hours.

2 If any person aggrieved by the scheme or order desires to question the validity thereof, or of any provision contained therein, on the grounds that it is not within the powers of this Act or that any requirement of this Act or of any regulations made thereunder has not been complied with in relation to the scheme or order, he may, within six weeks of the date on which the notice required by paragraph 1 above is first published, make an application as regards that validity to the Court of Session.

3 On any such application the Court—

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(a) may by interim order suspend the operation of the scheme or order or of any provision contained in it, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and

(b) if satisfied that the scheme or order or any provision contained in it is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by failure to comply with any such requirement as aforesaid, may quash the scheme or order or any provision contained in it, either generally or in so far as it effects the property of the applicant.

4 Subject to paragraph 3 above, a scheme or order to which this Schedule applies shall not, either before or after it as been made or confirmed, be questioned in any legal proceedings whatever, and shall become operative on the date on which the notice required by paragraph 1 above is first published or on such later date, if any, as may be specified in the scheme or order.

5 Where a scheme or order to which this Schedule applies is subject to special parliamentary procedure, then—

(a) if the scheme is confirmed by Act of Parliament under section 6 of the [M81] Statutory Orders (Special Procedure) Act 1945, or under subsection (4) of section 2, as read with section 10, of that Act, paragraphs 2 to 4 above shall not have effect; and

(b) in any other case, paragraph 2 above shall have effect as if for the reference therein to the date on which the notice required by paragraph 1 above is published there were substituted a reference to the date on which the scheme becomes operative under the said Act of 1945; and paragraph 4 above shall have effect as if the words from "and shall become operative" to the end of the paragraph were omitted.

Marginal Citations

M81 9 & 10 Geo. 6 c. 18.

[[F77]6 The provisions of paragraphs 2 to 4 above apply in relation to a certificate under paragraph 14D(1) of Schedule 1 to this Act as in relation to a scheme or order to which this Schedule applies, subject to the following modifications—

(a) the reference in paragraph 2 above to the notice required by paragraph 1 above shall be construed as a reference to the notice required by paragraph 14D(3) of that Schedule, and

(b) in paragraph 4 above for the words "made or confirmed" there shall be substituted the word "given" and the words from "and shall become operative" to the end shall be omitted.]

Textual Amendments

F77 Sch. 2 para. 6 inserted (21.10.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 108), s. 168(1), **Sch. 8 para 97**; S.I. 1991/2286, art. 2(1), **Sch. 1**

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SCHEDULE 3

Section 8(2).

CLASSES OF TRAFFIC FOR PURPOSES OF SPECIAL ROADS

CLASS I:

Heavy and light locomotives,

motor tractors,

heavy motor cars,

motor cars,

motor cycles whereof the cylinder capacity of the engine is not less than 50 cubic centimetres, and

trailers drawn thereby,

which comply with general regulations as to construction and use made under section 40 of the [M82]Road Traffic Act 1972 and in the case of which—

(i) the whole weight of the vehicle is transmitted to the road surface by means of wheels;

(ii) all wheels of the vehicle are equipped with pneumatic tyres;

(iii) the vehicle is not controlled by a pedestrian;

(iv) the vehicle is not a vehicle chargeable with duty under paragraph 2 of Part I of Schedule 3 to the [M83]Vehicles (Excise) Act 1971; and

(v) it is so constructed, being a motor vehicle, as to be capable of attaining a speed of 25 miles per hour on the level under its own power, when unladen and not drawing a trailer.

Marginal Citations

M82 1972 c. 20.

M83 1971 c. 10.

CLASS II:

Motor vehicles and trailers the use of which for or in connection with the conveyance of abnormal indivisible loads is authorised by order made by the Secretary of State under section 42(1) of the Road Traffic Act 1972.

Motor vehicles and trailers constructed for naval, military, air force or other defence purposes, the use of which is authorised by order made by the Secretary of State under section 42(1) of the Road Traffic Act 1972.

Motor vehicles and trailers, to which Articles 16 (which relates to vehicles for moving excavated material), 17 (which relates among other things to vehicles constructed for use outside the United Kingdom) and 21 (which relates to engineering plant) of the [M84]Motor Vehicles (Authorisation of Special Types) General Order 1973 relate and which are authorised to be used by those Articles or by any other Order under section 42(1) of the Road Traffic Act 1972, the said motor vehicles being so constructed as to be capable of attaining a speed of 25 miles per hour on the level under their own power, when unladen and not drawing a trailer.

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Marginal Citations
M84 S.I. 1973/1101.

CLASS III: Motor vehicles controlled by pedestrians.

CLASS IV: All motor vehicles (other than invalid carriages and motor cycles whereof the cylinder capacity of the engine is less than 50 cubic centimetres) not comprised in Class I, Class II or Class III.

CLASS V: Vehicles drawn by animals.

CLASS VI: Vehicles (other than pedal cycles, perambulators, push-chairs and other forms of baby-carriages) drawn or propelled by pedestrians.

CLASS VII: Pedal cycles, motor cycles wherof the cylinder capacity of the engine is less than 50 cubic centimetres and invalid carriages.

CLASS VIII: Animals ridden, led or driven (other than dogs held on a lead).

CLASS IX: Pedestrians, perambulators, push-chairs and other forms of baby carriages, and dogs held on a lead.

In this Schedule any expression defined for the purposes of the [M85]Road Traffic Act 1972 has the same meaning as in that Act and the expression "abnormal indivisible load" has the same meaning as in the Motor Vehicles (Authorisation of Special Types) General Order 1973.

Marginal Citations
M85 1972 c. 20.

SCHEDULE 4

Sections 41 and 45.

PROCEDURE FOR DETERMINATION BY ROADS AUTHORITY OF CERTAIN QUESTIONS IN CONNECTION WITH CATTLE-GRIDS

1 (1) Before determining, under section 41 or 45 of this Act, the question—

(a) whether it is expedient to place any part of a cattle-grid, or provide a by-pass, on any such land not forming part of a road and not belonging to the roads authority as is mentioned in subsection (4) of the said section 41;

(b) whether it is expedient to provide a by-pass along any part of a road; or

(c) whether the purpose for which a right to instal gates is exercisable will be adequately achieved by the provision of a cattle-grid,

the authority shall comply with the requirements of sub-paragraph (2) below.

(2) The requirements referred to in sub-paragraph (1) above are that the authority shall—

(a) publish in two successive weeks in one or more newspapers circulating in the area where the cattle-grid is to be, or has been, provided a notice—

(i) stating generally the question for determination;

(ii) naming a place within the said area where a copy may be inspected free of charge at all reasonable hours of such plans as appear, or

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other descriptive matter as appears, to the authority to be requisite for enabling the nature of the question to be understood; and

(iii) specifying the time (not being less than 28 days from the date of the first publication of the notice) within which and the manner in which representations may be made to the authority; and

(b) display a like notice in a prominent position at the place where the cattle-grid is to be or has been provided.

2 If no representation is duly made under paragraph 1 above, or every representation so made is withdrawn, the authority may proceed to determine the question.

3 (1) Where a representation is duly made as aforesaid and not withdrawn the following provisions of this paragraph shall have effect.

(2) Where the authority is not the Secretary of State, they shall forward the representation to him, together with their observations thereon and their proposals, in the light of the representation, for determining the question.

(3) The Secretary of State shall consider any representations received by him (and, where the authority is not the Secretary of State, their observations and proposals forwarded to him as aforesaid) and shall either cause a local inquiry to be held or afford to any person by whom a representation has been duly made and not withdrawn and, where the authority is not the Secretary of State, to that authority, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) After the Secretary of State has considered the report of the person who held the inquiry under sub-paragraph (3) above, or of the person appointed under that sub-paragraph, as the case may be—

(a) the Secretary of State may, where he is the roads authority, proceed to determine the question;

(b) where he is not the roads authority, the authority may determine the question in the affirmative if the Secretary of State consents, but otherwise, and subject to compliance with any conditions subject to which his consent is given.

(5) Notwithstanding anything in sub-paragraph (3) above, except where a representation is made by a roads authority other than the Secretary of State, the Secretary of State may, if satisfied that in the special circumstances of the case the holding of a local inquiry or the affording to the person making such representation as aforesaid of an opportunity to be heard by a person appointed by the Secretary of State is unnecessary, proceed without compliance with the provisions of the said sub-paragraph (3).

(6) As soon as may be after the determination of the question, a notice of the determination shall be sent by the Secretary of State to any person by whom a representation has been made under the foregoing provisions of this Schedule.

(7) Subsections (2) to (8) of section 210 of the [M86]Local Government (Scotland) Act 1973 (procedure for holding local inquiries) shall apply to a local inquiry held under sub-paragraph (3) above as they apply to the inquiries mentioned in subsection (1) of the said section 210.

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Marginal Citations
M86 1973 c. 65.

4 For the purpose of displaying a notice as required by paragraph 1 of this Schedule, the roads authority may, in the road or on adjoining land (whether or not belonging to the authority) erect and maintain posts or boards or affix a notice to any building or structure; but the powers conferred by this paragraph shall not be exercised on occupied land adjoining the road except with the consent of the occupier.

5 The Secretary of State may make regulations for securing that proceedings required by the First Schedule to the [M87]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to be taken in respect of the compulsory acquisition of land under section 106 of this Act may be taken concurrently (so far as practicable) with proceedings required to be taken under the foregoing provisions of this Schedule.

Marginal Citations
M87 1947 c. 42.

6 In relation to the exercise by a local roads authority of functions of the Secretary of State delegated to them under section 4 of this Act, the foregoing provisions of this Schedule shall apply as if they, and not the Secretary of State, were the roads authority.

SCHEDULE 5

Section 109.

DISTANCE LIMITS FROM PUBLIC ROAD FOR PURPOSES OF COMPULSORY ACQUISITION

PART I

TABLE OF LIMITS

Acquisition provision	*Distance limit*
1. Section 104(1)(a).	200 metres from the middle of the road.
2. Section 104(2)(a) or (3)(a) or (b).	200 metres from the middle of the trunk road or the special road, as the case may be or, where the land is required in connection with the improvement, alteration or construction of any other road, from the middle of that other road.
3. Section 105(2) in so far as it relates to works authorised by an order relating to a public road under section 12 of this Act.	200 metres from the middle of a side-road.
4. Section 105(2) in so far as it relates to works authorised by section 69 or 70 of this Act.	800 metres from the middle of the road from which new means of access are to be provided.

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5. Section 108.	800 metres from the middle of the trunk road.

PART II

FURTHER PROVISION WITH RESPECT TO LIMITS

1 In the entries numbered 2 and 3 in Part I of this Schedule the distance limit specified in column 2 shall, in relation to land required for the provision of new means of access to premises from a public road, have effect with the substitution for the distance there mentioned of a distance of 800 metres from the middle of the road.

2 Where the boundaries of any road will be altered in consequence of an improvement proposed to be made under any enactment in relation to the road then, for the purposes of this Act, the middle of that road shall be the middle of it as proposed to be improved.

SCHEDULE 6

Section 112(10).

SPECIAL TRANSITIONAL PROVISIONS FOR TRUNK ROADS

PART I

1 All orders and regulations made, and all directions, consents and notices given, with respect to a road which becomes a trunk road, by the former roads authority for the purpose of their functions with respect to that road shall, if they were in force immediately before the road became a trunk road, have effect with respect to the trunk road as if made or given by the Secretary of State; but nothing in this paragraph shall be taken as transferring to the Secretary of State any liability not transferred to him by or under section 112 of this Act.

2 All contracts, deeds, bonds or agreements entered into or made by the former roads authority for a road which becomes a trunk road, being contracts, deeds, bonds or agreements subsisting on the day on which it so becomes, shall, in so far as they relate to property and liabilities transferred to the Secretary of State in respect of that road, have effect with the substitution of the Secretary of State for the authority and may be enforced by or against the Secretary of State accordingly.

3 The provisions of this Schedule shall apply in a case where a road ceases to be a trunk road in like manner as they apply where a road becomes a trunk road, with the substitution for the references to the former roads authority, and to any local authority, of references to the Secretary of State, and for references to the Secretary of State of references to the authority which becomes the local roads authority for the roads.

PART II

4 Section 6 of this Act applies to a road which at the commencement of this Act is a trunk road as it applies to a road which becomes a trunk road after the said commencement.

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5 An order under section 1(3) of the [M88] Trunk Roads Act 1936 (power to provide that a road superseding part of a trunk road should itself become a trunk road) continued in force by the proviso to section 12(3) of the [M89] Trunk Roads Act 1946 and section 14(7) of the [M90] Special Roads Act 1949, and still in force (whether or not varied under those provisions) immediately before the commencement of this Act, shall continue in force and may be varied or revoked by a subsequent order made in the like manner subject to the like provisions

Marginal Citations

M88 1 Edw. 8 & 1 Geo. 6 c.5.
M89 9 & 10 Geo. 6 c.30.
M90 12 & 13 Geo. 6 c.32.

6 An order under section 4 of the Trunk Roads Act 1946 (certain powers relating to side roads connected with trunk roads) continued in force by section 14(6) of the Special Roads Act 1949 and still in force (whether or not varied under the said section 14(6)) immediately before the commencement of this Act, shall continue in force and the provisions of the said section 4 shall continue to apply to any such order as if that section had not been repealed.

SCHEDULE 7

RESTRICTED ROADS

Amendment of Road Traffic Regulation Act 1984 (c.27)

1 The Road Traffic Regulation Act 1984 shall be amended in accordance with this Schedule.

[F78]2 . . . . . .

Textual Amendments

F78 Sch. 7 para. 2 repealed (01.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1991/2286, art. 2(2), **Sch. 2**

3 In section 85 (traffic signs for indicating speed restrictions)—

[F79](a) . . . . . .

[F79](b) . . . . . .

(c) after subsection (5) there shall be inserted the following subsection—

"(5A) In any proceedings for a contravention of section 81 of this Act, a certificate of an officer of the Secretary of State that a road is of a specified classification or type shall be sufficient evidence of the facts certified; and a document purporting to be such a certificate and to be signed by such an officer shall be deemed to be such a certificate unless the contrary is shown.".

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Textual Amendments

F79 Sch. 7 para. 3(a)(b) repealed (01.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1991/2286, art. 2(2), **Sch. 2**

[F80]4 . . . . . .

Textual Amendments

F80 Sch. 7 para. 4 repealed (01.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1991/2286, art. 2(2), **Sch. 2**

Transitional provision

5 Where, immediately prior to the commencement of this Schedule—

(a) a road is or is deemed to be a restricted road for the purposes of section 81 of the [M91]Road Traffic Regulation Act 1984, and that road would, apart from this paragraph, cease to be a restricted road in consequence of the first regulations made by the Secretary of State under section 82(1) of that Act as amended by paragraph 2 above; or

(b) a road is not and is not deemed to be a restricted road for those purposes and that road would, apart from this paragraph, become a restricted road in consequence of those regulations,

the roads authority may, prior to the commencement of the regulations, make an order specifying the road, and the road shall, notwithstanding the commencement of the regulations, continue to be, or to be deemed to be, a restricted road or as the case may be, a road which is not a restricted road until such time as the order is superseded, in relation to that road, by a direction under section 82(2) of that Act (directions making specified roads restricted or not restricted) or an order under section 84(1) of that Act (power to fix speed limits).

Marginal Citations

M91 1984 c. 27.

SCHEDULE 8

Section 131(2).

PENALTIES FOR OFFENCES

Section of this Act	***Penalty***
1. Section 22 (failure to obtain, or contravention of, construction consent).	On summary conviction, the statutory maximum; and on conviction on indictment a fine.
2. Section 31(5) (interference with drain or barrier).	Level 3.

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3. Section 56(6)(a) (works or excavations without consent).	Level 3.
4. Section 56(6)(b) (failure to provide, or to provide proper, door or cover).	Level 3.
5. Section 57(4) (works or excavations constituting or becoming a danger).	Level 4.
6. Section 58(1) or (3) (depositing building materials etc. in road without permission).	Level 4.
7. Section 59(2) (depositing materials in road without permission so as to cause obstruction).	Level 4.
8. Section 59(3) (failure to remove obstruction when required to do so).	Level 1.
9. Section 60(3) (failure to fence or light, etc. obstruction or excavation).	Level 3.
10. Section 60(4) (interference with fencing, lighting, etc. of obstructions and excavations).	Level 3.
11. Section 62(5) (contravention of temporary restriction or prohibition of traffic or foot passage on road).	Level 2.
12. Section 65(1) (conveying insecure load on drawn vehicle).	Level 4.
13. Section 65(2) (permitting child to drive drawn vehicle).	Level 2.
14. Section 71(5) (using stopped up public access).	Level 3.
15. Section 72(4) (using stopped up private access).	Level 3.
16. Section 83(7) (contravention of obstruction notice).	Level 1.
17. Section 85(3) and (4) (improper use of builders' skip).	Level 3.
18. Section 90(2) (improper fixing or placing of overhead bridges, etc.).	Level 3.
19. Section 92(3) (planting trees, etc. near carriageway without consent).	Level 1.
20. Section 94(2) (opening up filled in dangerous ditch).	Level 3.
21. Section 95(1) dropping and failing to remove mud, etc.).	Level 1.
22. Section 97(3) (trading in or near road without consent).	Level 3.

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23. Section 98(1) (leaving animal on, or allowing it to stray onto, road).	Level 3.
24. Section 99(6) (failing to prevent flow of water, etc. onto road).	Level 4.
25. Section 100 (causing damage to road, etc.).	Level 3.
26. Section 101 (placing rope, etc. across road without adequate warning).	Level 3.
27. Section 102 (failing to make side ridges when ploughing unenclosed land).	Level 2.
28. Section 129(1) (leaving vault or cellar open and unfenced).	Level 2.
29. Section 129(2) (placing or depositing in road something which obstructs or endangers road users).	Level 2.
30. Section 129(3) (carrying projecting load).	Level 3.
31. Section 129(4) (camping in road).	Level 2.
32. Section 129(5) (driving on footway, etc.).	Level 2.
33. Section 129(6) (parking motor vehicle on cycle track).	Level 2.
34. Section 129(7) (reckless or careless riding, etc.).	Level 3.
35. Section 129(8) (improper placing of shade, awning, etc.).	Level 2.
36. Section 129(9) (displaying in footway goods for sale).	Level 3.
37. Section 129(10) (taking away road construction materials, etc.).	Level 3.
38. Section 140(3) and (5) (carrying out works without proper notice).	Level 3.
39. Section 140(4) and (5) (carrying out works without requisite authority).	Level 3.
40. Section 140(9) (obstruction of person exercising powers of entry).	Level 3.

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SCHEDULE 9

Section 156(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Highway (Railway Crossings) Act 1839 (c. 45)

1 In section 1 of the Highway (Railway Crossings) Act 1839 (duty of proprietors of railways to maintain gates where railway crosses highway)—

(a) for the words "any turnpike road or any highway or statute labour road for carts or carriages in Great Britain" there shall be substituted the words "the carriageway of a public road (within the meaning of the Roads (Scotland) Act 1984)"; and

(b) for the words "turnpike or other road as aforesaid" and "turnpike or highway" there shall in each case be substituted the word "carriageway".

The Railway Regulation Act 1842 (c. 55)

2 In section 9 of the Railway Regulation Act 1842 (gates at level crossing to be kept closed across road)—

(a) for the words "any turnpike road, or any other highway or statute labour road for carts or carriages, in Great Britain" there shall be substituted the words "the carriageway of a public road (within the meaning of the Roads (Scotland) Act 1984)"; and

(b) for the words "turnpike or other road" and "turnpike or other roads", wherever either expression occurs, there shall be substituted the word "carriageway".

The Railways Clauses Consolidation(Scotland) Act 1845 (c. 33)

3 (1) The Railways Clauses Consolidation (Scotland) Act 1845 shall be amended in accordance with this paragraph.

(2) In section 3 (interpretation), at the end shall be inserted the words—

> "The expressions "carriageway", "cycle track", "footpath", "footway", "road", "private road" and "public road" have the meaning given them by section 151 of the Roads (Scotland) Act 1984.".

(3) In section 11 (limiting deviation from datum line described on sections, etc.)—

(a) for the word "street", where it first occurs, there shall be substituted the word "road";

(b) for the words "street or public highway", in both places where they occur, there shall be substituted the word "road";

(c) for the words "trustees or commissioners", in the first two places where they occur, there shall be substituted the words "roads authority"; and

(d) the word "streets" shall cease to have effect.

(4) In section 12 (previous notice of deviation), for the word "street" there shall be substituted the word "road".

(5) In section 16 (general provisions as regards work, repairs and damages etc.)—

(a) the word "streets," where it first occurs, shall cease to have effect; and

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(b) for the words "roads, streets or ways", in both places where they occur, there shall be substituted the words "or roads".

(6) In section 39 (crossing of road by railway)—

(a) for the words "any turnpike road or public highway" there shall be substituted the words "the carriageway of any public road"; and

(b) in the proviso—

(i) for the word "highway" there shall be substituted the word "road"; and

(ii) for the words "a public carriage" there shall be substituted the words "the carriageway of any public".

(7) In section 40 (provision where road crossed on the level), for the words "any turnpike road or public carriage" there shall be substituted the words "the carriageway of any public".

(8) In section 41 (crossing of turnpike road adjoining railway station), for the word "turnpike" there shall be substituted the word "public".

(9) In section 42 (construction of bridges over roads)—

(a) for the words from "thirty-five feet" to "twelve feet" where they first occur there shall be substituted the words "7.62 metres if the arch is over a public road and 3.66 metres";

(b) for the words from "sixteen" where it first occurs to "cases", there shall be substituted the words "4.57 metres for a space of 3.05 metres if the arch is over a public road; and"; and

(c) for the words from "twelve" where it occurs for the third time to "private carriage" where they first occur there shall be substituted the words—

"3·66 metres:

The clear height of the arch for a space of 2·74 metres shall not be less than 4·27 metres over a private"; and

(d) for the words from "foot", where it first occurs, to the end there shall be substituted the words "metre in 20 metres if the bridge is over a public road and one metre in 16 metres if over a private road.".

(10) In section 43 (construction of bridges over railways)—

(a) for the words "four feet" and "three feet" there shall be substituted, respectively, the words "1.22 metres" and "0.91 metres"; and

(b) for the words from "thirty-five" to the end there shall be substituted the words—

"7·62 metres if the road is a public road and 3.66 metres if a private road:

The ascent shall not be more than one metre in 20 metres if the road is a public road and one metre in 16 metres if a private road.".

(11) In section 44 (further provision as regards construction of bridges)—

(a) for the words "turnpike road or public carriage" there shall be substituted the words "a road which includes a carriageway"; and

(b) for the words "trustees or surveyors of" there shall be substituted the words "roads authority for".

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(12) In section 47 (penalty for not providing a substitute road for road rendered impassable or dangerous by railway works) for the words "trustees, commissioners, surveyor, or other person having the management of" there shall be substituted the words "roads authority for".

(13) In section 49 (period for restoration of roads interfered with)—
- (a) for the words from "trustee" to "consent" there shall be substituted the words "roads authority for the public road to be restored consent, or as the case may be the owner of the private road to be restored consents, in writing,";
- (b) for the word "turnpike", where it first occurs, there shall be substituted the word "public"; and
- (c) for the words "not a turnpike" there shall be substituted the words "a private".

(14) In section 50 (penalty for failure to restore a road), for the words "trustees, commissioners, surveyor, or other person having the management of" there shall be substituted the words "roads authority for".

(15) In section 51 (damage to road in course of making railway)—
- (a) for the words "surveyor or other person having the management of" there shall be substituted the words "roads authority for"; and
- (b) in the proviso, for the word "turnpike" there shall be substituted the word "public".

(16) In section 52 (sufficient approaches and fences to bridleways and footways crossing a railway on the level)—
- (a) for the word "highway", in both places where it occurs, there shall be substituted the word "road";
- (b) for the words "a public carriageway" there shall be substituted the words "the carriageway of a public road";
- (c) for the words "highway be a" there shall be substituted the words "road be a cycle track or"; and
- (d) for the word "footway" there shall be inserted the words "or footpath".

(17) In section 53 (proceedings as regards consent to level crossings of bridleways and footways)—
- (a) for the words "highway other than a public carriage" there shall be substituted the words "road other than the carriageway of a public";
- (b) for the words "such highway at the proper crossing thereof is situate" there shall be substituted the words "the proposed crossing would be situated"; and
- (c) for the words "such highway", where they occur for the second time, there shall be substituted the words " the road".

(18) In section 54 (orders as respects approaches etc. to level crossing)—
- (a) for the word "highway" there shall be substituted the word "road"; and
- (b) for the words "surveyor of roads" there shall be substituted the words "roads authority".

(19) In section 55 (screening between railway and road)—
- (a) for the words "commissioners or trustees of any turnpike road, or the surveyor of any highway" there shall be substituted the words "roads authority for any road"; and

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(b) for the words "such commissioners or trustees or surveyor" there shall be substituted the words "that authority".

(20) In section 56 (penalty for failing to construct requisite screening), for the words "commissioners or trustees or surveyor" there shall be substituted the words "roads authority".

(21) In section 57 (power to order repair of bridges etc.), for the words "surveyor of roads" there shall be substituted the words "roads authority".

The Railways Clauses Act 1863 (c. 92)

4 (1) The Railways Clauses Act 1863 shall be amended in accordance with this paragraph.

(2) In section 5 (restriction on shunting trains), for the words "a turnpike road or public carriage" there shall be substituted the words "the carriageway of a public".

(3) In each of sections 6 (erection of lodge at level crossing) and 7 (requirement for bridge instead of level crossing), for the words "turnpike road or public carriage" there shall be substituted the words "carriageway of a public".

(4) In section 16 (access to shore under or across railway)—

(a) after the word "footways" there shall be inserted the word ", footpaths"; and

(b) after the word "footway", wherever it occurs, there shall be inserted the word ", footpath".

The Trespass (Scotland) Act 1865 (c. 56)

5 (1) The Trespass (Scotland) Act 1865 shall be amended in accordance with this paragraph.

(2) In section 2 (interpretation), at the end there shall be added the following definition—

""Road" shall mean and include any way, other than—

(a) a waterway; or

(b) without prejudice to section 100(c) (damage to roads by fire) or 129(4) (camping in a road) of the Roads (Scotland) Act 1984, a road within the meaning of that Act.".

(3) In section 3 (offences), the words "private", where it occurs for the second time, and ", or on or near any highway," shall cease to have effect.

The Tramways Act 1870 (c. 78)

F81 6 . . . . . .

Textual Amendments

F81 Sch. 9 para. 6 repealed (except as incorporated in, or otherwise applied by, any Act of Parliament or Provisional Order) (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. I**; S.I. 1992/2784, art. 2, Schs. 1, **2** Pt. I

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The Explosives Act 1875 (c. 17)

7 (1) The Explosives Act 1875 shall be amended in accordance with this paragraph.

(2) In section 22 (general rules for premises registered for the keeping of gunpowder), in each of subsections (1) and (2)(a), for the words "highway, street, public thoroughfare" there shall be substituted the word "road".

(3) In section 30 (restriction on sale of gunpowder), for the words "highway, street, public thoroughfare, or" there shall be substituted the words "road or in any".

(4) In section 80 (penalty for throwing fireworks in thoroughfare), for the words "highway, street thoroughfare," there shall be substituted the word "road".

(5) In section 108 (interpretation), at the end there shall be added the following definition—

"The expression "road' has the same meaning as in the Roads (Scotland) Act 1984.".

The Entail Amendment (Scotland) Act 1875 (c. 61)

8 In section 3 of the Entail Amendment (Scotland) Act 1875 (interpretation), in paragraph 5 of the definition of "Improvements"—

(a) for the words "private roads" there shall be substituted the words "roads (other than roads within the meaning of the Roads (Scotland) Act 1984)"; and

(b) for the words "roads or streets" there shall be substituted the words "private roads (within the meaning of the said Act of 1984)".

The Settled Land Act 1882 (c. 38)

9 In section 25 of the Settled Land Act 1882 (description of authorised improvements)—

(a) in paragraph (viii), for the words "private roads; roads or streets" there shall be substituted the words "roads (other than roads within the meaning of the Roads (Scotland) Act 1984); private roads (within the meaning of the said Act of 1984)"; and

(b) in paragraph (xvii), the word "Streets" shall cease to have effect.

10 . . . . . **F82**

Textual Amendments

F82 Sch. 9 paras. 10, 13, 19, 23 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

The Crofters Holdings (Scotland) Act 1886 (c. 29)

11 In paragraph 9 of the Schedule to the Crofters Holdings (Scotland) Act 1886, after the words "public road" there shall be inserted the words "(within the meaning of the Roads (Scotland) Act 1984)".

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The Military Tramways Act 1887 (c. 65)

F83 12 . . . . . .

Textual Amendments

F83 Sch. 9 para. 12 repealed (1.1.1993) by Transport and Works Act 1992 (c. 42), s. 68(1), **Sch. 4 Pt. I**; S.I. 1992/2784, art. 2, Schs. 1, **2** Pt. I

13 . . . . . F84

Textual Amendments

F84 Sch. 9 paras. 10, 13, 19, 23 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

The Railway and Canal Traffic Act 1888 (c. 25)

14 In section 16 of the Railway and Canal Traffic Act 1888 (power to apportion expenses between railway company and applicants for works)—

(a) in subsection (1), for the words "highway board, surveyor of highways acting with the consent of the vestry of his parish" there shall be substituted the words "or local roads authority (within the meaning of the Roads (Scotland) Act 1984)"; and

(b) subsection (3) shall cease to have effect.

The Military Lands Act 1892 (c. 43)

15 (1)) The Military Lands Act 1892 shall be amended in accordance with this paragraph.

(2) For section 13 (power to stop or divert footpaths) there shall be substituted the following section—

"**13** In relation to a footpath crossing or near to land leased under this Act, the Roads (Scotland) Act 1984 shall have effect as if in subsection one of section sixty-eight thereof (power of roads authorities to stop up roads by order) there were added to the grounds for stopping up a road the ground that the road crosses or runs inconveniently or dangerously near to such land.

In this section "footpath" has the same meaning as in the said Act of 1984.".

(3) In section 25 (application to Scotland)—

(a) subsection (7) shall cease to have effect; and

(b) at the end there shall be added the following subsection—

"(10) In section 16 of this Act—

(a) for the references to "highway" there shall be substituted references to "road"; and

(b) after the word "footpath" in subsection (2) there shall be inserted the words "within the meaning of the Roads (Scotland) Act 1984"".

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The Light Railways Act 1896 (c. 48)

16 In section 7(1) of the Light Railways Act 1896 (application for authorising light railway), for the words "road authorities" there shall be substituted the words "local roads authorities (within the meaning of the Roads (Scotland) Act 1984".

The Public Health (Scotland) Act 1897 (c. 38)

17 (1)) The Public Health (Scotland) Act 1897 shall be amended in accordance with this paragraph.

(2) In section 3 (interpretation) there shall be inserted after the definition of the word "ship" the following definition—

"The word "road" has the meaning ascribed to it by section 151 of the Roads (Scotland) Act 1984:".

(3) In section 16 (definition of nuisances)—

(a) in subsection (2), for the word "street" there shall be substituted the word "road"; and

(b) in subsection (5), the word "public" shall be omitted.

(4) In section 56(1)(a) (penalty on exposure of infected persons), for the word "street" there shall be substituted the word "road".

(5) In section 74 (rules as to underground dwellings), for the word "street", wherever it occurs, there shall be substituted the word "road".

The Congested Districts (Scotland) Act 1897 (c. 53)

18 In section 10 of the Congested Districts (Scotland) Act 1897 (interpretation), at the end there shall be added the following definitions—

"The expressions "footpath" and "public road" have the same meanings as in the roads (Scotland) Act 1984".

19 . . . . . **F85**

Textual Amendments

F85 Sch. 9 paras. 10, 13, 19, 23 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

The Dogs Act 1906 (c. 32)

20 In section 3 of the Dogs Act 1906 (seizure of stray dogs)—

(a) in subsection (1), for the word "highway" there shall be substituted the word "road";

(b) in subsection (1A), for the words "a highway" there shall be substituted the words "in a road"; and

(c) after subsection (1A) there shall be added the following subsection—

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"(1B) In subsections (1) and (1A) above "road" has the same meaning as in the Roads (Scotland) Act 1984.".

The Light Railways Act 1912 (c. 19)

21 In section 6 of the Light Railways Act 1912 (amendment of section 24 of the Light Railways Act 1896)—

(a) for the words "road authorities" there shall be substituted the words "roads authority";

(b) the existing words, as amended by paragraph (a) above, shall be subsection (1) of the section; and

(c) after that subsection there shall be inserted the following subsection—

"(2) In subsection (1) above, "public road" and "local roads authority" have the same meanings as in the Roads (Scotland) Act 1984.".

The Defence of the Realm (Acquisition of Land) Act 1916 (c. 63)

22 In section 15 of the Defence of the Realm (Acquisition of Land) Act 1916 (application to Scotland), at the end there shall be added the following paragraph—

"(d) for references to "highway" and "street" there shall be substituted references to a road within the meaning of the Roads (Scotland) Act 1984.".

23 . . . . . [F86]

Textual Amendments

F86 Sch. 9 paras. 10, 13, 19, 23 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

The Roads Act 1920 (c. 72)

24 In section 17 of the Roads Act 1920 (interpretation), in the definition of "use", for the words "public road" there shall be substituted the words "road which is a public road within the meaning of the Roads (Scotland) Act 1984".

The Railways Act 1921 (c. 55)

25 In section 73(3) of the Railways Act 1921 (interpretation), for the words "a public carriageway" there shall be substituted the words "the carriageway of a public road (within the meaning of the Roads (Scotland) Act 1984)".

The Rating and Valuation (Apportionment) Act 1928 (c. 44)

26 In section 5(3) of the Rating and Valuation (Apportionment) Act 1928 (interpretation), in the definition of "light railway", for the words "a public carriageway" there shall be substituted the words "the carriageway of a public road (within the meaning of the Roads (Scotland) Act 1984)".

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The Road Traffic Act 1930 (c. 43)

27 (1) The Road Traffic Act 1930 shall be amended in accordance with this paragraph.

(2) In section 101(2)(d) (limitation on power to run public service vehicles), for the word "highway" there shall be substituted the words "public road".

(3) In section 119(3) (power of local highway authority to borrow for purposes related to running public service vehicles)—

(a) for the word "highway" there shall be substituted the word "roads";

(b) the words "for the purpose of the payment of the consideration for a transfer under section fifty-three of this Act or" shall cease to have effect; and

(c) at the end there shall be added the words "of this Act".

(4) In section 121 (interpretation)—

(a) in subsection (1), for the definition of "road" there shall be substituted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984"; and

(b) in subsection (1A), for the words "Road Traffic Act 1960" there shall be substituted the words "Public Passenger Vehicles Act 1981".

The Road and Rail Traffic Act 1933 (c. 53)

28 In section 45 of the Road and Rail Traffic Act 1933 (interpretation)—

(a) after the word "them:—" there shall be inserted the following definition—

""Carriageway" has the same meaning as in the Roads (Scotland) Act 1984;";

(b) after the definition of "Minister" there shall be inserted the following definition—

""Public road" has the same meaning as in the Roads (Scotland) Act 1984;"; and

(c) in the definition of "Railway", for the words "a public carriageway" there shall be substituted the words "the carriageway of a public road".

29 . . . . . **F87**

Textual Amendments

F87 Sch. 9 para. 29 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. VII**

The Public Order Act 1936 (c. 6)

30 In section 9(1) of the Public Order Act 1936 (interpretation), in the definition of "public place", after the word "highway" there shall be inserted the words ", or in Scotland any road within the meaning of the Roads (Scotland) Act 1984,".

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The Coal Act 1938 (c. 52).

31 In section 34(1)(c) of the Coal Act 1938 (saving for certain statutory rights), for the words "highway authority" there shall be substituted the words "local roads authority (within the meaning of the Roads (Scotland) Act 1984)".

The Civil Defence Act 1939 (c. 31)

32 In section 90(1) of the Civil Defence Act 1939 (interpretation), in the definition of "public utility undertakers", for the word "highway" there shall be substituted the word "road".

The Requisitioned Land and War Works Act 1945 (c. 43)

33 (1) The Requisitioned Land and War Works Act 1945 shall be amended in accordance with this paragraph.

(2) In section 15(2)(c) (stopping up or diversion of roads), for the words "Trunk Road Act, 1936" there shall be substituted the words "provisions of the Roads (Scotland) Act 1984 relating to trunk roads".

(3) In section 60(3) (application to Scotland), after the word "Gazette;", in the second place where it occurs, there shall be inserted the words "for any reference to a "highway" there shall be substituted a reference to a road within the meaning of the Roads (Scotland) Act 1984;".

The Fire Services Act 1947 (c. 41)

34 (1) The Fire Services Act 1947 shall be amended in accordance with this paragraph.

(2) In section 3 (supplementary powers of fire authorities)—

(a) in subsection (1)(c), for the word "street", in both places where it occurs, there shall be substituted the word "road"; and

(b) in subsection (2), for the words from "trunk road" to the end of paragraph (a) there shall be substituted the words "public road a fire authority shall (where they are not themselves the roads authority) obtain the consent of the roads authority; and—

(a) without prejudice to the foregoing provisions of this subsection, the said powers shall not be exercised in a district except after consultation with the council of the district,"

(3) In section 14(3)(a) (marking of positions of fire hydrants), for the word "street" there shall be substituted the word "road".

(4) In section 30(5) (powers of firemen and police in extinguishing fires), for the word "street", in both places where it occurs, there shall be substituted the word "road".

(5) In section 38(1) (interpretation), for the definition of "street" there shall be substituted the following definitions—

""road" has the same meaning as in the Public Utilities Street Works Act 1950; and

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"roads authority" has the same meaning as in the Roads (Scotland) Act 1984;".

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42)

35 In paragraph 11(1)(b) of the first Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (procedure for authorising compulsory purchases), for the word "highway" there shall be substituted the words "public road (within the meaning of the Roads (Scotland) Act 1984)".

The Local Government Act 1948 (c. 26)

36 In section 144(1) of the Local Government Act 1948 (interpretation), in the definition of "railway", for the word "highway" there shall be substituted the word "road".

The Civil Defence Act 1948 (12, 13 & 14 Geo. 6. c. 5)

37 In section 4(2) of the Civil Defence Act 1948 (powers as to land), for the word "highway" in each of the three places where it occurs there shall be substituted the word "road".

The Coast Protection Act 1949 (c.74)

38 (1) The Coast Protection Act 1949 shall be amended in accordance with this paragraph.

(2) In section 17(1) (notification to coast protection authority of certain works)—

(a) for the words "highway authority" there shall be substituted the words "roads authority"; and

(b) for the word "highway", where it occurs for the second time, there shall be substituted the word "road".

(3) In section 20(3) (contributions towards expenses of coast protection)—

(a) for the word "highway", where it first occurs, there shall be substituted the word "road"; and

(b) for the words "highway authority" there shall be substituted the words "roads authority".

(4) In section 21(3)(a) (exchequer grants), for the words "highway authority" there shall be substituted the words "roads authority" and for the word "highways" there shall be substituted the words "roads".

(5) In section 49(4) (interpretation), at the end there shall be inserted the words—

"and the following definitions shall be inserted in the alphabetically appropriate place—

"local roads authority" has the meaning given to it by section 151(1) of the Roads (Scotland) Act 1984;

"road" has the meaning given to it by section 151(1) of the Roads (Scotland) Act 1984;".

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The Public Utilities Street Works Act 1950 (c.39)

[F88]39 . . . . . .

Textual Amendments

F88 Sch. 9 para. 39 repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), ss. 168(2), 170(1), **Sch. 9**; S.I. 1992/2990, art. 2(2), **Sch. 2**

The Pet Animals Act 1951 (c. 35)

40 (1) The Pet Animals Act 1951 shall be amended in accordance with this paragraph.

(2) In section 2 (pets not to be sold in streets or public places), for the word "street" there shall be substituted the word "road".

(3) In section 7(3) (interpretation), after the definition of "pedigree animal" there shall be inserted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984;".

The Mineral Workings Act 1951 (c. 60)

41 For section 32 of the Mineral Workings Act 1951 there shall be substituted the following section—

"**32 Temporary stopping up of roads for purposes of mineral working.**

(1) An order made by the Secretary of State under section 198, or by the planning authority under section 198A or 199, of the Town and Country Planning (Scotland) Act 1972 (roads etc. affected by development: various orders) for the stopping up or diversion of a public road may, where he is, or as the case may be they are, satisfied—

(a) that the order is required for the purpose of enabling minerals to be worked by surface working: and

(b) that the road can be restored, after the minerals have been worked, to a condition not substantially less convenient to the public,

provide for the stopping up or diversion of the road during such period as may be prescribed by or under the order, and for the road's restoration at the expiration of that period.

(2) Without prejudice to the provisions of the said section 198, 198A or 199 with respect to orders made thereunder, any such order as is authorised by subsection (1) of this section may contain such provisions as appear to the Secretary of State, or as the case may be the planning authority, to be expedient—

(a) for imposing upon persons who, apart from the order, would be subject to any liability with respect to the repair of the original road during the period prescribed by or under the order a corresponding liability in respect of any road provided in pursuance of the order;

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(b) for the stopping up at the expiration of the said period of any road provided as aforesaid and for the reconstruction and maintenance of the original road;

and any provision included in the order in accordance with subsection (3) of the said section 198, or subsection (2) of the said section 199, requiring payment to be made in respect of any cost or expenditure under the order may provide for the payment of a capital sum in respect of the estimated amount of that cost or expenditure.

(3) In relation to any road which is stopped up or diverted by virtue of an order under the said section 198 or 198A, section 219 of the Town and Country Planning (Scotland) Act 1972 shall have effect—

(a) as if for references to land which has been acquired as aforesaid and to the purchasing authority there were substituted respectively references to land over which the road subsisted and to the person entitled to possession of that land; and

(b) as if the references in subsection (4) to a planning authority or statutory undertaker included references to any person (other than the Secretary of State) who is entitled to possession as aforesaid;

and sections 222 to 225 of the said Act of 1972 shall have effect accordingly.”.

The Prevention of Crime Act 1953 (c. 14)

42 In section 1(4) of the Prevention of Crime Act 1953 (interpretation), after the word “highway” there shall be inserted the words “, or in Scotland any road within the meaning of the Roads (Scotland) Act 1984,”.

The Atomic Energy Authority Act 1954 (c.69)

43 In section 5(2) of the Atomic Energy Authority Act 1954 (powers of Atomic Energy Authority), after the word “highway”, in both places where it occurs, there shall be inserted the words “or road”.

The Mines and Quarries Act 1954 (c. 70)

44 In section 151(2) of the Mines and Quarries Act 1954 (fencing of abandoned and disused mines and of quarries) in each of paragraphs (b)(ii) and (c)(ii), for the word “highway” there shall be substituted the words “road (within the meaning of the Roads (Scotland) Act 1984)”.

The Crofters (Scotland) Act 1955 (c. 21)

45 In section 37(1) of the Crofters (Scotland) Act 1955 (interpretation), after the definition of “predecessors in the tenancy” there shall be inserted the following definition—

““public road” has the same meaning as in the Roads (Scotland) Act 1984;”.

The Coal-Mining (Subsidence) Act 1957 (c. 59)

F89 46 . . . . . .

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Textual Amendments

F89 Sch. 9 para 46 repealed (30.11.1991) by Coal Mining Subsidence Act 1991 (c. 45, SIF 86), s. 53(2), **Sch. 8** (with savings s. 37(4), Sch. 7); S.I. 1991/2508, **art. 2**

The Land Powers (Defence) Act 1958 (c.30)

47 In section 9(4) of the Land Powers (Defence) Act 1958 (supplementary provisions with respect to stopping up and diversion of highways), for the words from the beginning to "right of way", where it first occurs, there shall be substituted the words—

"(4) In section 8 of this Act and this section, in their application to Scotland, "highway" means a road within the meaning of the Roads (Scotland) Act 1984:".

The Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958 (c. 50)

48 (1) The Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958 shall be amended in accordance with this paragraph.

(2) In section 1(1) (provision of omnibus shelters)—

(a) for the words "highway within their district" there shall be substituted the words "road within their area"; and

(b) for the word "highway" where it occurs for the second time there shall be substituted the word "road".

(3) In the Table to section 2(1) (consents to exercise of powers under section 1), for the word "highway", wherever it occurs as part of the expression "highway authority", there shall be substituted the word "roads"; and for every other occurrence of the word "highway" there shall be substituted the word "road",

(4) In section 7(1) (interpretation), after the definition of "local authority" there shall be inserted the following definition—

""local roads authority" has the same meaning as in the Roads (Scotland) Act 1984.".

The Opencast Coal Act 1958 (c. 69)

49 In section 13 of the Opencast Coal Act 1958 (apparatus of statutory undertakers)—

(a) in subsection (4), for the word "highway" there shall be substituted the word "road";

(b) in subsection (5), for the words "highway" and "highways" there shall be substituted, respectively, the words "road" and "roads";

(c) after subsection (5) there shall be inserted the following subsection—

"(5A) In subsections (4) and (5) above, "road" has the same meaning as in the Roads (Scotland) Act 1984."; and

(d) in subsection (6), the words " "highway' includes a public right of way;" shall cease to have effect.

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The Manoeuvres Act 1958 (7 & 8 Eliz. 2. c. 7)

50 (1) The Manoeuvres Act 1958 shall be amended in accordance with this paragraph.

(2) In section 3 (powers to close roads)—

(a) in subsection (1), for the words "Special Roads Act, 1949", there shall be substituted the words "Roads (Scotland) Act 1984"; and

(b) subsection (5)(a) shall cease to have effect.

(3) In section 9 (interpretation), after the definition of "authorised forces", there shall be inserted the following definition—

""highway", in relation to Scotland, means a road within the meaning of the Roads (Scotland) Act 1984;".

The Building (Scotland) Act 1959 (c. 24)

51 In section 29 of the Building (Scotland) Act 1959 (interpretation)—

(a) in subsection (1), for the definition of "road" there shall be substituted the following definition—

""road" has the same meaning as in section 151(1) of the Roads (Scotland) Act 1984 except that it also includes any drain or ditch at the side of a road;" and

(b) in subsection (4), for the word "highway" there shall be substituted the word "roads".

The Weeds Act 1959 (c. 54)

52 In section 11(2) of the Weeds Act 1959 (interpretation), in the definition of "occupier"—

(a) for the words "the authority by whom the road is being maintained" there shall be substituted the words "the roads authority ("public road" and "roads authority" having the same meanings as in the Roads (Scotland) Act 1984)"; and

(b) at the end there shall be added the following proviso—

": Provided that this Act does not apply as regards a road for which the roads authority is the Secretary of State".

The Road Traffic Act 1960 (c. 16)

53 In section 257(1) of the Road Traffic Act 1960 (general interpretation), for the definition of "road" there shall be substituted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984;".

The Flood Prevention (Scotland) Act 1961 (c. 41)

54 In section 15(1) of the Flood Prevention (Scotland) Act 1961 (interpretation), after the definition of "maintenance and management operations" there shall be inserted the following definition—

""road" has the meaning given to it by section 151(1) of the Roads (Scotland) Act 1984;".

Status: *Point in time view as at 01/01/1993. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Roads (Scotland) Act 1984 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

The Pipe-lines Act 1962 (c. 58)

55 (1) The Pipe-lines Act 1962 shall be amended in accordance with this paragraph.

(2) In section 15 (power to place pipe-lines in streets)—

[F90](a) . . . . . .

(b) in subsection (4), in each of the paragraphs (c) to (d), for the word "highway" there shall be substituted the words "road over which there is a public right of passage";

(c) in subsection (7), for the words from "shall be determined" to the end there shall be substituted the words "shall be referred to the arbitration of a single arbiter appointed by agreement between the parties concerned or, in default of agreement, by the sheriff; and in any such arbitration the arbiter may, and, if so directed by the Court of Session, shall, state a case for the decision of that court on any question of law arising in the arbitration."; and

[F90](d) . . . . . .

[F91](3) . . . . . .

(4) In section 66(1) (interpretation), in the definition of "in", for the word "street" there shall be substituted the word "road".

Textual Amendments

F90 Sch. 9 para. 55(2)(a)(d) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1992/2990, art. 2(2), **Sch. 2**

F91 Sch. 9 para. 55(3) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108) s. 168(2), Sch. 9; S.I. 1992/2990, art. 2(2), **Sch. 2**

The Weights and Measures Act 1963 (c. 31)

56 (1) The Weights and Measures Act 1963 shall be amended in accordance with this paragraph.

(2) In section 21(2)(h) (requirement of document as to weight of vehicle and its load), for the word "highway" there shall be substituted the word "road".

(3) In section 58(1) (interpretation), after the definition of "prescribed" there shall be inserted the following definition—

""road" has same meaning as in the Roads (Scotland) Act 1984;".

(4) In Schedule 6 (provisions as to solid fuel)—

(a) in each of paragraphs 3B(1) and (2), 3C(1) and 10, for the word "highway" there shall be substituted the word "road"; and

(b) in paragraph 6A(1), for the word "highways" there shall be substituted the word "roads".

The Agriculture and Horticulture Act 1964 (c. 28)

57 In each of sections 13(7) and 21(2)(a) of the Agriculture and Horticulture Act 1964 (reservation as regards powers of entry), for the word "highway" there shall be substituted the word "road".

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Changes to legislation: *Roads (Scotland) Act 1984 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

The Local Government (Scotland) Act 1966 (c. 51)

58 In section 46(1) of the Local Government (Scotland) Act 1966 (interpretation), for the definition of "road" there shall be substituted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984;".

The Agriculture Act 1967 (c. 22)

59 In section 23(5) of the Agriculture Act 1967 (reservation as regards powers of entry), for the word "highway" there shall be substituted the word "road".

The Countryside (Scotland) Act 1967 (c. 86)

60 (1) The Countryside (Scotland) Act 1967 shall be amended in accordance with this paragraph.

(2) In section 46 (protection and maintenance of public rights of way)—

(a) in subsection (2), for the words "footpath at the side of a road" there shall be substituted the word "footway"; and

(b) in subsection (3), after the words "than a" there shall be inserted the word "public".

(3) In section 47 (interpretation), at the end there shall be added the following definition—

"; and

"public road" has the same meaning as in the Roads (Scotland) Act 1984.".

(4) In section 51(1), for the word "highway" there shall be substituted the word "roads".

(5) In section 54 (power to make byelaws for the preservation of order etc.)—

(a) in subsection (1)—

(i) the word "or" immediately following paragraph (d) shall cease to have effect;

(ii) after paragraph (e) there shall be inserted the following words—

"; or

(f) a picnic site managed by them by virtue of section 4 of the Roads (Scotland) Act 1984,"; and

(iii) for the words "or waterway", in both places where they occur, there shall be substituted the words ", waterway or picnic site"; and

(b) in subsection (2), for the words "or waterway", in both places where they occur, there shall be substituted the words ", waterway or picnic site".

(6) In section 78(1) (interpretation)—

(a) after the definition of "enactment" there shall be inserted the following definition—

""footway" has the same meaning as in the Roads (Scotland) Act 1984;"; and

(b) for the definition of "road" there shall be substituted the following definition—

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""road" has the same meaning as in the Roads (Scotland) Act 1984;".

The New Towns (Scotland) Act 1968 (c. 16)

61 (1) The New Towns (Scotland) Act 1968 shall be amended in accordance with this paragraph.

(2) In section 6 (planning control in new towns)—

(a) in subsection (4), for the words "local highway authority or the Secretary of State" there shall be substituted the words "roads authority"; and

(b) in subsection (5)—

(i) after the word "into" there shall be inserted the words "be registered in the Land Register of Scotland or, as the case may";

(ii) after the word "so" there shall be inserted the words "registered or"; and

(iii) for the words "local highway authority or the Secretary of State, as the case may be," there shall be substituted the words "roads authority".

(3) In section 8 (acquisition of land for roads in connection with new towns), in each of subsections (1) and (6), for the word "highway" there shall be substituted the word "roads".

(4) In section 9 (recording of compulsory purchase orders), after the word "shall" there shall be inserted the words "register it in the Land Register of Scotland or as the case may be".

(5) In section 10(1)(a), (special procedure for acquisition of statutory undertakers' operational land), for the word "highway", in both places where it occurs, there shall be substituted the word "roads".

(6) In section 19 (power to override servitudes and other rights, in each of subsections (1), (3), (4) and (6), for the word "highway" there shall be substituted the word "roads".

(7) In section 20(1)

(use and development of churches and burial grounds)—

(a) for the words "local highway authority, or which has been acquired under this Act by the Secretary of State" there shall be substituted the words "roads authority"; and

(b) in paragraph (a), for the words "such a corporation or" there shall be substituted the words "a development corporation or local roads".

(8) In section 21(1) (use and development of open spaces)—

(a) for the words "local highway authority, or which has been acquired under this Act by the Secretary of State" there shall be substituted the words "roads authority"; and

(b) in paragraph (a), for the words "such a corporation or" there shall be substituted the words "a development corporation or local roads".

(9) In section 22 (displacement of persons from land acquired)—

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(a) in subsection (3), for the word "highway" there shall be substituted the word "roads"; and

(b) in subsection (4), for the words "local highway, or has been acquired under this Act by the Secretary of State" there shall be substituted the words "roads authority".

(10) In section 23 (extinguishment of public rights of way over land acquired)—

(a) in subsection (1)(a), for the word "highway" there shall be substituted the word "roads";

(b) in subsection (2), for sub-paragraph (ii) and the words from "In this Subsection" to the end, there shall be substituted the following sub-paragraph—

"(ii) on the local roads authority, unless they applied for the order to be made."; and

(c) in subsection (5), for the word "highway" there shall be substituted the word "road".

(11) In section 24(1) (provision as to telegraphic lines), for the word "highway" there shall be substituted the word "roads".

(12) In section 26 (extinguishment of rights of way, and rights as to apparatus of statutory undertakers), in each of subsections (1)(a) and (5), for the word "highway" there shall be substituted the word "roads".

(13) In section 32(2)(a) (construction and maintenance of works or equipment required in connection with trolley vehicles services by development corporation), for the word "highways" there shall be substituted the word "roads".

(14) In section 42(1)

(powers of entry), for the word "highway" there shall be substituted the word "roads".

(15) In section 47(1)

(interpretation)—

(a) in the definition of "acquiring authority", for the word "highway" there shall be substituted the word "roads";

(b) for the definition of "local highway authority" there shall be substituted the following definition—

""local roads authority" has the same meaning as in the Roads (Scotland) Act 1984;";

(c) in the definition of "planning permission", for the words "the Town and Country Planning (Scotland) Act 1947" there shall be substituted the words "Part III of the Town and Country Planning (Scotland) Act 1972"; and

(d) after the definitions of "regional planning authority" and "district planning authority" there shall be inserted the following definition—

""roads authority" has the same meaning as in the Roads (Scotland) Act 1984;".

(16) In Schedule 3 (procedure for authorising compulsory acquisitions)—

(a) in paragraph 1(1), for the word "highway" there shall be substituted the word "roads";

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(b) in paragraph 7(2)(b), for the words from "section 1" to the end there shall be substituted the words "section 5 or 15 of the Roads (Scotland) Act 1984, or of either of the following enactments no longer in force—

(i) section 1 of the Trunk Roads Act 1946 (additional trunk roads and reorganisation of trunk road system);

(ii) section 14(1) of the Special Roads Act 1949 (amendments of law relating to trunk roads).";

(c) in paragraph 8(b), for the word "highway" there shall be substituted the word "roads"; and

(d) in paragraph 13(1)(b), for the word "highway" there shall be substituted the word "road".

(17) In Schedule 4(1) (procedure for authorising compulsory acquisition of statutory undertakers' operational land), for the word "highway" there shall be substituted the word "roads".

The Firearms Act 1968 (c. 27)

62 In section 57(4) of the Firearms Act 1968 (interpretation), in the definition of "public place", for the word "highway" there shall be substituted the words "road (within the meaning of the Roads (Scotland) Act 1984)".

The Countryside Act 1968 (c. 41)

63 In section 32 of the Countryside Act 1968 (traffic regulation orders for the countryside)—

(a) in subsection (8), for the word "highway" there shall be substituted the word "roads";

(b) in subsection (10)—

(i) in the definition of "Crown road", for the word "highway" there shall be substituted the words "public road"; and

(ii) for the definition of "road" there shall be substituted the following definitions—

""road", "public road" and "trunk road" have the same meanings as in the Roads (Scotland) Act 1984.".

The Sewerage (Scotland) Act 1968 (c. 47)

64 (1) The Sewerage (Scotland) Act 1968 shall be amended in accordance with this paragraph.

(2) In section 3(1) and (2) (construction of public sewers and public sewage treatment works), for the word "street", wherever it occurs, there shall be substituted the word "road".

(3) In section 12(7) (breaking open street in relation to connecting premises with public sewer etc.), for the word "street", in both places where it occurs, there shall be substituted the word "road".

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Changes to legislation: *Roads (Scotland) Act 1984 is up to date with all changes known to be in force on or before 21 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In section 41 (power to break open streets)—

(a) for the words "the carriageway and footways of any street and of any bridge carrying a street" there shall be substituted the words "any road, any bridge carrying a road,";

(b) for the words from "or vault" to "footway", where it first occurs, there shall be substituted the words ", vault, sewer, drain or tunnel in or under a road"; and

(c) for the words "carriageway or footway", where they occur for the second time, there shall be substituted the word "road".

(5) In section 59(1)

(interpretation)—

(a) after the definition of "river purification authority" there shall be inserted the following definition—

> ""road" has the same meaning as in the Public Utilities Street Works Act 1950;";

(b) the definition of "street" shall cease to have effect; and

(c) after the definition of "trade premises" there shall be inserted the following definition—

> ""trunk road" has the same meaning as in the Roads (Scotland) Act 1984;".

The Caravan Sites Act 1968 (c. 52)

65 In section 13(1) of the Caravan Sites Act 1968 (twin-unit caravans) for the word "highway" there shall be substituted the word "road".

The Transport Act 1968 (c. 73)

66 (1) The Transport Act 1968 shall be amended in accordance with this paragraph.

(2) In section 116 (transfer of responsibility for maintenance of highways on bridges)—

(a) in subsection (3), for the word "highway" where it occurs for the first and fourth times there shall in each case be substituted the word "roads", and where it occurs for the second, third and fifth times there shall in each case be substituted the word "road";

(b) for subsection (4) and (5) there shall be substituted the following subsection—

> "(4) Where paragraphs (a) and (b) of subsection (1) of this section are not satisfied immediately before the appointed day in the case of any bridge as is mentioned in that subsection, or such a bridge as aforesaid is constructed after that day, then if on any subsequent day—
>
> (a) the Board or Boards concerned are responsible for maintaining the road carried by the bridge, or that road together with the road giving access to the bridge (the "access road"); and
>
> (b) the road at each end—

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(ii) if the Board or Boards are also responsible for maintaining the access road, of the bridge and the access road,

is a public road,

the road (or roads) for which they are so responsible shall forthwith be entered by the local roads authority in the list of public roads kept by the authority under section 1 of the Roads (Scotland) Act 1984.";

(c) in subsection (6)—

(i) at the beginning there shall be inserted the words "Without prejudice to the provisions of the said Act of 1984," and

(ii) for the word "highway" where it occurs for the first, third, fourth and fifth times there shall in each case be substituted the word "road", and where it occurs for the second time there shall be substituted the word "roads"; and

(d) in subsection (7), for the word "highway" there shall be substituted the word "road".

(3) In section 117 (duties as respects bridges carrying highways)—

(a) in subsection (1)(a), for the word "highways" there shall be substituted the word "road";

(b) in subsection (3)(b), for the words "when it is opened for traffic" there shall be substituted the words—

"(i) when the bridge is opened (the date of opening being before 1st January 1985) for traffic on the highway so carried;

(ii) when the bridge is opened (the date of opening being on or after 1st January 1985) for traffic on the road so carried."; and

(c) in subsection (5), after the word "highway" there shall be inserted the words ", or as the case may be road."

(4) In section 118(1) (duty of highway authority as respects road bridge over railway or inland waterway)—

(a) in paragraph (a), for the "highway" there shall be substituted the word "road"; and

(b) in paragraph (b), for the word "highway" there shall be substituted the word "roads".

(5) In section 119(1) (ending of liability of certain Boards to make payments in being relieved of responsibility for bridges carrying trunk or special roads—

(a) for the words "229 of the Highways Act 1959 or section 7 of the Trunk Roads Act 1946" there shall be substituted the words "266 of the Highways Act 1980 or section 80 of the Roads (Scotland) Act 1984";

(b) after the word "highways", in both places where it occurs, there shall be inserted the words ", or as the case may be roads,";

(c) for the words "230 of the said Act of 1959 or section 8 of the Special Roads Act 1949" there shall be substituted the words "267 of the said Act of 1980 or section 81 of the said Act of 1984";

(d) in paragraph (a), for the words "58(2) of the said Act of 1959, section 7(3) of the said Act of 1946 or section 8(2) of the said Act of 1949" there shall be substituted the words "55(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection as applied by subsection (2) of the said

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section 81)", and after the word "highway" there shall be inserted the words ", or as the case may be road,", and

(e) in paragraph (b), for the words "229(3) or 230(2) of the said Act of 1959 or the said section 7(3) or 8(2)" there shall be substituted the words "266(5) or 267(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection applied as aforesaid)".

(6) In section 121(8) (interpretation), at the end there shall be added the words "; and in the application of the said subsection (5) to Scotland the reference to a highway authority shall be construed as a reference to a roads authority.".

(7) In section 122 (further provision as regards interpretation)—

(a) in subsections (1) and (3), for the word "highway", wherever it occurs, there shall be substituted the word "road"; and

(b) subsection (4) shall cease to have effect.

(8) In section 123 (power of highway and other authorities to contribute to cost of barriers, etc., at level crossings), for the word "highway" there shall be substituted the word "roads".

(9) In section 124(1)(a) (Railways Board's obligations at level crossings with roads other than public carriage roads), for the words "public carriage" there shall be substituted the words "carriageway of a public".

(10) In section 159(1) (general interpretation)—

(a) after the definition of "bus service" there shall be inserted the following definition—

""carriageway" has the same meaning as in the Roads (Scotland) Act 1984;";

(b) in the definition of "highway authority", paragraph (b) shall cease to have effect;

(c) after the definition of "liability" there shall be inserted the following definition—

""local roads authority" has the same meaning as in the Roads (Scotland) Act 1984;";

(d) after the definition of "plated weight" there shall be inserted the following definition—

""public road" has the same meaning as in the Roads (Scotland) Act 1984;"; and

(e) after of "the Railways Board" there shall be inserted the following definitions—

""road" and "roads authority" have the same meaning as in the Roads (Scotland) Act 1984;".

The Vehicles Excise Act 1971 (c. 10)

67 In section 38(1) of the Vehicles (Excise) Act 1971 (interpretation), in the definition of "public road", at the end there shall be added the words "except that in Scotland it has the same meaning as in the Roads (Scotland) Act 1984.".

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68 . . . . . F92

Textual Amendments

F92 Sch. 9 para. 68 repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt I, **Sch. 4 paras. 1–3**

The Roads Traffic (Foreign Vehicles) Act 1972 (c. 27)

69 In section 7(1) of the Road Traffic (Foreign Vehicles) Act 1972 (interpretation), for the definition of "road" there shall be substituted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984.".

The Town and Country Planning (Scotland) Act 1972 (c. 52)

70 (1)) The Town and Country Planning (Scotland) Act 1972 shall be amended in accordance with this paragraph.

(2) In section 14 (disregarding of representations with respect to development authorised by or under other enactments), in paragraph (a), for the words from "1 of" to "1949" there shall be substituted the words "5, 7, 9 or 12 of the Roads (Scotland) Act 1984".

(3) In section 19(2) (certain operations or uses of land not to be taken to involve development)—

(a) in paragraph (b), for the word "highway" there shall be substituted the word "roads"; and

(b) in paragraph (c), for the word "street" there shall be substituted the word "road".

(4) In section 136(2) (compensation not payable in respect of imposition of certain conditions), for the word "highway", in both places where it occurs, there shall be substituted the word "road".

(5) In section 181(1) (scope of certain provisions relating to blight notices)—

(a) for paragraph (e) there shall be substituted the following paragraph—

"(e) is land on or adjacent to the line of a road proposed to be constructed, improved or altered, as indicated in an order or scheme—

(i) which has come into operation under; or

(ii) which is proposed to be made of confirmed under, and in respect of which a notice has been published under Schedule 1 to,

the Roads (Scotland) Act 1984 being land in relation to which a power of compulsory acquisition conferred by that Act may become exercisable as being land required for purposes of construction, improvement or alteration as indicated in the order or scheme;"; and

(b) in paragraph (f), for the word "highway" there shall be substituted the word "roads".

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(6) In section 194(4) (questions as to appropriate authority for purposes of certain provisions), in each of paragraphs (a) and (b), for the word "highway" there shall be substituted the word "roads".

(7) In section 195 (interpretation)—

(a) in subsection (3), for the word "highway", in each place where it occurs, there shall be substituted the word "roads"; and

(b) in subsection (4), for paragraphs (a) and (b) there shall be substituted the following paragraph—

"(aa) the coming into operation of any requisite scheme or order under the Roads (Scotland) Act 1984;".

(8) In section 198 (highways affected by development: orders by Secretary of State)—

(a) in subsection (1), for the word "highway" there shall be substituted the word "road";

(b) for subsection (2) there shall be substituted the following subsection—

"(2) Any order under this section may make such provision as appears to the Secretary of State to be necessary or expedient for the construction or improvement of any other road, and may direct that the other road so constructed or improved—

(a) shall be entered by the local roads authority in the list of public roads kept by them under section 1 of the Roads (Scotland) Act 1984; or

(b) shall be deemed for the purposes of that Act to have been constructed by him under section 19 thereof,

and in the case of a road so deemed, that it shall, on such date as may be specified in the order, become a trunk road within the meaning of that Act.";

(c) in subsection (3)—

(i) in paragraph (a), sub-paragraph (ii), and the word "or" immediately preceding that sub-paragraph, shall cease to have effect; and

(ii) in paragraph (b), for the word "highway" there shall be substituted the word "road"; and

(d) in each of subsections (4) and (5)(a), for the word "highway" there shall be substituted the word "road".

(9) In section 198A (highways affected by development: orders by planning authorities)—

(a) in subsection (1)—

(i) for the word "highway" there shall be substituted the word "road";

(ii) in paragraph (a), for the words "section 50 of the Roads (Scotland) Act 1970" there shall be substituted the words "the Roads (Scotland) Act 1984"; and

(iii) in paragraph (b), for the words "section 1 of the Special Roads Act 1949" there shall be substituted the words "that Act";

(b) in subsection (2)—

(i) in paragraph (a), for the word "provision", where it occurs for the second time, there shall be substituted the word "construction", for the word "highway", where it first occurs, there shall be substituted

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the word "road", and for the words "any highway so provided or improved shall be maintained and managed by the highway authority" there shall be substituted the words "the other road so constructed or improved shall be entered by the local roads authority in the list of public roads kept by the local roads authority under section 1 of the Roads (Scotland) Act 1984"; and

(ii) in paragraph (b)(i), the words "sub-paragraphs (i) and (ii) of" shall cease to have effect;

(c) in each of subsections (3) and (4), for the word "highway" there shall be substituted the word "road"; and

(d) in subsection (5), for the word "highway" there shall be substituted the word "roads".

(10) In section 201 (order extinguishing right to use vehicles on highway)—

(a) in subsection (1)—

(i) for the word "highway", in both places where it occurs, there shall be substituted the word "road"; and

(ii) for the words "8 of the Development and Road Improvement Funds Act 1909" there shall be substituted the words "3 of the Roads (Scotland) Act 1984";

(b) in subsection (2), for the word "highway" there shall be substituted the word "road";

(c) in subsection (3), for the word "highway"—

(i) where it first occurs, there shall be substituted the word "roads"; and

(ii) where it occurs for the second time, there shall be substituted the word "road";

(d) in each of subsection (4), (5) and (8), for the word "highway", wherever it occurs, there shall be substituted the word "road";

(e) in subsection (9)(b), for the word "highway" there shall be substituted the word "roads";

(f) in subsection (10)—

(i) in paragraph (a), for the word "provision", where it occurs for the second time, there shall be substituted the word "construction", for the word "highway", where it first occurs, there shall be substituted the word "road", and for the words "any highway so provided or improved shall be maintained and managed by the highway authority" there shall be substituted the words "the other road so constructed or improved shall be entered by the local roads authority in the list of public roads kept by the local roads authority under section 1 of the Roads (Scotland) Act 1984"; and

(ii) in paragraph (b)(i), the words "sub-paragraphs (i) and (ii) of" shall cease to have effect; and

(g) in subsection (11)(a), for the word "highway" there shall be substituted the word "road".

(11) In section 202 (provision of amenity for highway reserved to pedistrians)—

(a) in each of subsections (1) to (4), for the word "highway", wherever it occurs, there shall be substituted the word "road"; and

(b) in subsection (5), for the word "highway" there shall be substituted the word "roads".

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(12) In section 204 (procedure for making of orders by Secretary of State), in each of subsections (2) and (7), for the word "highway", wherever it occurs, there shall be substituted the word "road".

(13) In section 205(1) (further procedure in anticipation of planning permission, etc.), for the word "highway" there shall be substituted the word "road".

(14) In section 205(1)(a) (further procedure in anticipation of planning permission, etc.), for the word "highway" there shall be substituted the word "road".

(15) In section 206(3)(aa) (provision as to time specified in certain orders), for the word "highway" there shall be substituted the word "road".

(16) In section 208 (concurrent proceedings in connection with roads)—

(a) in subsection (1), for the words "207 of this Act (as mentioned in subsection (1)(a) of that section)" there shall be substituted the words "104(1)(b)(i) of the Roads (Scotland) Act 1984"; and

(b) in subsection (2)(b), for the words "207 of this Act (as mentioned in subsection (1)(b) of that section)" there shall be substituted the words "104(1)(b)(ii) of the Roads (Scotland) Act 1984".

(17) In section 209 (provision as to telegraphic lines)—

(a) in subsection (1), the words ", 200" shall cease to have effect, and for the word "highway", wherever it occurs, there shall be substituted the word "road";

(b) in subsection (2), for the word "highway" in the first and second places where it occurs there shall be substituted the word "road", and in the third place where it occurs there shall be substituted the word "roads".

(18) In section 210A(2) (recovery of costs of making orders relating to roads, paths, etc.)—

(a) in paragraph (a), for the word "highways" there shall be substituted the word "roads"; and

(b) in paragraph (d), for the word "highway" there shall be substituted the word "road".

(19) In section 242(1) (contributions by local authorities towards certain expenses incurred by a local highway authority of the Secretary of State)—

(a) for the words from "the provisions" to "highways" there shall be substituted the words "section 5(9) of the Roads (Scotland) Act 1984 (power of local roads authority to contribute towards costs incurred by Secretary of State in construction or improvement of trunk road"; and

(b) for the words "highway" there shall be substituted the word "roads".

(20) In section 250(1) (expenses of, and borrowing by, local authorities), for the words "highway" and "highways" there shall in each case be substituted the word "roads".

(21) In section 275(1) (interpretation)—

(a) in the definition of "engineering operations", for the word "highways" there shall be substituted the word "roads";

(b) for the definition of "improvement" there shall be substituted the following definition—

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""improvement", in relation to a road, has the same meaning as in the Roads (Scotland) Act 1984;";

(c) for the definition of "local highway authority" there shall be substituted the following definition—

""local roads authority" has the same meaning as in Roads (Scotland) Act 1984;"; and

(d) in the definition of "means of access", for the word "street" there shall be substituted the word "road"; and

(e) after the definition of "restriction on the winning and working of minerals" there shall be inserted the following definitions—

""road" has the same meaning as in the Roads (Scotland) Act 1984;".

(22) In Schedule 18 (procedure in connection with orders relating to footpaths and bridleways) in both—

(a) the proviso to paragraph 3(1); and

(b) paragraph 3(2),

for the words "199 or 200" there shall be substituted the words "or 199".

71 . . . . . F93

Textual Amendments

F93 Sch. 9 para. 71 repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

The Land Compensation (Scotland) Act 1973 (c. 56)

72 (1)) The Land Compensation (Scotland) Act 1973 shall be amended in accordance with this paragraph.

(2) Subject to sub-paragraph (4) below, in the sections referred to in sub-paragraph (3) below for references (whether in the singular or plural) to "highway authority" and "local highway authority" there shall be substituted respectively references to "road", "roads authority" and "local roads authority".

(3) The sections to which sub-paragraph (2) above refers are sections 1(3), (4), (6), (7), and (9), 9(1), (2), and (5), 13(1) and (3), 17(1) and (3), 18(9) and 26(1) and (2).

(4) In section 17(1) (interpretation of Part I) the definitions of "highway" and "highway authority" shall cease to have effect.

(5) In section 18(9), for the words "section 8 of the Development and Road Improvement funds Act 1909" there shall be substituted the words "section 3 of the Roads (Scotland) Act 1984".

(6) Section 26(4)(a) shall cease to have effect.

(7) In section 65—

(a) subsection (1) shall cease to have effect; and

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(b) in each of subsections (2) and (3), for the words "this section" there shall be substituted the words "section 181(1)(e)(ii) of the Act of 1972".

(8) In section 77(4), for the words "69 and 70(2)" there shall be substituted the words "and 69".

(9) In section 80 (general interpretation)—

(a) in subsection (1)—

(i) there shall be inserted in the appropriate places in alphabetical order the following definitions—

""carriageway" has the same meaning as in the Roads (Scotland) Act 1984;

"local roads authority" has the same meaning as in the Roads (Scotland) Act 1984;

"roads authority" has the same meaning as in the Roads (Scotland) Act 1984;"; and

(ii) for the definition of "road" there shall be substituted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984;"; and

(b) subsection (2) shall cease to have effect.

The Local Government (Scotland) Act 1973 (c. 65)

73 In section 133 of the Local Government (Scotland) Act 1973 (roads), for the words "local highway authority" in both places where they occur there shall be substituted the words "local roads authority".

The Control of Pollution Act 1974 (c. 40)

74 (1) The Control of Pollution Act 1974 shall be amended in accordance with this paragraph.

(2) In section 13 (dustbins etc.)—

(a) in subsection (7)(c), for the word "highways" there shall be substituted the word "roads": and

(b) in subsection (7A)—

(i) for the word "highway", where it first occurs, there shall be substituted the word "road"; and

(ii) in paragraph (a), for the words "relevant highway authority" there shall be substituted the words "roads authority".

(3) In section 27(1) (interference with refuse tips and dustbins etc.)—

(a) in paragraph (a), for the words "parish or community council" there shall be substituted the words "roads authority";

(b) in paragraph (b), for the word "highway" there shall be substituted the word "road"; and

(c) the words "or council" and from "In the application" to "1970" shall ceased to have effect.

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(4) In section 32(1)(c) (control of discharge of matter other than trade or sewage effluent) —

(a) for the words "works which a highway authority is obliged or entitled to keep open by virtue of section 10 of the Roads (Scotland) Act 1970" there shall be substituted the words "a drain which a roads authority is obliged or entitled to keep open by virtue of section 31 of the Roads (Scotland) Act 1984"; and

(b) for the word "highway", where it occurs for the third time, there shall be substituted the word "roads".

(5) In section 62 (noise in streets)—

(a) in subsection (1)—

(i) for the word "street", where it first occurs, there shall be substituted the word "road"; and

(ii) the words from "In this subsection" to "public" shall cease to have effect; and

(b) in subsection (2)(e), for the word "highway" there shall be substituted the words "public road (within the meaning of the Roads (Scotland) Act 1984)".

(6) In section 105(1) (interpretation), after the definition of "regulations" there shall be inserted the following definitions—

""road" (except where the context otherwise requires) has the same meaning as in the Public Utilities Street Works Act 1950;

"roads authority" has the same meaning as in the Roads (Scotland) Act 1984;".

(7) In section 106 (general application to Scotland), subsection (4) shall cease to have effect.

The Safety of Sports Grounds Act 1975 (c. 52)

75 In section 17(1) of the Safety of Sports Grounds Act 1975, in the definition of "means of access", for the word "highway" there shall be substituted the word "road".

The Airports Authority Act 1975 (c. 78)

76 (1) The Airports Authority Act 1975 shall be amended in accordance with this paragraph.

(2) In section 13 (control of road traffic), in subsection (8), for the words from "or local" to the end there shall be substituted the words " "highway authority or local authority" there shall be substituted the words "roads authority as defined in section 151(1) of the Roads (Scotland) Act 1984".'.

(3) In section 20 (provisions as to telegraphic lines), at the end there shall be inserted the following subsection—

"(8) In the application of this section to Scotland, the reference to the highway authority shall be construed as a reference to the roads authority within the meaning of section 151(1) of the Roads (Scotland) Act 1984, and the reference to a highway shall be construed as a reference to a road within the meaning of the said section 151(1).".

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The Licensing (Scotland) Act 1976 (c. 66)

77 (1) The Licensing (Scotland) Act 1976 shall be amended in accordance with this paragraph.

(2) In section 28(2) (interpretation)—

(a) in paragraph (a), for a word "Special Roads Act 1949" there shall be substituted the words "Roads (Scotland) Act 1984"; and

(b) in paragraph (b), for the words "2 to that Act, as varied from time to time by any order under section 2" there shall be substituted the words "3 to that Act, as varied from time to time by any order under section 8".

(3) In section 139(1) (interpretation), in the definition of "hawking", for the words "the streets, highways" there shall be substituted the word "roads".

The Refuse Disposal (Amenity) Act 1978 (c. 3)

78 (1) The Refuse Disposal (Amenity) Act 1978 shall be amended in accordance with this paragraph.

(2) In section 2(1)(a) (unauthorised dumping of motor vehicles etc.), for the word "highway" there shall be substituted the word "road".

(3) In section 3 (removal of abandoned vehicles)—

(a) in subsection (1), for the word "highway" there shall be substituted the word "road";

(b) in subsection (3), the words "within the meaning of the Highways Act 1959" and "within the meaning of that Act" shall cease to have effect; and

(c) subsection (4) shall cease to have effect.

(4) In section 6(1)

(removal and disposal of things other than motor vehicles), for the word "highway" there shall be substituted the word "road".

(5) In section 11(1) (interpretation)—

(a) for the definition of "highway" there shall be substituted the following definition—

""carriageway" has the same meaning as in the Roads (Scotland) Act 1984;"; and

(b) after the definition of "the relevant date" there shall be inserted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984.".

79 . . . . . [F94]

Textual Amendments

F94 Sch. 9 para. 79 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**

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The Education (Scotland) Act 1980 (c. 44)

80 In section 18 of the Education (Scotland) Act 1980 (improvements as to premises of educational establishments for the safety of pupils), for subsection (5) there shall be substituted the following subsection—

"(5) In this section "road", "public road" and "private road" have the meanings ascribed to them by section 151(1) of the Roads (Scotland) Act 1984).".

The Water (Scotland) Act 1980 (c. 45)

81 (1) The Water (Scotland) Act 1980 shall be amended in accordance with this paragraph.

(2) In section 9(5) (powers of water authority as regards supply of water for non-domestic purposes), for the word "streets" there shall be substituted the word "roads".

(3) In section 10(5)

(interpretation)—

(a) for paragraph (b) there shall be substituted the following paragraph—

"(b) roads authorities as defined in section 151(1) of the Roads (Scotland) Act 1984;"; and

(b) for paragraph (d) there shall be substituted the following paragraph—

"(d) road managers as defined in section 2(5) of the said Act of 1950;".

(4) In each of sections 13(5) (accelerated procedure for supply of water in bulk) and 22 (power to break open streets), for the word "streets" there shall be substituted the word "roads".

(5) In section 23 (power to lay mains etc.)—

(a) in subsection (1)—

(i) in paragraph (a), for the word "street" where it occurs for the first and second times there shall in each case be substituted the word "road" and for the words from "the persons" to "street" where it occurs for the third time there shall be substituted the words—

"(i) where the road is a public road, the roads authority; and

(ii) in any other case, the authority or person responsible for the maintenance of the road, or, if no authority or person is so responsible, to the owners of the solum of the road,"; and

(ii) in paragraph (b), for the word "street" there shall be substituted the word "road"; and

(b) in subsection (2), for the word "street" there shall be substituted the word "road".

(6) In section 24 (communication and supply pipes), in each of subsections (1) and (4) for the word "street" there shall be substituted the word "road".

(7) In section 25(2) (power of islands or district council to erect and maintain drinking fountain or trough)—

(a) for the word "street", where it first occurs, there shall be substituted the word "road"; and

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(b) for the words from "if" to "authority" where it occurs for the second time there shall be substituted the words "there shall be no such erection by the district council without the roads authority's consent".

(8) In section 33 (temporary discharge of water into watercourse)—

(a) in subsection (1), for the word "street", in both places where it occurs, there shall be substituted the word "road" and for the word "streets" there shall be substituted the word "roads";

(b) in subsection (2), for the word "street" there shall be substituted the word "road"; and

(c) in subsection (10), for the word "highway" there shall be substituted the words "public road".

(9) In section 75(2)(b) (saving as regards penalty for polluting water), for the words "highway, so long as the highway" there shall be substituted the words "public road, so long as the roads".

(10) In section 76(3) (carrying of drain etc. under, across or along any street)—

(a) for the word "highway", wherever it occurs, there shall be substituted the word "roads";

(b) for the words "street", where it first occurs, and "streets" there shall be substituted, respectively, the words "road" and "roads"; and

(c) for the words "street maintainable at the public expense" there shall be substituted the words "public road".

(11) In section 77(3)(c) (application of order relating to obtaining supplies of water to meet drought), for the word "streets" there shall be substituted the word "roads".

(12) In section 109 (interpretation)—

(a) in subsection (1)—

(i) the definition of "bridge authority" shall cease to have effect;

(ii) in the definition of "communication pipe" for the word "street", wherever it occurs, there shall be substituted the word "road";

(iii) the definitions of "highway" and "highway authority" shall cease to have effect;

(iv) after the definition of "prescribed" there shall be inserted the following definitions—

""private road" and "public road" have the same meaning as in the Roads (Scotland) Act 1984;";

(v) after the definition of "river purification authority" there shall be inserted the following definitions—

""road" has the same meaning as in the Public Utilities Street Works Act 1950;

"roads authority" has the same meaning as in the Roads (Scotland) Act 1984;"; and

(vi) the definition of "street" shall cease to have effect; and

(b) subsection (2) shall cease to have effect.

(13) in section 110 (further provision as to communication pipes) in each of subsections (1) and (2), for the word "street", wherever it occurs, there shall be substituted the word "road".

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(14) In Schedule 3 (provisions as to breaking open streets and laying communication and supply pipes)—

(a) in paragraph 1—

(i) for the words "the roadway and footpaths of any street and of any bridge carrying a street" there shall be substituted the words "a road";

(ii) for the word "street" where it occurs for the third time there shall be substituted the word "road"; and

(iii) for the words "roadway or footpath", in both places where they occur, there shall be substituted the word "road";

(b) in paragraph 2—

(i) in sub-paragraph (1), for the words "the roadway or footpath of a street or bridge (not being a street or bridge maintainable at the public expense) which is" there shall be substituted the words "a private road"; and

(ii) in sub-paragraph (2), for the words "the roadway or footpath of any length of street" there shall be substituted the words "any length of road";

(c) paragraph 3 shall cease to have effect;

(d) in paragraph 4—

(i) in sub-paragraph (1), for the word "street" where it occurs for the first and second times there shall in each case be substituted the word "road", and in the proviso, for the words "the persons having control or management of the street" there shall be substituted the words—

"(i) where the road is a public road, the roads authority; and

(ii) in any other case, the authority or person responsible for the maintenance of the road, or, if no authority or person is so responsible, to the owners of the solum of the road";

(ii) in sub-paragraph (2), for the word "street" there shall be substituted the word "road";

(e) in each of paragraphs 5, 6(1), 7(2) and 8 for the word "street", wherever it occurs, there shall be substituted the word "road"; and

(f) in paragraph 9, in the proviso to sub-paragraph (2)—

(i) for the word "street", in both places where it occurs, there shall be substituted the word "road"; and

(ii) for the word "highway" there shall be substituted the word "roads".

(15) In Schedule 4 (provisions to be included in orders relating to water undertakings)—

(a) in paragraph 2 for the word "street" in both places where it occurs, there shall be substituted the word "road";

(b) in paragraph 22, for the word "street" there shall be substituted the word "road";

(c) in paragraph 24—

(i) in sub-paragraph (1), for the word "streets" there shall be substituted the word "roads"; and

(ii) in sub-paragraph (2), for the word "highway" there shall be substituted the words "roads";

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(d) in paragraph 36, for the word "streets", in both places where it occurs, there shall be substituted the word "roads" and for the word "street" there shall be substituted the word "road";

(e) in paragraph 39—

(i) in the proviso to sub-paragraph (1) for the words "to the persons having the control or management of the street or other place where they propose to open the ground, and" there shall be substituted the following words—

"(a) where the ground is, or comprehends, part of—

(i) a public road, to the roads authority; or

(ii) any road, to the person responsible for the maintenance of that road, or, if no authority or person is so responsible, to the owners of the solum of that part; and

(b) where or in so far as the ground is not mentioned in head (a) above, to the person having the control or management of the ground;

and the undertakers ";

and for the word "streets" there shall be substituted the word "roads"; and

(ii) in sub-paragraph (2), for the word "street" there shall be substituted the word "road".

The Local Government, Planning and Land Act 1980 (c. 65)

82 In section 20(1) of the Local Government, Planning and Land Act 1980 (interpretation), after the definition of "functional work" there shall be inserted the following definition—

""highway", in relation to Scotland, means a road as defined in section 151 of the Roads (Scotland) Act 1984;".

The Public Passenger Vehicles Act 1981 (c. 14)

83 In section 82(1) of the Public Passenger Vehicles Act 1981 (interpretation), in the definition of "road", at the end there shall be added the words "except that in Scotland it as the same meaning as in the Roads (Scotland) Act 1984".

The Wildlife and Countryside Act 1981 (c. 69)

84 In section 72(1) of the Wildlife and Countryside Act 1981 (general interpretation)—

(a) for the words from the beginning to "restrictions)" there shall be substituted the words "Section 29 of the Roads (Scotland) Act 1984 (further provision as to fences)"; and

(b) for the words "highway authority" there shall be substituted the words "roads authority".

The Civil Aviation Act 1982 (c. 16)

85 (1)) The Civil Aviation Act 1982 shall be amended in accordance with this paragraph.

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(2) In section 105 (general interpretation), after subsection (5) there shall be inserted the following subsection—

"(5A) In the application of this Act to Scotland references to a highway shall have effect as references to a road within the meaning of section 151(1) of the Roads (Scotland) Act 1984.".

(3) In paragraph 4 of Schedule 2 (application to Civil Aviation Authority of enactments relating to statutory undertakings)—

(a) the words "section 40 of the Roads (Scotland) Act 1970" shall cease to have effect; and

(b) at the end there shall be added the words "; section 140 of the Roads (Scotland) Act 1984.".

The Local Government and Planning (Scotland) Act 1982 (c. 43)

86 (1)) The Local Government and Planning (Scotland) Act 1982 shall be amended in accordance with this paragraph.

(2) In section 25 (islands or district council's functions in relation to street cleansing)—

(a) in subsection (1), for the word "streets" there shall be substituted the word "roads";

(b) in subsection (3)—

(i) for the word "street", where it first occurs, there shall be substituted the word "road"; and

(ii) for the words from "street", where it occurs for the second time, to the end there shall be substituted the following definition—

""road" means any public road other than a trunk road or special road ("public road", "trunk road" and "special road" having the same meanings as in the Roads (Scotland) Act 1984).".

(3) In section 30 (power of islands and district councils to provide and maintain roadside seats)—

(a) in subsection (1), for the words "islands and district councils" there shall be substituted the words "an islands council or, with the consent of the roads authority, a district council"; and

(b) for subsection (2) there shall be substituted the following subsection—

"(2) In subsection (1) above, "footway" and "roads authority" have the same meanings as in the Roads (Scotland) Act 1984.".

The Civic Government (Scotland) Act 1982 (c. 45)

87 (1)) The Civic Government (Scotland) Act 1982 shall be amended with this paragraph.

(2) In section 19(5) (restriction on power to appoint taxi stance)—

(a) for the words "highway authority (within the meaning of the Roads (Scotland) Act 1970)" there shall be substituted the words "roads authority";

(b) for the "highway", where it occurs for the second time, there shall be substituted the word "road"; and

(c) the words "being a highway" shall cease to have effect.

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(3) In section 48(4)

(interpretation of provisions relating to fouling of pavements by dogs), for the words "meanings respectively assigned to them by section 50(1) of the Roads (Scotland) Act 1970" there shall be substituted the words "same meanings as in the Roads (Scotland) Act 1984".

(4) In section 54(3)(e) (non-application of provisions relating to annoyance caused by playing instruments etc.), for the word "highway" there shall be substituted the word "road".

(5) In the proviso to section 96(1) (restriction on exercise of certain powers as regards statutes and monuments), for head (ii) there shall be substituted the following head—

"(ii) where such land is a road, the roads authority,"

(6) In section 125(1) (interference with dustbins etc.) for the word "highway" there shall be substituted the word "road".

(7) In section 128(2) (control of stray dogs), for the word "highways" there shall be substituted the words "in roads".

(8) In section 133 (interpretation), after the definition of "public place" there shall be inserted the following definitions—

""public road", "road" and "roads authority" have the same meanings as in the Roads (Scotland) Act 1984;".

The Transport Act 1982 (c. 49)

88 (1) In section 75 of the Transport Act 1982 (interpretation), in the definition of "road", at the end there shall be added the words "except that in Scotland it has the same meaning as in the Roads (Scotland) Act 1984".

(2) . . . . . [F95]

Textual Amendments

F95 Sch. 9 para. 88(2) repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, **Sch. 4 paras. 1–3**

The Level Crossings Act 1983 (c. 16)

89 In section 1(11) of the Level Crossings Act 1983 (interpretation), for the definition of "road", there shall be substituted the following definition—

""road" has the same meaning as in the Roads (Scotland) Act 1984;".

The Litter Act 1983 (c. 35)

90 In section 7(1) of the Litter Act 1983 (litter bins in Scotland), for paragraph (a), there shall be substituted the following paragraph—

"(a) in or adjacent to any road (within the meaning of the Roads (Scotland) Act 1984) maintainable or maintained by a local authority,".

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91 . . . . . [F96]

Textual Amendments

F96 Sch. 9 para. 91 repealed by Prevention of Terrorism (Temporary Provisions) Act 1989 (c. 4, SIF 39:2), s. 25(2), **Sch. 9 Pt. I**

The Telecommunications Act 1984 (c. 12)

92 (1) The Telecommunications Act 1984 shall be amended in accordance with this paragraph.

(2) In section 10(4)(b) (exceptions and conditions in licence under section 7), for the word "streets" there shall be substituted the word "roads".

(3) In section 98 (use of conduits for telecommunication purposes)—

(a) in subsection (5), for the word "streets" there shall be substituted the word "roads"; and

(b) in subsection (9), for the word "street" there shall be substituted the word "road".

(4) In Schedule 2 (the Telecommunications Code)—

(a) in paragraph 1(1)—

(i) the definitions of "maintainable highway" and "street" shall cease to have effect;

(ii) the following definitions shall be inserted in the appropriate place in alphabetical order—

""public road" means a public road within the meaning of the Public Utilities Street Works Act 1950 other than one which is a footpath or a bridleway that crosses, and forms part of, any agricultural land or any land which is being brought into use for agriculture; "road" has the meaning given by section 1(3) of the said Act of 1950;";

(b) in paragraph 1(3), for the word "street" there shall be substituted the word "road";

[F97](c) . . . . . .

(d) paragraph 1(5) shall cease to have effect;

[F97](e) . . . . . .

(f) in paragraph 3(5), for the word "street" there shall be substituted the word "road";

[F97](g) . . . . . .

[F97](h) . . . . . .

[F97](i) . . . . . .

(j) in paragraph 19(1), for the word "street" there shall be substituted the word "road"; and

(k) in paragraph 21(10), for the word "street" there shall be substituted the word "road".

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Textual Amendments

F97 Sch. 9 para. 92(4)(c)(e)(g)-(i) repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1992/2990, art. 2(2), **Sch. 2**

The Road Traffic Regulation Act 1984 (c. 27)

93 (1) The Road Traffic Regulation Act 1984 shall be amended in accordance with this paragraph.

F98(2) . . . . . .

(23) In section 66 (traffic signs for giving effect to local traffic regulations etc.)—

F98(a) . . . . . .

(b) in subsection (2)(d), for the words "385 of the Burgh Police (Scotland) Act 1892" there shall be substituted the words "62 of the Roads (Scotland) Act 1984".

F98(24) . . . . . .

F99(39) . . . . . .

F98(40) . . . . . .

(41) In section 131 (application of road traffic enactments to Crown roads)—

(a) in subsection (2), in each of paragraphs (a) and (b), for the word "highway", wherever it occurs, there shall be substituted the word "roads"; and

(b) in subsection (7)(b), for the word "highway" there shall be substituted the words "public road".

F98(42) . . . . . .

(43) In section 134(4) (provisions as to regulations), for the words "or section" there shall be substituted the words ", 132A or".

(44) In sections 142(1) (interpretation)—

F98(a) . . . . . .

F98(b) . . . . . .

(c) after the definition of "prescribed" there shall be inserted the following definition—

""public road" has the same meaning as in the Roads (Scotland) Act 1984;";

F98(d) . . . . . .

F98(e) . . . . . .

(45) In Schedule 9 (special provisions as to certain orders)—

(a) in paragraph 19(b), for the words "28(2) of the Local Government (Scotland) Act 1966" there shall be substituted the words "11(1) of the Roads (Scotland) Act 1984"; and

F98(b) . . . . . .

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Textual Amendments

F98 Sch. 9 para. 93(2)-(22)(23)(a)(24)-(38)(40)(42)(44)(a)(b)(d)(e)(45)(b) repealed (01.11.1991) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1991/2286, art. 2(2), **Sch. 2**

F99 Sch. 9 para. 93(39) repealed by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), ss. 3, 5, Sch. 1 Pt. I, **Sch. 4 paras. 1–3**

SCHEDULE 10

Section 156(2).

TRANSITIONAL PROVISIONS AND SAVINGS

1 (1) Subject to paragraph 4 of this Schedule, in so far as anything done or having effect as if done under or in pursuance of any of the enactments repealed by this Act (in this Schedule referred to as "the repealed enactments") could have been done under or in pursuance of a corresponding provision of this Act, it shall not be invalidated by reason only of the repeal but shall have effect as if done under or in pursuance of that provision; and anything begun under any of the repealed enactments may be continued under the corresponding provision of this Act as if begun under that provision.

(2) Sub-paragraph (1) above applies in particular to any regulation, byelaw, determination, decision, authorisation, application, licence, renewal, suspension, revocation, notice, purchase, disposal, charge, certificate, prohibition, registration, refusal, cancellation, variation, appeal, objection, advertisement, specification, condition or penalty prescribed, responsibility imposed or warrant granted.

2 Without prejudice to any express amendment made by this Act, where any enactment or document refers, either expressly or by implication, to any of the repealed enactments, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.

3 Where any period of time specified in any of the repealed enactments is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of this Act had been in force when that period began to run.

4 (1) Nothing in this Act shall affect the repealed enactments in their operation in relation to offences committed before the commencement of this Act.

(2) Where an offence, for the continuance of which a penalty was provided, has been committed under any of the repealed enactments proceedings may, in the same manner as if the offence had been committed under the corresponding provision of this Act, be taken under this Act in respect of the continuance, after the commencement of this Act, of the offence.

5 Without prejudice to paragraph 1 or 4 above, any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to any event which has occurred, under or for the purposes of or by reference to or in contravention of any of the provisions of this Act shall, except where the context otherwise requires, be construed as including a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred as the case may be, under or for the purposes

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of or by reference to or in contravention of the corresponding provisions of the repealed enactments and of the enactments repealed by those enactments.

F100 6 . . . . . .

Textual Amendments

F100 Sch. 10 para. 6 repealed (1.1.1993) by New Roads and Street Works Act 1991 (c. 22, SIF 59, 108), s. 168(2), **Sch. 9**; S.I. 1992/2990, art. 2(2), **Sch. 2**

7 In relation to an order under section 3 of the M92 Special Roads Act 1949 coming into force before the appointed day within the meaning of section 2 of the M93 Telecommunications Act 1984, section 20 of the said Act of 1949 shall have effect, notwithstanding any repeal made by this Act, as it had effect immediately before that appointed day.

Marginal Citations

M92 1949 c. 32.
M93 1984 c. 12.

SCHEDULE 11

Section 156(3)

REPEALS

Chapter	Short title	Extent of repeal
8 & 9 Vict.c. 33	The Railway Clauses Consolidation (Scotland) Act 1845	In section 11, the word "streets".
		In section 16, the word "streets," where it first occurs.
		In section 18, the words "pavements,", ", streets, highways, lanes," and "passages and".
		In section 46, the words "whether carriage road, horse road, tramroad or railway, either public or private,".
28 & 29 Vict.c. 56.	The Trespass (Scotland) Act 1865.	In section 3, the words "private", where it occurs for the second time, and ", or on or near any highway,".
41 & 42 Vict. c. 51.	The Roads and Bridges (Scotland) Act 1878.	The whole Act.

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45 & 46 Vict.c. 38.	The Settled Land Act 1882.	In section 25 (xvii), the word "Streets".
45 & 46 Vict.c. 56.	The Electric Lighting Act 1882.	In section 36, the definition of "local authority".
51 & 52 Vict.c. 9.	The Roads and Bridges (Scotland) Act 1878, Amendment Act 1888.	The whole Act.
51 & 52 Vict. c. 12.	The Electric Lighting Act 1888.	In section 4(5), the words "the term "street' shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place whatever, and".
51 & 52 Vict.c. 25.	The Railway and Canal Traffic Act 1888.	Section 16(3).
55 &56 Vict.c. 12.	The Roads and Bridges (Scotland) Amendment Act 1892.	The whole Act.
55 & 56 Vict.c. 43.	The Military Lands Act 1892.	Section 25(7).
56 & 57 Vict.c. 32	The Barbed Wire Act 1893.	The whole Act.
57 & 58 Vict.c. 58.	The Local Government (Scotland) Act 1894.	Section 29.
60 & 61 Vict.c. 38.	The Public Health (Scotland) Act 1897.	In section 3, the definition of "street".
		In section 16(5), the word "public".
		Section 39.
9 Edw. 7.c. 34.	The Electric Lighting Act 1909.	In section 25, the definition of "road".
9 Edw.7.c. 47.	The Development and Road Improvement Funds Act 1909.	Part II.
9 & 10 Geo. 5. c. 50.	The Ministry of Transport Act 1919.	Schedule 2.
10 & 11 Geo. 5. c. 72.	The Roads Act 1920.	Section 3(6).
		Section 4.
		Schedule 1.
15 & 16 Geo. 5. c. 68.	The Roads Improvement Act 1925.	The whole Act.
19 & 20 Geo. 5. c. 33.	The Bridges Act 1929.	The whole Act.
20 & 21 Geo. 5. c. 43.	The Road Traffic Act 1930.	Part III.

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		Section 117.
		In section 119, in subsection (3) the words " for the purpose of the payment of the consideration for a transfer under section fifty-three of this Act or"; and subsections (4) to (9).
		In section 121(1), the definitions of "Forestry" and "Highway authority".
24 & 25 Geo. 5 c. 50	The Road Traffic Act 1934.	The whole Act.
25 & 26 Geo. 5. c. 47.	The Restriction of Ribbon Development Act 1935.	The whole Act except sections 17, 23(2), 24 and 26.
1 Edw. 8. & 1 Geo. 6. c. 5.	The Trunk Roads Act 1936.	The whole Act.
9 & 10 Geo. 6. c. 30.	The Trunk Roads Act 1946.	The whole Act.
10 & 11 Geo. 6. c. 53.	The Town and Country Planning (Scotland) Act 1947.	Section 44(1).
		Section 45.
		Section 113(1) except the definitions of "land" and "local authority".
		In Schedule 8, the entry relating to the Restriction of Ribbon Development Act 1935.
12 & 13 Geo. 6. c. 32.	The Special Roads Act 1949.	The whole Act.
14 Geo. 6. c. 24.	The Highways (Provision of Cattle-Grids) Act 1950.	The whole Act.
14 Geo. 6. c. 39.	The Public Utilities Street Works Act 1950.	In section 12(2), the word "sewer" where it occurs for the second time.
		Section 23(6).
		Section 30(2).
		Section 36(1) to (11).
		In section 39(1), the definitions of "appropriate local authority", "highway authority", "maintainable highway", "street", "street authority" and "street managers".

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		In Schedule 5, the entries relating to section 13 of the Electric Lighting Act 1882 and to section 12 of the Schedule to the Electric Lighting (Clauses) Act 1899.
		In Schedule 6, paragraph 8.
4 Eliz. 2. c. 20.	The Agriculture (Improvement of Roads) Act 1955.	The whole Act.
4 & 5 Eliz. 2. c. 67.	The Road Traffic Act 1956.	The whole Act.
6. & 7. Eliz. 2. c. 69.	The Opencast Coal Act 1958.	In section 13(6), the words " ”highway’ includes a public right of way;”.
7 & 8 Eliz. 2. c. 7.	The Manoeuvres Act 1958.	Section 3(5)(a).
7 & 8 Eliz. 2 c. 24.	The Building (Scotland) Act 1959.	Section 8.
7 & 8 Eliz. 2. c. 70.	The Town and Country Planning (Scotland) Act 1959.	Section 47.
8 & 9 Eliz. 2. c. 63.	The Road Traffic and Roads Improvement Act 1960.	The whole Act.
10 & 11 Eliz. 2. c. 58.	The Pipe-lines Act 1962.	In section 66(1), the definition of ”carriageway’.
1964 c. 33.	The Burgh Police (Amendment) (Scotland) Act 1964.	The whole Act.
. . . **F101**	. . . **F101**	. . . **F101**
1966 c. 51.	The Local Government (Scotland) Act 1966.	Part III.
		In section 46(1), the definitions of “highway authority” and “local highway authority”.
1967 c. 76.	The Road Traffic Regulation Act 1967.	In section 29A(1), the words “in England and Wales”.
1967 c. 86.	The Countryside (Scotland) Act 1967.	Section 37(3).
		In section 54(1), the word “or” immediately following paragraph (d).
1968 c. 16.	The New Towns (Scotland) Act 1968	Section 25.

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		Section 41(2).
1968 c. 47.	The Sewerage (Scotland) Act 1968.	In section 59(1), the definition of ”street’.
1968 c. 73.	The Transport Act 1968.	In section 119(1)(a), the word “repair”.
		Section 121(6) and (7).
		Section 122(4).
		Section 139.
		In section 159(1), in the definition of “highway authority” paragraph (b).
1970 c. 20.	The Roads (Scotland) Act 1970.	The whole Act.
1970 c. 28.	The Local Government (Footpaths and Open Spaces) (Scotland) Act 1970.	Sections 1 and 2.
		In section 5, the definitions of “carriageway”, “development” and “footpath”; and in the definition of “local authority” the words “in sections 1 and 2, a regional or islands council, and in section 3.”.
1972 c. 20.	The Road Traffic Act 1972.	Section 13(b).
		Section 19(2)(b).
		In section 160(4), the words “the Lord Chief Justice of England or, as the case may be,”.
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972.	Sub-paragraph (ii) of section 198(3)(a) and the word “or” immediately preceding that sub-paragraph.
		In section 198A(2)(b)(i), the words “sub-paragraphs (i) and (ii) of”.
		Section 200.
		In section 201(10)(b)(i), the words “sub-paragraphs (i) and (ii) of”.
		In section 204(1), the words “200”.

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		In section 205, in each of subsections (1) and (5), the words “or 200”.
		In section 205A, in subsection (1), paragraph (b), the word “or” immediately preceding that paragraph, and the word “relevant” in both places where it occurs; in each of subsections (2) to (4) the word “relevant” wherever it occurs; and subsection (5).
		In section 206, in subsection (1) the words “, section 200 thereof by a highway authority”; in subsection (2) the words “(or that section as applied by section 200(3))”; in subsection (3) the words “or 200”; and in subsection (4) the words “200”.
		Section 207.
		In section 208(1), the words “200”.
		In section 209(1), the words “, 200”.
		Section 210.
		Section 210A(2)(c) and (e).
		In section 232(3), in paragraph (a) the words “under section 200 by the Secretary of State,” and “200,”; and in paragraph (b) the words “under section 200 by a highway authority,”.
		In section 236(1), the words “200,”.
		In Schedule 18, in each of paragraphs 1(1), 4(1), 5 and 6, the words “200”.
		In Schedule 20, paragraph 3.
1972 c. 60.	The Gas Act 1972.	In Schedule 4, in paragraph 1(4), the words from “In the application” to “1970”.

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1973 c. 56.	The Land Compensation (Scotland) Act 1973.	In section 17(1), the definitions of "highway" and "highway authority". Sections 20 to 23. Section 26(4)(a). Section 65(1). Section 70. Section 73(5). Section 80(2).
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 14, paragraphs 1 to 30, 31(b), 32 to 41, 43 to 50, 51(a) and (b), 52 to 54, 57, 58, 74, 76 to 79, 87 and 88.
1974 c. 40.	The Control of Pollution Act 1974.	In section 27(1), the words "or council"; and from "In the application" to "1970". In section 62(1), the words from "In this subsection" to "public". Section 106(4).
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In Schedule 7D, paragraphs 1 and 47.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In section 14(1), paragraph (a) and the words "local highway authority," where they occur other than in that paragraph. Section 20.
1978 c. 3.	The Refuse Disposal (Amenity) Act 1978.	In section 3, in subsection (3) the words "within the meaning of the Highways Act 1959" and "within the meaning of that Act"; and subsection (4).
1980 c. 45.	The Water (Scotland) Act 1980.	In section 109, in subsection (1) the definitions of "bridge authority", "highway", "highway authority" and "street"; and subsection (2). In Schedule 3, paragraph 3.

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1981 c. 23.	The Local Government (Miscellaneous Provisions) (Scotland) Act 1981	In Schedule 2, paragraph 26.
		In Schedule 3, paragraph 21.
1981 c. 56.	The Transport Act 1981.	Section 32.
		Schedule 10.
1982 c. 16.	The Civil Aviation Act 1982.	In paragraph 4 of Schedule 2, the words “section 39 of the Roads (Scotland) Act 1970;”.
1982 c. 45.	The Civic Government (Scotland) Act 1982.	In section 13(6), the words “within the meaning of the Road Traffic Act 1972)”.
		In section 19(5), the words “being a highway”.
		In section 97, the words “street or” and “to which the public have access”.
1982 c. 49.	The Transport Act 1982.	In Schedule 2, the entry relating to the Roads (Scotland) Act 1970.
1984 c. 12.	The Telecommunications Act 1984.	In Schedule 2, in paragraph 1, in sub-paragraph (1) the definitions of “maintainable highway” and “street”, and sub-paragraph (5); and in paragraph 2(8)(a) the words “(which for this purpose shall be deemed to extend to Northern Ireland)”.
		In Schedule 4, paragraphs 9(4)(g), 17, 19, 26, and 51.
1984 c. 27.	The Road Traffic Regulation Act 1984.	In section 1(3), the word “trunk” where it occurs for the second time.
		In section 34(1), the words “in England or Wales”.
		Section 55(5).
		In section 142(1), in the definition of “highway authority”, paragraph (b) and the word “and” immediately preceding that paragraph.
		In Schedule 10, paragraphs 14 to 16.

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Textual Amendments

F101 Entry relating to Gas Act 1965 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. X**

Status:
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Changes to legislation:
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