



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### 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 <sup>M1</sup>Roads and Bridges (Scotland) Act 1878 or in a register of streets under section 5 of the <sup>M2</sup>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,

*Status: Point in time view as at 16/03/1996.*

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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 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 . . . <sup>F1</sup> . . . <sup>F1</sup> 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; . . . <sup>F1</sup> . . . <sup>F1</sup>
- (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

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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.

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

- (1) The Secretary of State shall manage and maintain—
- trunk roads;
  - special roads provided by him; and
  - any other road constructed by him under section 19 of this Act (or section 8 of the <sup>M3</sup>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)

- C1** [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—

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- (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—
- (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.

#### **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;

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- (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.
- (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)**

- C2** [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)

**Status:**

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