



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART VIII

#### INTERFERENCE AND DAMAGE

##### *General obstruction*

#### **85 Control of builders' skips on road.**

- (1) A builders' skip shall not be deposited on a road without—
  - (a) the [<sup>F1</sup>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 in 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.

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#### Textual Amendments

- F1** 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)

- C1** [S. 85](#): power to contract out functions of Secretary of State (16.3.1996) by S.I. 1996/878, art. 2, [Sch. para. 5\(v\)](#)
- C2** [S. 85](#) excluded (11.4.2017) by [The Network Rail \(Glasgow Queen Street Station\) Order 2017](#) (S.S.I. 2017/100), arts. 1, [9\(b\)](#) (with art. 37)

## 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 [<sup>F2</sup> Scottish 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 [<sup>F3</sup> Scottish 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 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 [<sup>F3</sup> Scottish 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 [<sup>F4</sup> Scottish Police Authority ], or roads authority, as the case may be.

#### Textual Amendments

- F2** Words in [s. 86\(4\)](#) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [sch. 7 para. 7\(5\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F3** Words in [s. 86\(5\)](#) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [sch. 7 para. 7\(5\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F4** Words in [s. 86\(6\)](#) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [sch. 7 para. 7\(5\)\(c\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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**Modifications etc. (not altering text)**

- C3 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)**

- C4 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.

**Modifications etc. (not altering text)**

- C5 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.

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- (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)**

- C6 [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 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)**

- C7 [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;

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- (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 [<sup>F5</sup>Historic Environment Scotland] 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.
- (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

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(b) subsection (6) above—

- (i) “planning authority” has the meaning assigned by section 172 of the <sup>M1</sup>Local Government (Scotland) Act 1973; and
- (ii) “protected tree” means a tree which is subject to a tree preservation order under [<sup>F6</sup>section 160(1) of the Town and Country Planning (Scotland) Act 1997].

(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.

#### Textual Amendments

- F5** Words in s. 91(4) substituted (1.10.2015) by [The Historic Environment Scotland Act 2014 \(Ancillary Provision\) Order 2015 \(S.S.I. 2015/271\)](#), arts. 1, **2(2)** (with art. 2(4))
- F6** Words in 91(8)(b)(ii) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\)](#), **Sch. 2 para. 38(6)**

#### Modifications etc. (not altering text)

- C8** 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

- M1** [1973 c. 65](#).

## 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.

#### Modifications etc. (not altering text)

- C9** 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)**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 152(3)(3ZA) substituted for s. 152(3) by [2019 asp 17 s. 124\(2\)](#)