



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART VIII

#### INTERFERENCE AND DAMAGE

##### *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;

*Status: Point in time view as at 01/02/1991.*

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- (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 <sup>M1</sup>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 <sup>M2</sup>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, 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

**M1** 1871 c. 96.

**M2** 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 countryside 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.

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- (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.
- (6) In subsection (1) above, “countryside” has the meaning assigned to it by section 2 of the <sup>M3</sup>Countryside (Scotland) Act 1967.

#### Marginal Citations

M3 1967 c. 86.

## 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.

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

- C1 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)

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