



# Roads (Scotland) Act 1984

## 1984 CHAPTER 54

### PART XIII

#### GENERAL

##### *Interpretation*

#### **151 Interpretation.**

(1) In this Act, unless the context otherwise requires—

“approaches”, in relation to a bridge or tunnel, includes the facings of any embankment or cutting adjacent to the bridge or tunnel;

<sup>F1</sup> .....

“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 <sup>M1</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

<sup>F2</sup> “consultation bodies” means—

- (a) the appropriate planning authority where the proposed project is likely to affect land in their area;
- (aa) [<sup>F3</sup>the National Park authority for any National Park where the proposed project is likely to affect land in the National Park;]]
- (b) Scottish Natural Heritage;
- (c) the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995; and
- (d) Historic Scotland;

“cycle track” shall be construed in accordance with subsection (2) below;

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“days” means clear days;

[<sup>F4</sup>“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;

[<sup>F5</sup>“environmental impact assessment” means an assessment in accordance with Council Directive No.85/377/EEC as amended by Council Directive No. 97/11/EC;]

[<sup>F6</sup> “environmental statement” means a statement containing the information required by section 20A(7) or (8) 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 [<sup>F7</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“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 <sup>M2</sup>Local Government and Planning (Scotland) Act 1982 (restriction of powers of local authorities as regards street cleansing), not such cleansing as [<sup>F8</sup>a local authority] 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;

“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 <sup>M3</sup>Acquisition of Land (Authorisation 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 <sup>M4</sup>Telecommunications Act 1984;

“owner”—

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- (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 <sup>M5</sup>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 <sup>F9</sup>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 <sup>F10</sup>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 <sup>F11</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] within whose area the road is (such <sup>F11</sup>local authority] being in this Act referred to as a “local roads authority”); and
- (b) <sup>F12</sup>as respects functions relating to the matters reserved by paragraph (c) of Section E1 of Part II of Schedule 5 to the Scotland Act 1998 and exercisable]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 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 <sup>F13</sup>and as respects any other functions exercisable in relation to any such roads, the Scottish Ministers]; and references to “they” in relation to a roads authority shall <sup>F14</sup>, where the authority is the Secretary of State,]be taken to relate also to <sup>F15</sup>him];

<sup>F16</sup>

“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;

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“statutory undertakers” has the same meaning as in [F17 section 214 of the Town and Country Planning (Scotland) Act 1997] except that it includes

- (a) F18 the Post Office
- (b) F19 except in sections 133 and 140(4) of this Act, the operator of any telecommunications code system [F20 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 M6 Telecommunications Act 1984;

“tidal waters” has the same meaning as in section 35(1) of the M7 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 M8 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 [F21 section 202(3) of the Town and Country Planning (Scotland) Act 1997];

“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);

F22 .....; 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.

[F23(1A) A way to which the public has access (by whatever means and whether subject to a toll or not) which passes over a bridge constructed in pursuance of powers conferred by, or by an order made under or confirmed by, a private Act shall, for the purposes of the definition of “road” in subsection (1) above, be treated as if there were a public right of passage over it.]

(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”;
- (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”.

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- (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 <sup>M9</sup>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 [<sup>F24</sup>a local authority] 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 <sup>M10</sup>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

- F1** It is provided that the definition of “appropriate environmental body” in s. 151 shall be deleted (1.8.1999) by [S.S.I. 1999/1, reg. 51\(a\)](#)
- F2** Definition of “consultation bodies” in s. 151 inserted (1.8.1999) by [S.S.I. 1999/1, reg. 51\(a\)](#)
- F3** S. 151(1): para.(aa) in definition of "consultation bodies" inserted (8.9.2000) by [2000 asp 10, s. 36, Sch. 5 para. 12](#) (with s. 32); [S.S.I. 2000/312, art. 2](#)
- F4** Definition inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\), s. 13\(1\), Sch. 4 para. 5\(1\)\(3\)\(a\)](#)
- F5** Definition of “environmental impact assessment” in s. 151 substituted for definition of “environmental assessment” (1.8.1999) by [S.S.I. 1999/1, reg. 51\(b\)](#)
- F6** Definition of “environmental statement” in s. 151 substituted (1.8.1999) by [S.S.I. 1999/1, reg. 51\(c\)](#)
- F7** Words in definition of “local authority” in s. 151(1) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 135\(10\)\(a\)\(i\); S.I. 1996/323, art. 4\(c\)](#)
- F8** Words in para. b in definition of “maintenance” in s. 151(1) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 135\(10\)\(a\)\(ii\); S.I. 1996/323, art. 4\(1\)\(c\)](#)
- F9** 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](#)
- F10** 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](#)
- F11** Words in definition of “roads authority” in s. 151(1) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 135\(10\)\(a\)\(iii\); S.I. 1996/323, art. 4\(1\)\(c\)](#)
- F12** S. 151(1): words in para. (b) in the definition of “roads authority” inserted (6.4.2001) by [S.I. 2001/1400, art. 2, Sch. para. 2\(1\)\(2\)](#)
- F13** S. 151(1): words in para. (b) in the definition of “roads authority” inserted (6.4.2001) by [S.I. 2001/1400, art. 2, Sch. para. 2\(1\)\(3\)](#)
- F14** S. 151(1): words in para. (b) in the definition of “roads authority” inserted (6.4.2001) by [S.I. 2001/1400, art. 2, Sch. para. 2\(1\)\(4\)](#)
- F15** S. 151(1): words in para. (b) in the definition of “roads authority” substituted (6.4.2001) by [S.I. 2001/1400, art. 2 Sch. para. 2\(1\)\(5\)](#)
- F16** S. 151(1): definition of "sewerage authority" repealed (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\), s. 71\(2\), Sch. 7 para. 14\(5\)](#) (with s. 67); [S.S.I. 2002/118, {art. 2\(3\)}](#)
- F17** Words in definition of “statutory undertakers” in s.151(1) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\), Sch. 2 para. 38\(15\)\(a\)](#)

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- F18** “(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)**
- F19** “(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)**
- F20** 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)**
- F21** Words in definition of “trunk road” in s. 151(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 38(15)(b)**
- F22** S. 151(1): definition of “water authority” repealed (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), s. 71(2), **Sch. 7 para. 14(5)** (with s. 67); S.S.I 2002/118, {art. 2(3)}
- F23** S. 151(1A) inserted (4.1.1995) by 1994 c. 39, s. 146; S.I. 1994/2850, art. 3(a), **Sch. 2**
- F24** Words in s. 151(3)(c) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 135(10)(b)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C1** 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 in s. 167(4)(5)); S.I. 1992/2990, art. 2(2), **Sch. 2**
- C2** 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.**
- C3** S. 151(1): definitions of “roads authority” and “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 in s. 167(4)(5)); S.I. 1992/1671, art. 2, **Sch.**
- C4** S. 151(1): definition of “roads authority” extended (1.4.2002) by The Forth Estuary Transport Authority Order 2002 (S.S.I. 2002/178), **art. 9**

#### **Marginal Citations**

- M1** 1947 c. 42.
- M2** 1982 c. 43.
- M3** 1947 c. 42.
- M4** 1984 c. 12.
- M5** S.I. 1983/1168.
- M6** 1984 c. 12.
- M7** 1951 c. 66
- M8** 1984 c. 27.
- M9** 1967 c. 86.
- M10** 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)

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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.

<sup>F25</sup>(3A) Where an order under subsection (2) above states that it has effect only for such period not exceeding 18 months as is specified in the order, the order shall have effect during that period notwithstanding any failure to comply with—

- (a) any regulations made under subsection (1) of section 71 of this Act; or
- (b) subsection (2) of that section.

<sup>F25</sup>(3B) Subject to subsection (3C) below, an order which—

- (a) has effect by virtue of subsection (3A) above; and
- (b) makes the same provision in relation to the same right of public passage as was made in an order which has ceased to have effect,

may not have effect for a period which, when taken together with the period for which any order such as is mentioned in paragraph (b) above had effect, amounts to more than 18 months.

<sup>F25</sup>(3C) An order may have effect for a period which, when taken together with the period for which any order such as is mentioned in subsection (3B)(b) above had effect, amounts to more than 18 months only for the purpose of enabling the authority who made the order to take any steps necessary to seek to comply with—

- (a) any regulations made under subsection (1) of section 71 of this Act; or
- (b) subsection (2) of that section.]

(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 <sup>F26</sup>the Town and Country Planning (Scotland) Act 1997], permission for that development shall be deemed granted under Part III of that Act.

<sup>F27</sup>(5) Where—

- (a) during the period when an order under subsection (2) above has effect by virtue of subsection (3A) above, the authority carry out any works necessary for giving effect to the order (including any works carried out by virtue of subsection (4) above); and
- (b) on the order ceasing to have effect, no further order under subsection (2) above making the same provision in relation to the same right of public passage has effect,

the authority who made the order shall carry out any works necessary to reinstate the conditions pertaining before such works were carried out.]

#### Textual Amendments

**F25** S. 152(3A)-(3C) inserted (1.4.2001) by 2001 asp 2, s. 75(a) (with s. 66); S.S.I. 2001/132, art. 2, Sch. Pt. I

**F26** Words in S. 152(4) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 38(16)

**F27** S. 152(5) added (1.4.2001) by 2001 asp 2, s. 75(b) (with s. 66); S.S.I. 2001/132, art. 2, Sch. Pt. I

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

C5 S. 152(4) restricted (30.10.1994) by S.I. 1994/2716, reg. 70



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