



Roads (Scotland) Act 1984

1984 CHAPTER 54

PART V

ROADS AND BUILDING CONTROL

Works and excavations

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.

Changes to legislation: Roads (Scotland) Act 1984, Section 58 is up to date with all changes known to be in force on or before 07 February 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) View outstanding changes

- (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).

Modifications etc. (not altering text)

- C1** 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)
- C2** Ss. 56-61A excluded (18.3.2011) by Forth Crossing Act 2011 (asp 2), ss. 20(3), 80(2) (with ss. 69, 78); S.S.I. 2011/38, art. 2, sch.
- C3** S. 58 excluded (11.4.2017) by The Network Rail (Glasgow Queen Street Station) Order 2017 (S.S.I. 2017/100), arts. 1, 11(3) (with art. 37)
- C4** Ss. 56-61A excluded (11.4.2017) by The Network Rail (Glasgow Queen Street Station) Order 2017 (S.S.I. 2017/100), arts. 1, 9(a) (with art. 37)

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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\(2\)](#)