



New Roads and Street Works Act 1991

1991 CHAPTER 22

PART IV

ROAD WORKS IN SCOTLAND

Duties and liabilities of undertakers with respect to apparatus

140 Duty to maintain apparatus

- (1) An undertaker having apparatus in the road shall secure that the apparatus is maintained to the reasonable satisfaction of—
 - (a) the road works authority, as regards the safety and convenience of persons using the road (having regard, in particular, to the needs of people with a disability), the structure of the road and the integrity of apparatus of the authority in the road, and
 - (b) any other relevant authority, as regards any land, structure or apparatus of theirs;and he shall afford reasonable facilities to each such authority for ascertaining whether it is so maintained.
- (2) For this purpose maintenance means the carrying out of such works as are necessary to keep the apparatus in efficient working condition (including periodic renewal where appropriate); and includes works rendered necessary by other works in the road, other than major works for road purposes, major bridge works or major transport works (as to which, see sections 143 and 144 below).
- (3) If an undertaker fails to give a relevant authority the facilities required by this section—
 - (a) the road works authority may in such cases as may be prescribed, and
 - (b) any other relevant authority may in any case,execute such works as are needed to enable them to inspect the apparatus in question, including any necessary breaking up or opening of the road.

Status: This is the original version (as it was originally enacted).

- (4) If an undertaker fails to secure that apparatus is maintained to the reasonable satisfaction of a relevant authority in accordance with this section—
- (a) the road works authority may in such cases as may be prescribed, and
 - (b) any other relevant authority may in any case,
- execute any emergency works needed in consequence of the failure.
- (5) The provisions of this Part apply in relation to works executed by a relevant authority under subsection (3) or (4) as if they were executed by the undertaker; and the undertaker shall indemnify the authority in respect of the costs reasonably incurred by them in executing the works.
- (6) A relevant authority who execute or propose to execute any works under subsection (3) or (4) shall give notice to any other relevant authority as soon as reasonably practicable stating the general nature of the works.
- (7) Nothing in subsection (3) or (4) shall be construed as excluding any other means of securing compliance with the duties imposed by subsection (1).