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STATUTORY INSTRUMENTS

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**1992 No. 2990**

The New Roads and Street Works Act 1991  
(Commencement No.6 and Transitional  
Provisions and Savings) (Scotland) Order 1992

PART II

TRANSITIONAL PROVISIONS AND SAVINGS

**Advance Notice of certain works**

3.—(1) An undertaker who has submitted a plan and section of works under section 3(1)(1) of the 1950 Act on or before 31st December 1992, shall be deemed to have given an advance notice of works for the purposes of section 113 of the 1991 Act.

(2) An undertaker who has submitted a plan and section of works under section 3(1) of the 1950 Act on or before 31st December 1992 shall be deemed to have settled a plan and section of the works for the purposes of Schedule 6 to the 1991 Act.

**Notice of starting date of works**

4. An undertaker who has given a notice under section 6(1)(2) of the 1950 Act on or before 31st December 1992 shall be deemed to have given a notice of starting date of works for the purposes of section 114 of the 1991 Act.

**Notice of emergency works**

5. An undertaker who has given a notice relating to the execution of emergency works under section 6(5) of the 1950 Act on or before 31st December 1992 shall be deemed to have given a notice of emergency works under section 116 of the 1991 Act and the works executed in reliance on such a notice shall be deemed to be emergency works for the purposes of section 116 notwithstanding any of the provisions of section 111 of the 1991 Act.

**Restrictions on works following substantial works carried out for road purposes**

6. A road works authority shall not restrict the execution of road works in a road by notice under section 117 of the 1991 Act during the twelve months following the completion of substantial works carried out for road purposes in any case where the roads authority has on or before 31st December 1992 granted consent to an undertaker to break up or open that road under section 28(4)(3) of the 1950 Act.

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(1) Section 3(1) was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(4)(a).  
(2) Section 6(1) was amended by the Telecommunications Act 1984 (c. 12), Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(7)(a).  
(3) Section 28(4) was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(24)(c).

### **Protected Roads**

7. Where a special road authority has on or before 31st December 1992 granted to a statutory undertaker consent to lay down or erect apparatus in any land comprised in the route of a special road, the consent of the road works authority under section 120 of the 1991 Act for the placing of that apparatus in a protected road shall not be required.

### **Works likely to affect other apparatus in the road**

8. The provisions of section 128 of the 1991 Act shall not apply to any road works which are in hand on 1st January 1993 or in respect of which any action required under section 26(4) of the 1950 Act has been taken before that date.

### **Duty of undertaker to reinstate**

9. An undertaker shall not be subject to the provisions of section 129 of the 1991 Act if—
- (a) the road works authority has elected to execute permanent reinstatement in accordance with the provisions of the Third Schedule(5) to the 1950 Act and the undertaker is treated for the purposes of paragraph 5(2) of that Schedule as having completed his works and such of the permanent reinstatement and making good as by virtue of the 1950 Act he is obliged to execute, provided that an authority electing to execute permanent reinstatement as aforesaid may not recover the cost of reinstatement from an undertaker unless the reinstatement has been completed on or before 31st December 1993 and an account has been rendered to the undertaker on or before 31st March 1994; or
  - (b) the undertaker has begun permanent reinstatement on or before 31st December 1992; or
  - (c) the road works authority and the undertaker have agreed on or before 31st December 1992 that the road works authority should execute permanent reinstatement and the reinstatement is executed in accordance with that agreement.

### **Measures necessary where apparatus affected by major works**

10. The provisions of sections 143(1), (3) and (4) and 144 of the 1991 Act shall not apply in any case where, on or before 31st December 1992, a roads, bridge or transport authority have given to an undertaker a notice of intention to execute works in accordance with paragraph 2(1) of Part I of the Fourth Schedule(6) to the 1950 Act and has accepted that undertaker's notice given under paragraph 3 of that Schedule as a specification of works and measures necessary to protect the undertaker's apparatus.

### **Reinstatement affected by subsequent works**

11. Subsections (5) to (8) of section 132 of the 1991 Act shall apply to reinstatements carried out in accordance with section 7(7) of, and the Third Schedule to, the 1950 Act.

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(4) Section 26 was amended by the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289F and 289G, by the Telecommunications Act 1984, Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(22).

(5) The Third Schedule was amended by the Telecommunications Act 1984, Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(35).

(6) The Fourth Schedule was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(36).

(7) Section 7 was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(8).

## Savings

**12.** Notwithstanding the repeal of the 1950 Act by section 168(2) of, and Schedule 9 to, the 1991 Act, sections 7, 8(**8**), 9(**9**) and 10(**10**) of, and the Third Schedule to, the 1950 Act shall continue to apply to permanent reinstatements begun by an undertaker on or before 31st December 1992 and to permanent reinstatements carried out by a road works authority in the circumstances set out in article 9(a) of this Order.

**13.** Sections 10(1) and 12(4)(**11**) of the 1950 Act shall continue to apply to road works executed by a transport authority or a sewer authority which were begun on or before 31st December 1992.

**14.** Section 16 of the 1950 Act shall continue in force in relation to agreements to which that section applies which are made on or before 31st December 1992.

**15.** Section 8 of the 1950 Act shall continue in force until 31st March 1993 in relation to road works whether or not they were begun before 1st January 1993.

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(**8**) Section 8 was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(9).

(**9**) Section 9 was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(10).

(**10**) Section 10 was amended by the Telecommunications Act 1984, Schedule 4, paragraph 29(2) and by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(11).

(**11**) Section 12(4) was amended by the Roads (Scotland) Act 1984, Schedule 9, paragraph 39(13)(d).