

Roads (Scotland) Act 1970

1970 CHAPTER 20

An Act to make certain amendments to the law relating to roads and streets in Scotland, and to provide for the use of appliances or vehicles on footways and footpaths for certain purposes. [15th May 1970] A.D. 1970

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Special roads and trunk roads

Procedure in schemes and orders for special roads and trunk roads.

1.—(1) Subject to the provisions of this and the next following section, Schedule 1 to the Act of 1949 and Schedule 2 to the Act of 1946, the Secretary of State may make regulations prescribing the procedure to be followed in connection with the making and confirmation of schemes under section 1 and orders under section 3 of the Act of 1949 and the making of orders under section 1 of the Act of 1946 and section 14 of the Act of 1949.

(2) Regulations made under this section may provide for securing that the centre-line of—

(*a*) a special road authorised by a scheme under section 1 of the Act of 1949, or

(*b*) a road directed by order to become a trunk road under section 1(2) of the Act of 1946, or

(*c*) a road affected by an order under section 3 or 14 of the Act of 1949,

shall be indicated on a map on such scale as may be prescribed by the regulations.

(3) The centre-line of any road referred to in the last foregoing subsection as constructed may deviate from the centre-line as indicated on the map referred to in that subsection within such limits of deviation, not exceeding 50 metres, as may be specified in the scheme or order.

(4) The notice which is published in connection with the making or confirmation of a scheme under section 1 or an order under section 3 of the Act of 1949 or the making of an order under section 1 of the Act of 1946 or section 14 of the Act of 1949, shall specify that the period during which the draft scheme or the scheme as submitted to the Secretary of State, or, as the case may be, the draft order or the order as so submitted and any relevant map or plan may be inspected, is a period specified in the notice, being not less than 6 weeks from the date of the publication of the notice.

(5) The period within which an objection to the making or confirmation of such a scheme or order as is referred to in the last foregoing subsection must be received by the Secretary of State is hereby altered from 3 months from the date of the publication of the said notice to the period specified in pursuance of that subsection, and any such objection shall state the grounds of objection.

(6) Any person who in making such an objection submits that any road to which the proposed scheme or order relates should follow an alternative route shall, on being so required by the Secretary of State and within such period as the Secretary of State having regard to all the circumstances may deem appropriate, give sufficient details of the alternative route to enable it to be identified.

(7) The power conferred on the Secretary of State—

(*a*) to make or confirm a scheme under paragraph 6 of Schedule 1 to the Act of 1949,

(*b*) to make or confirm an order under that paragraph as applied by paragraph 10 of that Schedule, or

(*c*) to make an order under paragraph 5 of Schedule 2 to the Act of 1946,

shall include power to make or confirm the scheme, or, as the case may be, the order, so far as relating to part of the proposals contained in the draft scheme or order (either without modifications or subject to such modifications as he thinks fit) while deferring consideration of the remaining part.

Concurrent proceedings for special and trunk road schemes and orders and supplementary orders.

2.—(1) Proceedings required to be taken for the purposes of—

(*a*) an order under section 3 of the Act of 1949 relating to a special road, or

(*b*) an order under section 14 of that Act relating to a trunk road,

may be taken concurrently with proceedings required to be taken for the purposes of a scheme under section 1 of the Act of 1949 or, as the case may be, an order under section 1 of the Act of 1946 relating to that road.

(2) Proceedings required by Schedule 1 to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 to be taken in respect of the compulsory acquisition of any land for purposes connected with a special road or a trunk road may be taken concurrently with proceedings required to be taken for the purposes of a scheme or order under the Act of 1949 relating to the special road, or, as the case may be, an order under the Act of 1946 or the Act of 1949 relating to the trunk road. 1947 c. 42.

(3) An order under section 3 or 14 of the Act of 1949, or an order for the compulsory acquisition of any land for purposes connected with a special road or trunk road, may be made to come into operation on the same day as a scheme under the Act of 1949 authorising the provision of a special road or, as the case may be, an order under section 1(2) of the Act of 1946 directing that a road shall become a trunk road; and accordingly in subsection (1) of the said section 3 the words from the beginning to " operation " are hereby repealed.

Relief of trunk roads from local traffic.

3. The power conferred on the Secretary of State by section 1 of the Act of 1946 to direct that an existing road shall become a trunk road shall include power to direct that an existing road which he considers suitable for the purpose of relieving a trunk road from local traffic shall become part of the trunk road, whether or not there is intervening land between those roads.

In this subsection references to an existing road include references to a road proposed to be constructed.

Improvement of roads

Power of local authority to contribute to street works.

4.—(1) A local authority may, if they think fit, at any time contribute the whole or a portion of the expenses incurred by a person in connection with the execution after the passing of this Act of any such street works as are referred to in any of the following enactments, that is to say—

(*a*) sections 133 to 135 of the Burgh Police (Scotland) Act 1892 (making up of private streets and the footways thereof), 1892 c. 55.

(*b*) sections 141 and 142 of the said Act of 1892 (construction and making up of footways of streets),

(*c*) sections 150 and 151 of the said Act of 1892 (construction of new streets),

(*d*) section 39 of the Public Health (Scotland) Act 1897 (making up of private streets and footways in special scavenging districts), 1897 c. 38.

1903 c. 33.

(*e*) section 16 of the Burgh Police (Scotland) Act 1903 (construction of footways of private streets),

or in any provision in any local enactment having the like effect as any of the aforesaid enactments.

1956 c. 40.

(2) The Local Government (Street Works) (Scotland) Act 1956 is hereby repealed.

Provision of fences etc. to safeguard persons using highway.

5.—(1) The highway authority may, for the purpose of safeguarding persons using a highway, provide and maintain such raised paving, pillars, walls, rails or fences as they think necessary at any of the following places—

(*a*) between a footway and the carriageway of the highway, or

(*b*) where a footpath gives direct access to the highway, on the footpath at or near the point of access, or

(*c*) along the sides of bridges, embankments or other dangerous parts of the highway.

(2) The power conferred by the foregoing subsection to provide any works shall include power to alter or remove them.

(3) The highway authority shall pay compensation to any person who has sustained damage by reason of the execution by them of works under subsection (1) of this section.

Alteration of levels of highways.

6.—(1) The highway authority may raise or lower or otherwise alter, as they think fit, the level of a highway.

(2) The highway authority shall pay compensation to any person who has sustained damage by reason of the execution by them of works under this section.

Power to divert waters when constructing or improving highway.

7.—(1) The highway authority may divert or carry out any other works on inland waters (whether natural or artificial) or tidal waters where, in the opinion of the highway authority, the carrying out of such works is necessary for the construction, improvement or protection of a highway.

(2) The highway authority shall pay compensation to any person who has sustained damage by reason of the execution by them of works under this section.

(3) Before carrying out any works under this section, the highway authority shall consult the local authority in whose area the land is situated and any other body acting under statutory powers which, in the opinion of the highway authority, may be affected by the works.

(4) Before carrying out any works under this section, the highway authority shall serve notice of their intention on the owner and the occupier of the land concerned together with

a description of the proposed works and of the right to object thereto within 28 days after the service of the notice.

(5) Where the highway authority is a local highway authority and within the said period of 28 days the owner or the occupier objects to the proposed works, and that objection is not withdrawn, the local highway authority shall not proceed to execute the works without consent aftermentioned but may refer the matter for the determination of the Secretary of State who may grant consent to the proposed works either unconditionally or subject to such terms and conditions as he thinks just, or who may withhold his consent, and the decision of the Secretary of State on the matter shall be final.

(6) In this section, "local authority" has the same meaning as in the Flood Prevention (Scotland) Act 1961. 1961 c. 41.

Extension of powers of highway authorities to maintain trees and grass margins in highways. 1925 c. 68.

8.—(1) The power conferred on the highway authority by section 1(1) of the Roads Improvement Act 1925 to maintain and protect trees and shrubs which they have caused to be planted, and grass margins which they have caused to be laid out, in a highway, shall be exercisable in relation to, and to things provided for the maintenance or protection of, trees, shrubs or margins whether or not they were provided, planted, or laid out by the highway authority.

(2) In consequence of the provisions of the foregoing subsection, the said section 1(1) shall have effect as if for the words from "such trees" to the end there were substituted the words "trees, shrubs and grass margins planted or laid out, whether or not by them, in such a highway.".

(3) Any reference in the said section 1 as amended by the last foregoing subsection to trees or shrubs shall include a reference to plants of any description; and accordingly the following subsection shall be inserted at the end of that section—

> "(7) References in this section to trees or shrubs shall be construed as including references to plants of any description."

(4) The powers conferred upon highway authorities by the said section 1 may be exercised upon any land acquired by a highway authority under this Act notwithstanding that the land does not form part of a highway.

Further powers of highway authorities to construct highways over or under navigable waters.

9.—(1) A scheme made by the highway authority under this section, and in a case where the highway authority is a local highway authority confirmed by the Secretary of State, may make provision for the construction, as part of a highway (not being a special road), of a bridge over or a tunnel under any navigable waters (whether the sea, a river, or other waters) specified in the scheme.

(2) The following provisions of the Act of 1949, that is to say, section 1(6), the proviso to section 8(3), section 8(4) and (5), section 17(1) and (4), section 18(1), and Parts I and IV and paragraph 11(*b*) of Schedule 1 (which among other things provide for safeguarding navigation over waters affected by a scheme under section 1 of that Act authorising the construction of such bridges and tunnels as part of a special road, require the inclusion in the scheme of relevant plans and specifications, specify the procedure for publicising and giving effect to the scheme, and make it subject to special parliamentary procedure in certain cases) shall apply to a scheme under this section as they apply to a scheme under the said section 1, as if the references in the said section 1(6) to the special road and the special road authority were references to the bridge or tunnel in question and the highway authority and the references in the said Part I to the special road and its route were references to the proposed site of the bridge or tunnel.

(3) Any work authorised to be done by a scheme made by a highway authority under this section shall, for the purposes of section 7 of the Telegraph Act 1878 (provisions as to work which involves alteration in telegraphic line), be deemed to be work proposed to be done in the execution of an undertaking authorised by an Act of Parliament and the highway authority carrying out the work shall be deemed to be the undertakers.

1878 c. 76.

Drainage of highways.

10.—(1) The highway authority may, for the purpose of draining a highway or of otherwise preventing surface water from flowing on to it, do all or any of the following, that is to say—

(*a*) construct or lay, in the highway or in land adjoining or lying near to the highway, such ditches, gutters, drains, cuts, channels, sluices, bridges, culverts, tunnels or pipes as they consider necessary;

(*b*) erect barriers in the highway or in such land as aforesaid to divert surface water into or through any such works as are referred to in the foregoing paragraph which are already constructed or laid;

(*c*) drain surface water from the highway into any inland waters (whether natural or artificial) or tidal waters.

(2) Where any of the works referred to in subsection (1)(*a*) of this section have been constructed or laid by the highway authority, they shall, or, if the works have been so constructed or laid by a person other than the highway authority, they may, scour, cleanse and keep them open.

(3) Before carrying out any works under this section, the highway authority shall serve notice of their intention on the owner and the occupier of the land concerned together with a description of the proposed works and of the right to object thereto within 28 days after the service of the notice.

(4) Where the highway authority is a local highway authority and within the said period of 28 days the owner or the occupier objects to the proposed works, and that objection is not withdrawn, the local highway authority shall not proceed to execute the works without consent aftermentioned but may refer the matter for the determination of the Secretary of State who may grant consent to the proposed works, either unconditionally or subject to such terms and conditions as he thinks just, or who may withhold his consent, and the decision of the Secretary of State on the matter shall be final.

(5) If the owner or occupier of any land suffers damage by reason of the exercise by the highway authority of their functions under subsection (1) or (2) of this section, the authority shall pay him compensation therefor.

(6) If a person, without the consent of the highway authority, alters, obstructs or interferes with any works constructed or laid by them or a barrier erected by them in exercise of their functions under subsection (1)(*a*) or (*b*) of this section, or which is under their control, the authority may carry out any work of repair or reinstatement necessitated by his action and may recover the expenses reasonably incurred by them in so doing from him, and, without prejudice to their right to exercise that power, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

Power to fill in roadside ditches etc.

11.—(1) If it appears to the highway authority that a ditch on land adjoining or lying near to a highway constitutes a danger to users of the highway, the authority may—

(*a*) if they consider the ditch unnecessary for drainage purposes and the owner and every occupier of the land known to the authority agree in writing that it is unnecessary for those purposes, fill it in; or

(*b*) place in the ditch, or in land adjoining or lying near to it, such pipes as they consider necessary in substitution for the ditch, and thereafter fill it in.

(2) Subsection (5) of the last foregoing section shall have effect as if the reference to subsection (1) or (2) of that section included a reference to subsection (1) of this section; and subsection (6) of the last foregoing section shall apply to any person who opens up or keeps open any ditch filled in under subsection (1) of this section as it applies to persons who interfere as aforesaid.

(3) In this section, "ditch" includes a gutter, drain, cut, channel and sluice and any part of a ditch or any such works and "pipes" includes culverts, tunnels and other works.

Stopping up of roads and private accesses from roads to premises

Highway authorities may stop up roads etc., by order.

12.—(1) The highway authority may, either on their own initiative or at the request of any person, make an order stopping up any road which they consider has become unnecessary or dangerous to the public:

Provided that, before making an order under this section, the highway authority shall satisfy themselves that a suitable alternative road exists or that no alternative road is necessary.

(2) An order may be made under this section stopping up a road, subject to the reservation of a means of passage along the road for pedestrians.

(3) Subject to subsection (4) of this section, the Secretary of State may make regulations prescribing the procedure to be followed in making an order under this section and such regulations may in particular make provision as to—

(*a*) the content of the order;

(*b*) the means of public notification of the proposal to make such an order.

(4) In the case of an order proposed to be made by a local highway authority under this section the following provisions shall also apply—

(*a*) any person may object to the Secretary of State to the making of the order within 28 days after its first public notification in accordance with regulations made under the last foregoing subsection;

(*b*) if no such objection is received by the Secretary of State or is received but withdrawn, the local highway authority may confirm the order themselves;

(*c*) if such an objection is received by the Secretary of State and not withdrawn, the Secretary of State shall determine the matter, and may confirm the order with or without modification or refuse to confirm it.

(5) Any order made under this section shall include provisions providing for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the road to which the order relates.

(6) In this section and in section 16 of this Act, "road" includes an alley, close, wynd, vennel or other thoroughfare.

Stopping up of access from highway to premises causing danger to traffic.

13.—(1) Subject to subsections (2) and (3) of this section, where the highway authority consider that a private means of access from a highway to premises is likely to cause danger to or to interfere unreasonably with traffic on the highway, they may make an order stopping up the access and may provide a new means of access to the premises.

(2) Before stopping up the access to any premises under this section the highway authority shall satisfy themselves—

(*a*) that a reasonably convenient alternative means of access to the premises is available, or

(*b*) that no alternative means of access is necessary, or

(*c*) that, in a case where they are satisfied that an alternative means of access is necessary but that a reasonably convenient alternative means of access is not available, they are capable of providing a new means of access.

(3) The highway authority may stop up a means of access under this section in any way which seems to them to be appropriate, but not so as to obstruct any public right of way on foot.

(4) Subsections (3) and (4) of the last foregoing section shall apply to the making of an order under this section as they apply to the making of an order under that section:

Provided that—

(i) in subsection (3)(*b*), the reference to public notification shall be construed as a reference to notification, both public and otherwise, and

(ii) a private means of access shall not be stopped up under this section before all objections to the making of the order have been disposed of, and in any event before the expiry of 6 weeks from the date of the first public notification of the order and, in a case where a new means of access is to be provided by the highway authority, before it has been so provided.

(5) Any person who uses a means of access which has been stopped up under this section other than a person exercising a public right of way shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50.

(6) Where access to any premises has been stopped up under this section and any person has suffered damage in consequence thereof by the depreciation of any interest in the premises to which he is entitled or by being disturbed in his enjoyment of the premises, he shall be entitled to recover from the highway authority compensation in respect of that damage:

Provided that in assessing such compensation regard shall be had to any new means of access provided by the highway authority.

Secretary of State may stop up access to premises from trunk road being constructed

14.—(1) The Secretary of State may make an order stopping up a private means of access to premises from a trunk road which is being constructed where the access will cross or enter the route of the road as constructed; and he may provide a new means of access to the premises.

(2) Subsections (2), (3), (5) and (6) of the last foregoing section shall apply for the purposes of this section as they apply for the purposes of that section.

(3) Part II of Schedule 1 to the Act of 1949 shall apply, with any necessary modifications, to the making of an order under this section as it applies to the making of an order by the Secretary of State under section 3 of that Act.

Power of local highway authorities in relation to side-roads.

15.—(1) A local highway authority may by order made in accordance with subsection (3) of this section—

(*a*) stop up, divert, improve, raise, lower or otherwise alter any road (hereafter in this section referred to as a side-road) which crosses or enters the route of a road classified under section 28(2) of the Local Government (Scotland) Act 1966 or is or will be otherwise affected by the construction or improvement of the classified road;

1966 c. 51.

(*b*) stop up a private means of access to any premises from the side-road.

(2) The local highway authority in exercising their functions under subsection (1)(*b*) of this section may provide a new means of access to the premises, and section 13(2), (3), (5) and (6) of this Act shall apply for the purposes of the said subsection (1)(*b*).

(3) Section 3(2)(*b*) and Part II of Schedule 1 to the Act of 1949 shall apply for the purpose of the making of an order by a local highway authority under this section as they apply for the purpose of the making of an order by a local highway authority under the said section 3 except that, in a case where no objection to the proposed order is received by the Secretary of State or is received but withdrawn, the requirement of confirmation of the order by the Secretary of State referred to in the said section 3(2)(*b*) shall not apply.

(4) Any order made under this section shall include provisions providing for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the side-road.

Vesting of solum of stopped up road.

16.—(1) Where a road is stopped up under this Act or any other enactment and has ceased to be used as a road, the solum of the road shall, subject to any prior claim of any person by reason of title, vest in the owner or owners of land which adjoins the road.

(2) Any dispute arising under this section as to the vesting of the solum may be referred on summary application by any interested party to the sheriff, and the decision of the sheriff on the matter shall be final.

Lawful and unlawful interference with roads

Damage to roads.

17. If a person, without lawful authority or excuse,—

(*a*) deposits anything whatsoever on a road so as to damage the road, or

(*b*) paints or otherwise inscribes or affixes upon the surface of a road or upon any tree, traffic sign, milestone, structure or works on or in any road, any picture, letter, sign or other mark, or

(*c*) lights any fire within 30 metres from the middle of a road and in consequence thereof the road is damaged, or

(*d*) wilfully damages or interferes with a traffic sign, milestone, post, rail, wall or fence erected on or by the side of a road, or a tree, hedge or shrub, or grass, planted or laid out in a road, or

(*e*) in any other manner wilfully damages a road, any part of an embankment supporting a road, any part of a bank which flanks a road or any retaining wall or flank wall belonging to a road,

he shall be guilty of an offence and liable to a fine not exceeding £20 for a first offence and £50 for a second or subsequent offence.

Removal of accidental obstructions from roads.

18.—(1) Where an object has fallen on a road causing an obstruction, the highway authority shall, where practicable, notify the owner of the object that he must remove it forthwith, and if the owner cannot be traced or if he fails to remove the object within a reasonable period of time after being so notified, or in case of emergency, the highway authority shall remove it themselves.

(2) Pending the removal of such an object by its owner or the highway authority, the authority may take all reasonable steps (including the placing of lights, signs and fences on the road) for the purpose of warning users of the road of the obstruction.

(3) Any expenses reasonably incurred by the highway authority under this section may be recovered from the owner, but no such expenses shall be recoverable if the owner proves that he took reasonable care to secure that the object did not cause or contribute to the obstruction.

(4) The highway authority shall, where practicable, notify the owner of an object of its removal by them under subsection (1) of this section, but if the owner cannot be traced or if after a reasonable period of time after being so notified he has not recovered the object, the highway authority may dispose of it.

(5) Any proceeds of a disposal under the last foregoing subsection shall be used in the first place to meet the expenses reasonably incurred by the highway authority under this section and thereafter any surplus shall be given to the owner if he can be traced and if not may be retained by the highway authority.

Dangerous vegetation and fences near roads.

19.—(1) Where a hedge, tree, or shrub overhangs a road so as to—

(*a*) endanger or obstruct the passage of vehicles or pedestrians, or

(*b*) obstruct or interfere with the road users' view of the road, the light from a public lamp, or a traffic sign, or

(*c*) obstruct the road by the encouragement of snow drifting,

the highway authority may, by notice either to the owner of the hedge, tree or shrub, or to the occupier of the land on which it is growing, require him within 10 days from the date of service of the notice to carry out such work on the hedge, tree or shrub as is necessary to remove the cause of the danger, obstruction or interference.

(2) Where it appears to the highway authority that any hedge, tree, shrub, fence or wall on or near any road is in such a condition that it, or part of it, is likely to cause danger by falling on the road, they may, by notice either to the owner of the hedge, tree, shrub, fence or wall, or to the occupier of the land on which it is situated, require him within 10 days from the date of service of the notice to carry out such work on the hedge, tree, shrub, fence or wall as is necessary to remove the likelihood of danger:

Provided that if in the opinion of the highway authority the danger of the hedge, tree, shrub, fence or wall falling on the road is imminent they may dispense with the service of the notice required by this subsection and may themselves carry out the necessary work forthwith.

(3) If the owner or occupier has failed to carry out the necessary work under subsection (1) or (2) of this section within the period of 10 days referred to in that subsection, the highway authority may make a summary application to the sheriff for an order requiring the owner or occupier to carry out the necessary work and the decision of the sheriff on the matter shall be final:

Provided that before the sheriff makes an order under this subsection he shall give an opportunity to the owner or occupier to make representations about its making.

(4) Where the sheriff makes an order under the last foregoing subsection requiring the carrying out of work and the owner

or occupier fails to carry out the work within 10 days of the making of the order or such longer period as the sheriff may allow, the highway authority may carry out the work themselves.

(5) The highway authority may make such contribution as they think fit towards any expenses reasonably incurred by a person in carrying out necessary work in pursuance of subsection (1) or (2) of this section.

(6) The highway authority may recover any expenses reasonably incurred by them in carrying out necessary work in pursuance of the proviso to subsection (2) or subsection (4) of this section from the owner or occupier.

(7) As soon as may be after the necessity for work under this section arises on a tree which is subject to a tree preservation order made under section 26(1) of the Town and Country Planning (Scotland) Act 1947 and before any such work is commenced, the highway authority shall give notice of the proposed work to the local planning authority within the meaning of section 2 of the said Act of 1947: 1947 c. 53.

Provided that, if in the opinion of the highway authority there is imminent danger from the tree falling on the road, they may dispense with the giving of such notice.

(8) Nothing in this section shall impose on the highway authority any liability in respect of injury to persons or damage to property.

Restriction on planting of trees etc. near carriageway. 1903 c. 33. 1925 c. 68.

20.—(1) Subject to section 14 of the Burgh Police (Scotland) Act 1903 (planting of trees in street), any provision in any local enactment having the like effect as that section and section 1 of the Roads Improvement Act 1925 (planting of trees and laying out of grass margins in highways), no tree or shrub shall be planted within 5 metres from the edge of a made-up carriageway without the highway authority's consent which shall not be unreasonably withheld.

(2) If a tree or shrub is planted in contravention of this section, the highway authority may, by notice given either to the owner or to the occupier of the land in which the tree or shrub is planted, require him to remove it within 21 days from the date of service of the notice.

(3) If a person fails to comply with a notice given under the last foregoing subsection he shall be guilty of an offence and shall be liable to a fine not exceeding £5 and to a further fine not exceeding £1 for each day on which the offence continues after conviction therefor.

(4) In this section, " made-up carriageway " means a carriageway, or a part thereof, which has been metalled or in any other way provided with a surface suitable for the passage of vehicles.

Deposit of mud from vehicles on roads.

21.—(1) A person who, being in charge of a vehicle on a road, allows such quantity of mud, clay, lime, farmyard manure, or other material from the vehicle, or from anything carried on the vehicle, to drop or be deposited on the carriageway of the road so as to create, or be likely to create, a danger or substantial inconvenience to persons using the road and who fails to remove the material as soon as is reasonably practicable thereafter, and in any event before the next occurring sunset, shall be guilty of an offence and shall be liable to a fine not exceeding £20.

(2) Any expenses reasonably incurred by the highway authority in carrying out work on a road necessitated by a contravention of this section may be recovered by them from the person in default.

(3) In this section any reference to a person in charge of a vehicle shall be construed as a reference to any person who as owner or otherwise has the immediate charge or control of the vehicle or who being present is entitled to give orders to the person having such charge or control.

(4) In this section, " vehicle " includes anything towed or pushed by a vehicle and any appliance.

Use of builders' skips on roads for non-building operations.

22.—(1) Where any person intends to deposit a builders' skip on a road to be used for any purpose other than in connection with operations for the construction, repair, maintenance or demolition of a building, he shall apply to the highway authority for permission so to use the skip.

(2) The highway authority may grant the permission applied for under the foregoing subsection either unconditionally or subject to such conditions as may be specified in the permission and the conditions may in particular relate to the siting and lighting of the skip, the care of the contents of the skip and the removal of the skip at the end of the period of permission.

(3) The owner of a skip who uses it, or causes or permits it to be used, on a road in contravention of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 :

Provided that it shall be a defence to prove that some other person undertook the responsibility of complying with the permission or condition contravened, and that the offence was committed without the consent or connivance of the owner ; and that other person may be charged with and convicted of the contravention and shall be liable on summary conviction to a fine not exceeding £100.

(4) In this and the next following section, " builders' skip " means a container designed to be carried on a road vehicle and to be placed on a road for the removal and disposal of

builders' materials, rubble, waste, household and other rubbish or earth.

Removal of builders' skips causing danger or obstruction. 1959 c. 24.

23.—(1) Notwithstanding that there is in force a permission granted under section 8 of the Building (Scotland) Act 1959 by a buildings authority or by the highway authority under the last foregoing section for the depositing of a builders' skip on a road, a constable in uniform may require the removal or repositioning of or himself cause to be removed or repositioned any builders' skip which, in his opinion, is causing, or is likely to cause, a danger or obstruction.

(2) The highway authority may require the removal or repositioning of a builders' skip where there is a contravention of the last foregoing section, and failing removal or repositioning within a reasonable period of time after so requiring, may remove or reposition it themselves.

(3) Any expenses reasonably incurred by the police authority under subsection (1), or the highway authority under subsection (2), of this section in the removal or repositioning of a builders' skip may be recovered from the person in contravention.

(4) The police authority or, as the case may be, the highway authority shall, where practicable, notify the owner of the skip of its removal under subsection (1) or (2) of this section, but if the owner cannot be traced or if after a reasonable period of time after being so notified he has not recovered the skip, the police authority or highway authority may dispose of the skip and its contents.

(5) Any proceeds of a disposal under the last foregoing subsection shall be used in the first place to meet the expenses reasonably incurred in the said removal and thereafter any surplus shall be given to the owner if he can be traced and if not may be retained by the police authority or the highway authority, as the case may be.

Obstructions and excavations in roads without consent.

24.—(1) No person shall place or deposit anything on a road causing an obstruction or make an excavation therein without the consent of the highway authority, and any person contravening this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(2) Any person causing such an obstruction or making such an excavation as is referred to in the foregoing subsection may be required by the highway authority to remove the obstruction or fill in the excavation forthwith ; and that person shall maintain an excavation filled in by him in pursuance of this subsection for such period, not exceeding 6 months from the completion of the filling in, as may be specified by the highway authority.

(3) A person who fails to remove an obstruction or to fill in an excavation or to maintain an excavation which has been filled

in by him, as required by the last foregoing subsection shall be guilty of an offence and shall be liable to a fine not exceeding £20 and to a further fine not exceeding £5 for each day on which the offence continues after conviction therefor.

(4) If the person referred to in the last foregoing subsection cannot be traced or if he fails to remove the obstruction or fill in the excavation within a reasonable period of time after being required to do so or if he fails to maintain an excavation which has been filled in by him as required by subsection (2) of this section, or in case of emergency, the highway authority may remove the obstruction or fill in or maintain the excavation and recover the expenses reasonably incurred by them in so doing from that person.

(5) The highway authority shall, where practicable, notify the said person of the removal by them of anything under the last foregoing subsection, but if the person cannot be traced or if after a reasonable period of time after being so notified he has not recovered the thing, the highway authority may dispose of it.

(6) Any proceeds of a disposal under the last foregoing subsection shall be used in the first place to meet the expenses reasonably incurred by the highway authority in the said removal and thereafter any surplus shall be given to the person if he can be traced and if not may be retained by the highway authority.

(7) This section and subsections (1), (2) and (3) of the next following section shall not apply—

(*a*) in any circumstances where any of the following enactments applies—

1903 c. 33. (i) section 29 of the Burgh Police (Scotland) Act 1903 (penalty on unauthorised occupation of street),

1959 c. 24. (ii) section 8 of the Building (Scotland) Act 1959 (occupation of parts of road for deposit of building materials),

1967 c. 69. (iii) section 19 of the Civic Amenities Act 1967 (penalty for unauthorised dumping of motor vehicles etc.),

(iv) section 22 or 23 of this Act, or

(*b*) to any works to which the street works code as contained in the Public Utilities Street Works Act 1950 applies. 1950 c. 39.

Fencing and lighting of obstructions and excavations.

25.—(1) Where any person places or deposits anything on a road causing an obstruction or makes an excavation therein, he shall, whether the obstruction or excavation is on or in the road with the consent of the highway authority or not, cause the obstruction or excavation to be properly fenced and, during the hours of darkness, to be properly lighted.

(2) If the person referred to in the foregoing subsection fails to cause an obstruction or excavation to be properly fenced and, during the hours of darkness, to be properly lighted, the highway authority may cause the obstruction or excavation to be properly fenced and, during the hours of darkness, to be properly lighted, and recover the expenses reasonably incurred by them in so doing from that person.

(3) If a person contravenes the provisions of subsection (1) of this section he shall be guilty of an offence and shall be liable to a fine not exceeding £20 and to a further fine not exceeding £5 for each day on which the offence continues after conviction therefor.

(4) If a person, without lawful authority or excuse, takes down, alters or removes any barrier erected, or removes or extinguishes any light placed to indicate an obstruction or excavation on or in a road, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(5) In this section, "hours of darkness" means the time between half an hour after sunset and half an hour before sunrise.

Restriction on placing bridges, beams, rails, etc. over roads.

26.—(1) No person shall fix or place any overhead bridge, beam, rail, pipe, cable, wire or other similar apparatus over, along or across a road without the consent of the highway authority, and that authority may attach to their consent such reasonable terms and conditions as they think fit.

(2) A person aggrieved by the refusal of a consent required by this section, or by any terms or conditions attached thereto, may refer the matter by summary application to the sheriff, and the decision of the sheriff on the matter shall be final.

(3) If a person contravenes the provisions of subsection (1) of this section, or the terms or conditions of any consent given thereunder, he shall be guilty of an offence and shall be liable to a fine not exceeding £20 and to a further fine not exceeding £5 for each day on which the offence continues after conviction therefor.

(4) This section does not apply to any works or apparatus belonging to any statutory undertakers.

Power to instal refuse or storage bins in roads.

27. The highway authority may provide and maintain in or under a road bins or other receptacles, of such dimensions and in such positions as the authority may determine, for the collection and temporary deposit of road refuse and waste paper, or the storage of sand, grit or other materials.

Use of appliances etc. on footways and footpaths

Use of appliances etc. on footways and footpaths.

28.—(1) No statutory provision prohibiting or restricting the use of footways or footpaths shall affect the use of appliances or vehicles, whether mechanically propelled or not,—

(*a*) by a highway authority or a local authority for cleansing or maintaining footways or footpaths or their verges;

(*b*) by a highway authority to improve footways for which they are responsible;

(*c*) by statutory undertakers for works on a footway for which a highway authority are responsible in connection with apparatus belonging to the statutory undertakers:

Provided that statutory undertakers may exercise the right conferred on them by this paragraph only if they have obtained the consent of that highway authority.

(2) The Secretary of State and the Minister of Technology acting jointly may make regulations prescribing the conditions under which the rights conferred by this section may be exercised, and such regulations may in particular make provision as to—

(*a*) the construction of any appliances or vehicles used under this section;

(*b*) the maximum weight of any such appliances or vehicles, or maximum weight borne by any wheel or axle;

(*c*) the maximum speed of any such appliances or vehicles;

(*d*) the hours during which the appliances or vehicles may be used; and

(*e*) the giving by the Secretary of State or the Minister of Technology of directions dispensing with or relaxing any requirement of the regulations as it applies to a particular authority or in any particular case.

(3) In this section—

" local authority " includes a district council;

" statutory provision " means a provision contained in, or having effect under, any enactment;

" statutory undertakers " includes an authority responsible for sewerage.

Acquisition of land

Acquisition of land for construction, improvement etc. of highway.

29.—(1) A highway authority may acquire by agreement, or, subject to subsection (3) of this section, compulsorily, land required in connection with the construction or improvement of a highway.

(2) Where in exercise of the power conferred by subsection (1) of this section, a highway authority have acquired, or propose to acquire, land forming part of a common or open space, and other land is required for the purpose of being given in exchange for the first-mentioned land, the said subsection (1) shall apply to that other land as if it were land required for the purpose of the construction or improvement of a highway.

(3) A highway authority shall not be enabled by virtue of subsection (1) of this section to acquire land compulsorily—

(*a*) other than land required for the purpose of being given in exchange for land forming part of a common or open space, or

(*b*) other than land required for purposes connected with the drainage of the highway,

if the land lies more than 200 metres from the middle of the highway.

(4) A highway authority may acquire, but only by agreement, any land in the neighbourhood of any highway being land which they consider it desirable to acquire for preserving the amenities of, or protecting, the highway.

Additional powers of acquiring land for trunk roads and special roads.

30.—(1) Subject to the provisions of this section, the Secretary of State may acquire by agreement or compulsorily land which is required in connection with the carrying out of any works authorised by an order under section 14 of the Act of 1949.

(2) Subject to the following provisions of this section, a special road authority may acquire by agreement or compulsorily land which is required—

(*a*) in connection with the improvement of a road which is included in the route of the special road but has not been transferred to the authority by means of an order under section 3 of the Act of 1949,

(*b*) for the purposes of any order made in relation to the special road under the said section 3, or

(*c*) in connection with the provision of service stations or other buildings or facilities to be used in connection with the special road.

(3) Where in exercise of the power conferred by subsection (1) or (2) of this section, any land forming part of a common or open space has been, or is proposed to be, acquired by the Secretary of State or, as the case may be, by a special road authority, for any of the purposes mentioned in that subsection and other land is required for the purpose of being given in exchange for the first mentioned land, that subsection

shall apply to the acquisition of that other land as if it were land required by the Secretary of State or, as the case may be, the special road authority in connection with the construction or improvement of a highway.

(4) The Secretary of State shall not be enabled by virtue of subsection (1) of this section, and, subject to section 32(*b*) of this Act, a special road authority shall not be enabled by virtue of subsection (2) of this section, to acquire land compulsorily—

(*a*) other than land required for the purpose of being given in exchange for land forming part of a common or open space, or

(*b*) other than land required for purposes connected with the drainage of the highway,

if the land lies more than 200 metres from the middle of the trunk road or of the special road, as the case may be, or, where the land is required in connection with the improvement, alteration or construction of any other road, from the middle of that other road.

Acquisition of land for buildings etc. needed for discharge of functions of highway authorities.

31. Without prejudice to section 30(2) of this Act, the highway authority may acquire by agreement or compulsorily land wherever situated which in their opinion is required for the provision of any buildings or facilities needed for the purposes of constructing, improving, maintaining or servicing a highway.

Acquisition of land to provide new means of access where access to premises stopped up.

32. The highway authority may, for the purpose of providing a new means of access—

(*a*) from a highway to premises in pursuance of section 13(1) or 14(1) of this Act, or

(*b*) from a road to any such premises as are referred to in section 7(1)(*a*) of the Act of 1949, or

(*c*) from a side-road to premises in pursuance of section 15(2) of this Act,

acquire land by agreement or compulsorily within 800 metres from the middle of that highway or road.

Acquisition of land for the purposes of s. 15(1)(*a*).

33. A local highway authority may, by agreement or compulsorily, acquire land for any of the purposes referred to in section 15(1)(*a*) of this Act within 200 metres from the middle of the side-road.

Provisions as to middle of road of which boundaries are to be altered.

34. Where the boundaries of any road will be altered in consequence of any improvement proposed to be made under this Act or any other enactment in relation to the road, then, for the purposes of this Act, the middle of that road shall be the middle of it as proposed to be improved.

General provisions as to acquisition of land.

35.—(1) Any power to acquire land compulsorily conferred by section 29, 30, 31, 32 or 33 of this Act on a local highway authority shall be exercisable in any particular case on their being authorised to do so by the Secretary of State.

(2) In relation to the compulsory acquisition of land under any of the said sections by a highway authority, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall have effect as if this Act had been in force immediately before the commencement of that Act and, in a case where the compulsory acquisition is by the Secretary of State, as if the said sections were included among the enactments specified in section 1(1)(*b*) of that Act. 1947 c. 42.

(3) In assessing the compensation payable in respect of the compulsory acquisition of land by a highway authority under powers conferred by the said section 29 or 30, the Lands Tribunal for Scotland—

(*a*) shall have regard to the extent to which the remaining contiguous land belonging to the same person may be benefited by the purpose for which the land is authorised to be acquired;

(*b*) without prejudice to the generality of the foregoing paragraph, shall, in the case of land authorised to be acquired for widening a highway, set off against the value of the land to be acquired any increase in the value of other land belonging to the same person which will accrue to him by reason of the creation of a frontage to the highway as widened;

(*c*) shall take into account, and embody in its award, any undertaking given by the highway authority as to the use to which the land, or any part of it, will be put;

and the Land Compensation (Scotland) Act 1963 shall, in its application to a compulsory acquisition by a highway authority under either of the said sections, have effect subject to the provisions of this subsection. 1963 c. 51.

(4) Until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, the reference in the last foregoing subsection to the Lands Tribunal for Scotland shall be construed as a reference to an official arbiter appointed under Part I of the Land Compensation (Scotland) Act 1963. 1949 c. 42.

Acquisition of land by agreement in advance of requirements.

36. Any power of a highway authority under section 29, 30, or 31 of this Act to acquire land by agreement for a purpose therein mentioned shall be exercisable in respect of any land which, in the opinion of the highway authority, may be required for that purpose, notwithstanding that the land is not immediately required for that purpose.

Power to obtain road-making materials

Power to obtain road-making materials.

37.—(1) The highway authority may enter any land to search for, dig and carry away materials for the purpose of making or repairing a highway and may carry such materials through the land of any person.

(2) Before carrying out any operations under this section, the highway authority shall serve notice of their intention on the owner and the occupier of the land concerned together with a description of the proposed operations and of the right to object thereto within 28 days after the service of the notice.

(3) Where the highway authority is a local highway authority and within the said period of 28 days the owner or the occupier objects to the proposed operations, and that objection is not withdrawn, the local highway authority shall not proceed to execute the operations without consent aftermentioned but may refer the matter for the determination of the Secretary of State who may grant consent to the proposed operations either unconditionally or subject to such terms and conditions as he thinks just, or who may withhold his consent, and the decision of the Secretary of State on the matter shall be final.

(4) The highway authority shall pay compensation to the owner or occupier of the land for any damage done thereto by reason of the exercise of their powers under this section and for the value of materials carried away by them.

(5) Where an excavation is made by the highway authority in the exercise of their powers under this section, the authority shall—

(*a*) while the work is in progress, and thereafter so long as the excavation remains open, keep the excavation sufficiently fenced to prevent accidents to persons or animals,

(*b*) as soon as is reasonably practicable after the completion of the work, fill up the excavation or slope it down and fence it off, if the owner or occupier so requires, and thereafter keep it so fenced,

(*c*) so far as is reasonably practicable, when filling up the excavation, make good and level the ground.

Contributions by highway authorities to land drainage and flood prevention operations

Contributions may be made to benefit highways. 1958 c. 24. 1961 c. 41.

38. Where is appears to the highway authority that the execution of any drainage works under the Land Drainage (Scotland) Act 1958 or flood prevention operations under the Flood Prevention (Scotland) Act 1961 is desirable for the protection or enjoyment of a highway they may make such contribution as they think fit towards any expenses incurred in the execution and maintenance of those works.

Miscellaneous and supplementary provisions

Powers of entry.

39.—(1) Subject to the provisions of this section, any person duly authorised in writing by a highway authority shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any land at all reasonable hours for the purpose of—

(*a*) surveying it in connection with the exercise of the functions of the highway authority under this Act or any other enactment;

(*b*) laying and leaving on the land apparatus for the purpose of the survey or removing the apparatus;

(*c*) searching or boring to ascertain the nature of the subsoil or the presence of minerals for the purpose of the survey;

(*d*) searching or boring to ascertain the nature of any activity taking place beneath the surface of the land which may affect the stability of a highway for the purpose of the survey;

(*e*) taking any action or executing any work authorised or required by this Act to be taken or executed by a highway authority.

(2) Entry to land shall not be demanded as of right unless at least 7 days' notice of the intended entry has been given to the occupier.

(3) Without prejudice to sections 7, 10 and 37 of this Act, works shall not be carried out on any land in pursuance of subsection (1)(*b*), (*c*), (*d*) or (*e*) of this section by any person unless at least 7 days' notice of the intention to do so has been given by that person to the owner and occupier of the land and, in the case referred to in subsection (1)(*c*) and (*d*) of this section, to the National Coal Board, and any other proprietor of underground mineral workings, where their interests are liable to be affected by the searching or boring.

(4) Any statutory undertakers or the National Coal Board may object to the highway authority to the carrying out of the proposed works on the ground that the carrying out thereof would

be seriously detrimental to the carrying on of their undertaking, and in that event the works shall not be carried out except with the authority of the Secretary of State after consultation with the Minister responsible for that undertaking.

(5) A person contravening subsection (3) or (4) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50.

(6) If it is shown to the satisfaction of the sheriff, or a magistrate or justice of the peace having jurisdiction in the place where the land is situated, on evidence on oath—

(*a*) that admission to land which any person is entitled to enter by virtue of this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, and

(*b*) that there are reasonable grounds for entry to the land for any purpose for which the right of entry is exercisable,

the sheriff, magistrate or justice may by warrant under his hand authorise that person to enter the land.

(7) A person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the provisions of this section or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20 and to a further fine not exceeding £5 for each day on which the offence continues after conviction therefor.

(8) Where, in the exercise of a power of entering land conferred by this section, any damage has been caused to land or to corporeal moveables, any person interested in the land or moveables may recover compensation in respect of that damage from the highway authority by whom or on whose behalf the power was exercised; and where in consequence of the exercise of such a power any person is disturbed in his enjoyment of any land or corporeal moveables, he may recover from the highway authority compensation in respect of the disturbance.

Determination of disputes as to compensation. 1963 c. 51.

40.—(1) Any question of disputed compensation under section 13, 14, 15, 37 or 39 of this Act shall be determined in the same manner as compensation for the acquisition of land falls to be determined under the Land Compensation (Scotland) Act 1963, and sections 2, 3, 5, 6, 8, 9 and 11 of that Act shall have effect accordingly subject to any necessary modifications.

1947 c. 53.

(2) Paragraphs 1 and 3 of Schedule 4 to the Town and Country Planning (Scotland) Act 1947 (which relate to the assessment of compensation for the purposes of Part II of that Act)

shall apply in relation to the assessment of any such compensation as aforesaid, being compensation in respect of the depreciation in value of any interest in land, as they apply in relation to the assessment of compensation payable under the said Part II.

Power to require occupier to permit works to be executed by owner.

41. If on an application made by the owner of any land it appears to the sheriff that the occupier of that land prevents the owner from executing any work which he is by this Act required to execute, the sheriff may order the occupier to permit the execution of the work.

Service of notices. 1947 c. 43.

42. Section 349 of the Local Government (Scotland) Act 1947 (service of notices) shall apply to notices under this Act relating to land as it applies to notices relating to premises.

Local inquiries. 1958 c. 66.

43. The Secretary of State may, for the purpose of determining any matter which he is required to determine under this Act, cause a local inquiry to be held in accordance with section 355 of the Local Government (Scotland) Act 1947; and the Tribunals and Inquiries Act 1958 shall apply to a local inquiry held under this section as it applies to a statutory inquiry held by the Secretary of State.

Application of Act to Crown land.

44.—(1) The provisions of this section shall apply in relation to any land belonging to Her Majesty in right of the Crown, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department.

(2) The appropriate authority in relation to any land and a highway authority may agree that any provisions of this Act specified in the agreement shall apply to that land and, while the agreement is in force, those provisions shall apply to the land accordingly, subject however to the terms of the agreement.

(3) Any such agreement as aforesaid may contain such consequential and incidental provisions, including, with the approval of the Treasury, provisions of a financial character, as appear to the appropriate authority to be necessary or equitable, but agreements made by the Crown Estate Commissioners shall not require such approval.

(4) In this section " the appropriate authority " means—

(*a*) in the case of land belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the land in question; and

(*b*) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

Saving for Coast Protection Act 1949. 1949 c. 74.

45. Nothing in this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (restriction of works detrimental to navigation).

Regulations and orders.

46.—(1) The power conferred on the Secretary of State by any provision of this Act, or on the Secretary of State and the Minister of Technology acting jointly by section 28 of this Act, to make regulations, shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Any order made by a highway authority under this Act may be revoked or varied by a subsequent order made in the like manner and subject to the like conditions.

Local enactments.

47.—(1) Subject to subsection (2) of this section, where any local enactment provides for any matter which is also provided for by any provision of this Act or of any regulations made thereunder, the provision of this Act, or, as the case may be, of those regulations, shall have effect in substitution for the local enactment, which shall cease to have effect.

(2) The Secretary of State may by order except from the operation of the foregoing subsection such local enactments as may be specified in the order and direct that the corresponding provisions of this Act or of any regulations made thereunder as may be so specified shall not have effect in the areas in which the specified local enactments have effect.

(3) If it appears to the Secretary of State that any local enactment, not being an enactment which has ceased to have effect by virtue of subsection (1) of this section, is inconsistent with any provision of this Act or of any regulations made thereunder, or is no longer required, or requires to be amended, having regard to any provision of this Act or of any regulations made thereunder, he may by order repeal or amend the local enactment as he may consider appropriate.

(4) Any order made under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Jurisdiction. 1954 c. 48.

48. An offence under section 17, 20, 21, 24(3), 25(3) or 26 of this Act may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

Expenses.

49. There shall be paid out of moneys provided by Parliament—

(*a*) any expenses incurred by the Secretary of State under this Act, and

(*b*) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

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

" the Act of 1946 " means the Trunk Roads Act 1946; 1946 c. 30.

" the Act of 1949 " means the Special Roads Act 1949; 1949 c. 32.

" carriageway " means a part of a road over which the public has a right of passage for vehicles;

" common " has the same meaning as in the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947; 1947 c. 42.

" footpath " means a way over which the public has a right of passage on foot only, but does not include a footway;

" footway " means a way associated with a carriageway over which the public has a right of passage on foot only;

" highway " means a road maintained by a highway authority and, except in sections 6 and 35 of this Act, includes a proposed highway;

" highway authority " means, in relation to a highway other than a trunk road, a county council or the town council of a burgh charged with the maintenance and management of any of the highways therein, and, in relation to a trunk road, the Secretary of State;

" land " includes land covered with water and any interest or right in or over land;

" local authority " except in section 7 of this Act means a town council or a county council;

" local highway authority " means a highway authority other than the Secretary of State;

" 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 Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

" owner " in relation to land means 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;

" road " includes any highway and any other road to which the public has access, a bridge over which, or a tunnel through which, the road passes, any verge or footway

and, except in sections 12 and 15(1)(*a*) and sections 16 to 26 of this Act, includes a proposed road;

" special road " has the same meaning as in the Act of 1949;

" special road authority " has the same meaning as in the Act of 1949;

1947 c. 53. " statutory undertakers " has the same meaning as in section 113(1) of the Town and Country Planning (Scotland) Act 1947 except that it includes the Post Office, and " statutory undertaking " shall be construed accordingly;

1951 c. 66. " tidal waters " has the same meaning as in section 35(1) of the Rivers (Prevention of Pollution) (Scotland) Act 1951;

1967 c. 76. " traffic sign " has the same meaning as in section 54(1) of the Road Traffic Regulation Act 1967;

" trunk road " means a highway which by virtue of the Trunk Roads Acts 1936 and 1946, an order under section 1 of the Act of 1946, or by virtue of section 9(1) of the Act of 1949, is a trunk road.

(2) References in this Act to a highway authority shall be construed, in the case of a road for which there is no highway authority, as references to the local authority in whose area the road is situated.

(3) Any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment including this Act.

Minor and consequential amendments and repeals.

51.—(1) The enactments specified in Schedule 1 to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) The enactments specified in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Short title, commencement and extent.

52.—(1) This Act may be cited as the Roads (Scotland) Act 1970.

(2) This Act shall come into operation on the expiry of a period of 1 month beginning with the date on which it is passed.

(3) This Act shall extend to Scotland only.

SCHEDULES

SCHEDULE 1

Section 51(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

THE ROADS AND BRIDGES (SCOTLAND) ACT 1878 (c. 51)

1. In Schedule C, for section XC there shall be substituted the following section:

"Penalties on persons making encroachments.

XC. If any person, without the consent of the highway authority, encroaches on a highway by erecting any dwellinghouse or other building on the highway or conducts any water across, under or on the highway, he shall be guilty of an offence and shall be liable to a fine not exceeding £20 for a first offence and £50 for a second or subsequent offence; and the highway authority may take down the dwellinghouse or other building or fill up any means of conducting such water and may recover the expenses reasonably incurred by them in so doing from that person."

THE ROADS AND BRIDGES (SCOTLAND) AMENDMENT ACT 1892 (c. 12)

2. In section 5 (preservation of lands from injury), for the words from the beginning to "extended to" there shall be substituted the words "Nothing in section 37 of the Roads (Scotland) Act 1970 shall empower the highway authority to search for, dig and carry away materials from".

THE LOCAL GOVERNMENT (SCOTLAND) ACT 1908 (c. 62)

3. In section 26 (use of machinery in quarries)—

(*a*) for the words from "a county council" where they first occur to "1878" there shall be substituted the words "the highway authority under section 37 of the Roads (Scotland) Act 1970";

(*b*) for the words "a county council" where they subsequently occur there shall be substituted the words "the highway authority";

(*c*) the words from "to show cause" to the end shall cease to have effect.

4. In section 27 (fencing of quarries), for the words from "the Roads" to "therewith" there shall be substituted the words "section 37 of the Roads (Scotland) Act 1970".

THE TRUNK ROADS ACT 1946 (c. 30)

5. In section 5(2) (exercise by Secretary of State of certain powers to purchase land in connection with trunk roads), for the words "purchased under this section" there shall be substituted the words "acquired by the Secretary of State under section 29(4) of the Roads (Scotland) Act 1970".

6. In Schedule 2 (procedure for making orders)—

(*a*) in paragraph 1(*b*), for the words "of three months" there shall be substituted the words "specified in the notice, being not less than six weeks";

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(*b*) in paragraph 4, for the words " said period of three months " there shall be substituted the words " period specified in pursuance of paragraph 1(*b*) of this Schedule ".

THE LOCAL GOVERNMENT (SCOTLAND) ACT 1947 (c. 43)

7. In Schedule 4 (enactments containing provisions as to acquisition by agreement), after item 10 there shall be inserted the following words " 10A. The Roads (Scotland) Act 1970.".

THE SPECIAL ROADS ACT 1949 (c. 32)

8. In section 8(2) (bridges and tunnels), after the words " (2) to " there shall be inserted the words " (5), (7) and ".

9. In Schedule 1 (provisions as to schemes and orders)—

(*a*) in paragraphs 1(*b*) and 7(*b*), for the words " of three months " there shall be substituted the words " specified in the notice, being not less than six weeks " ;

(*b*) in paragraph 3, for the words " said period of three months " there shall be substituted the words " period specified in pursuance of paragraph 1(*b*) of this Schedule ".

THE ATOMIC ENERGY AUTHORITY ACT 1954 (c. 32)

10. In section 5(6) (powers as to carrying out works on buildings), for the words " two hundred and nine " there shall be substituted the words " one hundred and eighty-six and one hundred and ninety to two hundred and seven ".

THE LAND COMPENSATION (SCOTLAND) ACT 1963 (c. 51)

11. In section 15(7) (subsequent acquisition of adjacent land and acquisition governed by enactment corresponding to section 14 of that Act), after paragraph (*d*) there shall be inserted the following paragraph—

" (*e*) section 35(3) of the Roads (Scotland) Act 1970 ; ".

THE ROAD TRAFFIC REGULATION ACT 1967 (c. 76)

12. In section 44(3A) (financial provisions in respect of parking places designated under section 35 of that Act), at the end there shall be inserted the following paragraph—

" (*i*) sections 5, 10 and 24 of the Roads (Scotland) Act 1970.".

THE TRANSPORT ACT 1968 (c. 73)

13. In section 139 (land required as service area for special road), for any reference to section 10(1)(*c*) of the Special Roads Act 1949 there shall be substituted a reference to section 30(2)(*c*) of the Roads (Scotland) Act 1970.

SCHEDULE 2

Section 51(2).

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
41 and 42 Vict. c. 51.	The Roads and Bridges (Scotland) Act 1878.	Section 43. In section 123, the word " eighty " and the proviso. In Schedule C, sections LXXX, LXXXIV, LXXXV, LXXXVII, LXXXVIII, LXXXIX and XCIV. In section XCVI, the words from " or shall wilfully " to " repairable by them ", the words from " or shall haul " to " ditches thereof ", the words from " shall make " to " bonfires, or ", the words from " or shall lay " to " causeways adjoining ", and the words from " or if any person driving " to " or stopped; ". Sections C and CI.
55 and 56 Vict. c. 55.	The Burgh Police (Scotland) Act 1892.	Section 130. In section 132(3) the words " or bridges over " and in the proviso to that section the words " or bridges ". In section 186, the words from " and the commissioners " to " accidents " and the words " or extinguishes any light ". Sections 188 and 189. In section 190 the words " in or ". Section 381(52).
8 Edw. 7. c. 62.	The Local Government (Scotland) Act 1908.	In section 26, the words from " to show cause " to the end.
9 Edw. 7. c. 47.	The Development and Road Improvement Funds Act 1909.	Section 11.
15 & 16 Geo. 5. c. 68.	The Roads Improvement Act 1925.	Section 3.
25 & 26 Geo. 5. c. 47.	The Restriction of Ribbon Development Act 1935.	Sections 13, 14 and 25(15). Schedule 4.
1 Edw. 8 and 1 Geo. 6. c. 5.	The Trunk Roads Act 1936.	Sections 4(6) and 6(9). In section 12(18)(*b*) the words " one hundred and thirty ". In Schedule 4, paragraphs 6 and 7.
9 & 10 Geo. 6. c. 30.	The Trunk Roads Act 1946.	Sections 5(1), 7(6) and 8(3). In section 11(1), the definition of the Act of 1935. In section 14(5), the words from " and (ii) " to the end.

SCH. 2

Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 6. c. 49.	The Acquisition of Land (Authorisation Procedure) Act 1946.	Schedule 4 so far as relating to section 11 of the Development and Road Improvement Funds Act 1909, the Restriction of Ribbon Development Act 1935 and the Trunk Roads Act 1936.
10 & 11 Geo. 6. c. 42.	The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.	In section 1(1)(*b*), the words from "under section eleven" to "1946 or".
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act 1947.	In Schedule 4, item 7.
12 & 13 Geo. 6. c. 32.	The Special Roads Act 1949.	In section 3(1), the words from the beginning to "into operation". Sections 8(2)(b), 10, 14(2) and 16.
4 & 5 Eliz. 2. c. 40.	The Local Government (Street Works) (Scotland) Act 1956.	The whole Act.
7 & 8 Eliz. 2. c. 70.	The Town and Country Planning (Scotland) Act 1959.	Section 46.
1963 c. 51.	The Land Compensation (Scotland) Act 1963.	Section 15(7)(*c*).
1967 c. 76.	The Road Traffic Regulation Act 1967.	In section 44(3A), paragraphs (*a*) and (*b*).