



# Transport (Scotland) Act 2005

## 2005 asp 12

### PART 2

#### ROAD WORKS

##### *Resurfacing*

### **30 Power of road works authority to require undertaker to resurface road**

(1) After section 132 of the 1991 Act there is inserted—

#### *“Resurfacing*

##### **132A Power to require undertaker to resurface road**

- (1) In prescribed circumstances, the road works authority may by notice (a “resurfacing notice”) require an undertaker within subsection (2) to execute such resurfacing works in a road as may be specified in the notice.
- (2) An undertaker is within this subsection if—
  - (a) he has given notice under section 113 or 114 of proposed road works,
  - (b) he is executing road works, or
  - (c) he has, within such period ending with the giving of the notice as may be prescribed (or if no period is prescribed, at any time), executed road works,and the works will involve, involve or (as the case may be) involved the breaking up of any part of the road.
- (3) The works specified in the resurfacing notice may relate to any part of the road (including any part not, and not to be, broken up by the undertaker); but regulations made by the Scottish Ministers may restrict the extent of the works that may be so specified.
- (4) The resurfacing notice relieves the undertaker to the extent (if any) specified in the notice of his duty under section 129 to reinstate the surface of the road;

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*Status: This is the original version (as it was originally enacted).*

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but regulations made by the Scottish Ministers may restrict the circumstances in which and the extent to which undertakers may be relieved of that duty.

- (5) The road works authority may by notice to the undertaker vary or withdraw a resurfacing notice; but regulations made by the Scottish Ministers may restrict the circumstances in which notices may be varied or withdrawn.
- (6) A road works authority may serve a resurfacing notice notwithstanding that the authority (in any capacity) are under a duty to undertake any of the works specified in the notice.
- (7) In this Part—
  - “resurfacing notice” has the meaning given by subsection (1),
  - “resurfacing works” means any works relating to the replacement of the surface of any part of a road,
  - “surface” includes a paved surface.

### **132B Power to specify timing etc. of resurfacing**

- (1) A resurfacing notice may require an undertaker to—
  - (a) execute the works specified in the notice in stages so specified,
  - (b) begin the execution of those works (or any stage of them) at or by a date and time so specified,
  - (c) execute those works (or any stage of them) at times or on days (or at times on days) so specified,
  - (d) complete the execution of those works (or any stage of them) by a date and time so specified.
- (2) The Scottish Ministers may by regulations make provision restricting, in some or all cases, the power to include requirements within subsection (1), including provision that—
  - (a) requires a road works authority to consult an undertaker before a prescribed description of requirement is included in a notice,
  - (b) provides that any date specified in a notice for the beginning, execution or completion of works shall not be earlier than a prescribed period from the date on which the notice is given.

### **132C Materials, workmanship and standard of resurfacing**

- (1) An undertaker who has been served with a resurfacing notice shall, when executing the works specified in the notice, comply with such requirements as may be prescribed as to the specification of materials to be used and the standards of workmanship to be observed.
  - (2) The undertaker shall also ensure that, for the prescribed period after completion of the works, those works conform to such performance standards as may be prescribed.”.
- (2) In section 165 of that Act (index for Part 4)—
- (a) after the entry for “relevant authority (in relation to road works)” there is inserted—

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“resurfacing notice	section 132A(7)
resurfacing notice	section 132A(7)”;
(b) after the entry for statutory right there is inserted—	
“surface	section 132A(7)”.

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