

Status: This version of this provision is prospective.

Changes to legislation: Transport (Scotland) Act 2005, Section 35 is up to date with all changes known to be in force on or before 20 March 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



Transport (Scotland) Act 2005

2005 asp 12

PART 2

ROAD WORKS

Enforcement of 1991 Act

PROSPECTIVE

35 Civil penalties for certain offences under 1991 Act

After section 154A of the 1991 Act (as inserted by section 34 above) there is inserted—

“154B Civil penalties for certain offences

- (1) The Scottish Ministers may, by regulations, make provision for or in connection with—
 - (a) the imposition by road works authorities of penalty charges in respect of such offences under this Part of this Act as are specified in the regulations,
 - (b) the payment of such charges.
- (2) The regulations shall include provision specifying the person or persons by whom a penalty charge in respect of an offence is to be paid (who may be or, as the case may be, include a person other than the person who committed the offence).
- (3) The regulations shall include provision—
 - (a) prohibiting criminal proceedings or the giving of a fixed penalty notice in respect of any description of conduct for which a penalty charge may be imposed, or
 - (b) securing that a penalty charge is not payable or is refunded where the conduct is the subject of criminal proceedings or of a fixed penalty notice.

Status: This version of this provision is prospective.

Changes to legislation: Transport (Scotland) Act 2005, Section 35 is up to date with all changes known to be in force on or before 20 March 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](#)

- (4) The regulations shall include provision about the standard of proof required to establish the commission of an offence in respect of which a penalty charge may be imposed and may include other provision for or in connection with evidence and procedure.
- (5) The regulations may set different levels of penalty charges in respect of different offences and in respect of the same offences committed in different circumstances.
- (6) The regulations may include provision for and in connection with—
 - (a) the notification of penalty charges to persons appearing to be liable to pay them,
 - (b) the enabling and effect of the making of representations to road works authorities by persons who are or may be liable to pay those charges,
 - (c) appeals by those persons against the imposition of those charges.
- (7) Regulations shall not be made unless a draft of them has been laid before and approved by resolution of the Scottish Parliament.”.

Status:

This version of this provision is prospective.

Changes to legislation:

Transport (Scotland) Act 2005, Section 35 is up to date with all changes known to be in force on or before 20 March 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.

[View outstanding changes](#)

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. 18A-18F inserted by [2019 asp 17 s. 110\(2\)](#)
- sch. 2 para. 3(2)(3) inserted by [2019 asp 17 s. 110\(4\)\(b\)](#)
- sch. 2 para. 3(1) sch. 2 para. 3 renumbered as sch. 3 para. 3(1) by [2019 asp 17 s. 110\(4\)\(a\)](#)

Commencement Orders yet to be applied to the Transport (Scotland) Act 2005

Commencement Orders bringing provisions within this Act into force:

- [S.S.I. 2008/90 art. 2](#) amendment to earlier commencing SSI 2008/15 art. 3