



Transport (Scotland) Act 2019

2019 asp 17

PART 9

ROAD WORKS

Safety measures for the carrying out of works in roads

115 Fencing and lighting of obstructions and excavations

- (1) The Roads (Scotland) Act 1984 is amended as follows.
- (2) In section 60 (fencing and lighting of obstructions and excavations)—
 - (a) in subsection (1), after “person” insert “ (other than a roads authority) ”,
 - (b) after subsection (3) insert—

“(3A) Where the roads authority places or deposits anything on a road so as to cause an obstruction, or executes works in a road, they must comply with the requirements in paragraphs (a) to (d) of subsection (1).”
 - (c) in subsection (4)—
 - (i) for “or (2)” substitute “, (2) or (3A) ”,
 - (ii) for “either” substitute “ any ”.
- (3) After section 60 insert—

“60A Safety measures: codes of practice

- (1) The Scottish Ministers may, for the purposes of section 60, and following consultation with such persons as they consider appropriate, issue or approve codes of practice giving practical guidance as to the matters mentioned in that section.
- (2) A code of practice under subsection (1) must be published in such manner as the Scottish Ministers consider appropriate as soon as reasonably practicable after it is issued or approved.

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- (3) If (and in so far as) a person complies with such a code of practice, the person is to be taken to comply with the requirements imposed on the person by section 60(1) or, as the case may be, (3A).
- (4) A failure to comply with such a code of practice is evidence of a failure to comply with the requirements imposed on the person by section 60(1) or, as the case may be, (3A).”.
- (4) In schedule 8 (penalties for offences)—
- (a) in respect of the entry for section 60(3) (paragraph 9 in column 1), in column 2, for “Level 3.” substitute “ Level 5. ”,
 - (b) in respect of the entry for section 60(4) (paragraph 10 in column 1), in column 2, for “Level 3.” substitute “ Level 5. ”.

Commencement Information

II [S. 115](#) in force at 10.1.2022 by [S.S.I. 2021/428, reg. 2, sch.](#)

116 Qualifications of supervisors and operatives

- (1) In the Roads (Scotland) Act 1984, after section 61A insert—

“61B Requirement for qualified supervisors and operatives

- (1) This section applies to any person (including a roads authority) executing—
- (a) works (other than road works within the meaning of section 107(3) of the New Roads and Street Works Act 1991) in or on a road or works which otherwise involve a person placing or depositing anything on a road so as to cause an obstruction—
 - (i) to which the requirements of section 60(1)(b) or (c) apply, and
 - (ii) which involve the placing of lights, fences, barriers or signs on a carriageway,
 - (b) works in a road which involve—
 - (i) breaking up the road, or any sewer, drain or tunnel under it, or
 - (ii) tunnelling or boring under the road, and
 - (c) works to subsequently reinstate the road.
- (2) The person executing the works must secure that—
- (a) the execution of the works is supervised by an individual having a prescribed qualification as a supervisor, and
 - (b) there is on site at all times when any such works are in progress at least one individual having a prescribed qualification as a trained operative.
- (3) Where a roads authority are not the person who is executing the works, the authority may by notice require the person executing the works—
- (a) to notify the authority of the name of any individual who is or has been the supervisor, or trained operative, in respect of the work, and
 - (b) to provide the authority with prescribed evidence of the requisite qualification of the individual.

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- (4) The Scottish Road Works Commissioner may by notice require the roads authority—
 - (a) to notify the Commissioner of the name of any individual who is or has been the supervisor or trained operative in respect of any work to which this section applies, and
 - (b) to provide the Commissioner with prescribed evidence of the requisite qualification of the individual.
 - (5) A notice under subsection (3) or (4) may—
 - (a) require the notification of—
 - (i) the name of an individual who was the supervisor or, as the case may be, trained operative at a particular time,
 - (ii) all individuals who have been the supervisor, or as the case may be, trained operative,
 - (b) be given at any time while the works are being executed or within such period after their completion as is prescribed.
 - (6) A person who receives a notice under subsection (3) must comply with the requirements of the notice within the period and manner prescribed.
 - (7) A person, other than a roads authority, who fails to comply with a duty imposed on the person by subsection (2) or (6) commits an offence.
 - (8) A person who commits an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
 - (9) The Scottish Ministers may by regulations make provision for the purposes of this section, including provision—
 - (a) specifying circumstances in which the duties in subsection (2) do not apply to a person executing works in a road,
 - (b) specifying—
 - (i) circumstances in which more than one trained operative must be on site at all times when work is in progress, and
 - (ii) the number of trained operatives that must be on site in those circumstances,
 - (c) about the approval of bodies conferring qualifications (and the withdrawal of such approval),
 - (d) about the circumstances in which a qualification may be conferred,
 - (e) about the form of any evidence to be issued by an approved body to certify or otherwise show that a qualification has been conferred on an individual.
 - (10) In this section, “prescribed” means prescribed by the Scottish Ministers in regulations made under subsection (9).
 - (11) This section does not apply to an undertaker executing road works, within the meaning of Part IV of the New Roads and Street Works Act 1991.”
- (2) In the New Roads and Street Works Act 1991, in section 126 (qualifications of supervisors and operatives)—
- (a) after subsection (1) insert—

“(1ZA) The duty under subsection (1) continues until the road is reinstated.”,

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(b) after subsection (2) insert—

“(2ZA) The duty under subsection (2) continues until the road is reinstated.”,

(c) after subsection (2ZA) (inserted by this section) insert—

“(2ZB) For the purpose of subsection (2), the Scottish Ministers may by regulations specify—

- (a) circumstances in which more than one trained operative must be on site at all times when work is in progress, and
- (b) the number of trained operatives that must be on site in those circumstances.”.

Commencement Information

I2 S. 116 in force at 25.1.2023 by [S.S.I. 2022/332](#), reg. 2, [sch.](#)

Changes to legislation:

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