

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Utilities Street Works Act 1950 (repealed 1.1.1993), FIRST SCHEDULE. (See end of Document for details)

SCHEDULES

FIRST SCHEDULE

Sections 1, 5, 18, 20, 29, 36, 39.

DEFINITION OF “CONTROLLED LAND”, AND PROVISIONS AS TO AUTHORISATION OF WORKS THEREIN

Definition of “Controlled Land”

- 1 (1) In this Act the expression “controlled land” means land abutting on a [^{F1}street which is a maintainable highway or is prospectively a maintainable highway][^{F1}road which is a public road or prospective public road] (in whatsoever use the land is for the time being, not excepting use as or as part of a garden or pleasure ground or the curtilage of a building), being land which either—
- (a) belongs to the [^{F2}street][^{F2}roads] authority and is for the time being held by them, or capable of being immediately appropriated by them, for road purposes; or
 - (b) is the subject of a subsisting authorisation of compulsory acquisition by them given with a view to their holding it for road purposes; or
 - [^{F3X1}(c) lies between the boundary of the street and an improvement line prescribed under [^{F4}section 73 of the ^{M1}Highways Act 1980], or under that section as applied by any other enactment, or under any corresponding provision in a special enactment.]
 - [^{F3X1}(c) is by virtue of an agreement capable of being immediately used by the roads authority for road purposes.]
- (2) Where a piece of land which would be controlled land within the definition in the preceding sub-paragraph contains any building, structure or erection other than fences, fence-walls, gates, posts, hoardings or other similar structures or erections, the controlled land shall be treated as consisting of that piece of land exclusive of the building, structure or erection, and of strata under or above it:
- Provided that the placing of a building, structure or erection in controlled land after apparatus has been placed in it by virtue of an authorisation under this Schedule shall not affect the right of the undertakers to keep the apparatus there and to execute any undertakers’ works in relation thereto (including the placing of apparatus by way of renewal thereof and undertakers’ works requisite therefor or incidental thereto), and references in this Act to works executed in controlled land shall extend to works executed in exercise of that right.
- (3) Land falling within the definition of controlled land in this paragraph which or an interest in which is held by the Minister shall not be treated as excluded therefrom by reason of its being held by him on behalf of the Crown.

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Editorial Information

- X1** Para. 1(1)(c) commencing “is by virtue” substituted (S.) for para. 1(1)(c) commencing “lies between” by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 39(33)(a)(iii)**

Textual Amendments

- F1** Words “road which is a public road or prospective public road” substituted (S.) for words “street which is a maintainable highway or is prospectively a maintainable highway” by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 39(33)(a)(i)**
- F2** Word “roads” substituted (S.) for word “street” by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 39(33)(a)(ii)**
- F3** Para. 1(1)(c) commencing “is by virtue” substituted (S.) for para. 1(1)(c) commencing “lies between” by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 39(33)(a)(iii)**
- F4** Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), **s. 17(2)(a)**

Marginal Citations

- M1** 1980 c. 66(59).

Provisions as to authorisation of execution of works in controlled land

- 2 The [^{F5}street][^{F5}roads] authority for any such [^{F6}street][^{F6}road] as is mentioned in paragraph 1 of this Schedule wherein there is exercisable a power to execute undertakers’ works of any kind (being a power to which section one of this Act applies and in relation to which the street works code has effect) may, subject to the provisions of this Schedule, authorise the undertakers to execute works of that kind in controlled land abutting on the [^{F6}street][^{F6}road] instead of in the [^{F6}street][^{F6}road], and such an authorisation may be given as to such works either generally or as respects a particular class of such works or as respects particular works.

Textual Amendments

- F5** Word “roads” substituted (S.) for word “street” by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 39(33)(b)**
- F6** Word “road” substituted (S.) for word “street” by Roads (Scotland) Act 1984 (c. 54, SIF 108), **Sch. 9 para. 39(33)(b)**

- 3 An authorisation given under this Schedule shall be irrevocable, and, where such an authorisation has been duly given as respects any works, the undertakers shall, subject to the provisions of this Schedule, have the like power to execute the works in the controlled land, and the like rights in relation to apparatus placed in exercise of that power, as if the controlled land had been comprised in the [^{F7}street][^{F7}road] (and, where any consent of the [^{F8}street][^{F8}roads] authority as such or of the [^{F7}street][^{F7}road] managers as such would have been requisite for the execution of the works in the [^{F7}street][^{F7}road], as if that consent had been given unconditionally), and shall have power to enter upon the controlled land for the purposes of the execution of the works therein.

Textual Amendments

- F7** Word “road” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(c\)](#)
- F8** Word “roads” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(c\)](#)

- 4 Before giving an authorisation under this Schedule the [^{F9}street][^{F9}roads] authority shall publish in a newspaper circulating in the locality a notice of their intention to give the authorisation, and shall, not later than the day on which the notice is published, serve a like notice on every person being an owner, lessee or occupier of the controlled land or of any part thereof and having the interest of a tenant for a year or from year to year or any greater interest, and no person shall be entitled to question the power of the authority to give the authorisation, or the validity of the authorisation when given, in any proceedings commenced later than the expiration of one month from the date on which the notice was published.

Textual Amendments

- F9** Word “roads” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(d\)](#)

- 5 (1) Undertakers proposing to begin the execution of code-regulated works in controlled land shall give to the [^{F10}street][^{F10}roads] authority, and, in the case of land in the occupation of a person other than the [^{F10}street][^{F10}roads] authority, to him, a notice stating the general nature of the works and their intention to execute them, and shall not begin the execution thereof, except with the consent of the [^{F10}street][^{F10}roads] authority and of any other person in occupation of the land, until there have elapsed from the date on which the notice was given—

- (a) in the case of any works not being such as are mentioned in head (b) of this sub-paragraph, seven days, or
- (b) in the case of works relating only to a service pipe or service line or [^{F11}overhead telecommunication apparatus], three days:

Provided that the undertakers may begin the execution of any of the works in question which are emergency works before the time when by virtue of the preceding provisions of this sub-paragraph they could lawfully begin them.

- (2) If undertakers begin the execution of any works in contravention of the preceding sub-paragraph, they shall in respect of that contravention be liable on summary conviction to a fine not exceeding [^{F12}level 3 on the standard scale].

Textual Amendments

- F10** Word “roads” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(e\)](#)
- F11** Words substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\)](#), s. 109, Sch. 4 para. 29(2), [Sch. 5 para. 45](#)

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F12 Words substituted (E.W.) (S.) by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46** and (S.) by [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**

6 (1) In respect of—

- (a) any diminution of the value of an interest in controlled land, or in land adjacent thereto and held therewith, by the giving of an authorisation under this Schedule, or
- (b) any damage sustained by the owner of such an interest or of things in the controlled land which is caused by the execution lawfully of works therein, or by entry thereon, by virtue of such an authorisation.

the [^{F13}street][^{F13}roads] authority giving the authorisation shall pay compensation to the owner of the interest so diminished in value, or to the owner who sustained the damage, as the case may be, any compensation for such diminution being in the form of a lump sum assessed with due regard to the right to compensation for such damage, and where any dispute arises whether compensation is payable under this paragraph, or as to the amount of any such compensation, the dispute shall be determined by the Lands Tribunal [^{F14}for Scotland].

(2) Undertakers to whom an authorisation is given under this Schedule shall pay to the [^{F15}street][^{F15}roads] authority the amount of any compensation which the authority are liable to pay under this paragraph as the [^{F15}street][^{F15}roads] authority giving the authorisation, except—

- (a) where it has been determined under section five of this Act otherwise than with the agreement of the undertakers that the works in question ought to be executed in the controlled land, or the undertakers have agreed to the execution of the works therein after notification to them of modifications or disapproval of a plan and section of the works as proposed to be executed in the [^{F16}street][^{F16}road] on the ground that the works ought to be executed in the controlled land, in so far as the liability of the authority to make the payment is attributable to the giving of an authorisation required for the execution of those works or to the execution thereof or to entry for the purposes thereof; or
- (b) in any other case, in so far as it appears to the [^{F15}street][^{F15}roads] authority that it is reasonable that the ultimate incidence of the liability for any such compensation should be on them.

Textual Amendments

- F13** Word “roads” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(33)(f)(i)**
- F14** Words added (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(33)(f)(ii)**
- F15** Word “roads” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(33)(g)**
- F16** Word “road” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **Sch. 9 para. 39(33)(g)**

7 (1) Undertakers to whom an authorisation is given under this Schedule shall pay to the [^{F17}street][^{F17}roads] authority an amount equal to any amount by which the cost

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reasonably incurred by the undertakers of executing any works which are executed in controlled land pursuant to the authorisation is less by reason of their being executed therein than it would have been if they had been executed in the [F18street][F18road].

For the purposes of this sub-paragraph, any payment made or required to be made by the undertakers to the [F17street][F17roads] authority under sub-paragraph (2) of the last preceding paragraph shall be treated as part of the cost reasonably incurred by the undertakers of executing the works in the controlled land.

- (2) Where it has been determined under section five of this Act otherwise than with the agreement of the undertakers that works ought to be executed in controlled land, or the undertakers have agreed to the execution of works therein after notification to them of modifications or disapproval of a plan and section of the works as proposed to be executed in the [F18street][F18road] on the ground that the works ought to be executed in controlled land, the [F17street][F17roads] authority shall pay to the undertakers an amount equal to any amount by which the cost reasonably incurred by the undertakers of the execution of those works is greater by reason of their being executed in that land than it would have been if they had been executed in the [F18street][F18road].
- (3) Any question arising under this paragraph shall, in default of agreement between the [F17street][F17roads] authority and the undertakers, be determined by arbitration.

Textual Amendments

- F17** Word “roads” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(h\)](#)
- F18** Word “road” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(h\)](#)

*Provision for case of controlled land ceasing to be
such after authorisation of execution of works therein*

- 8 (1) If at any time after an authorisation has been given under this Schedule as to any controlled land the land or any part of it ceases to be within the definition of controlled land contained in paragraph 1 of this Schedule without having become part of the [F19street][F19road], and any person being an owner, lessee or occupier of the land or of that part of it, as the case may be, not being only a tenant for a year or from year to year or for any less interest, gives notice to the undertakers that he objects to the continuance of the power and rights thereover vested in them by virtue of the authorisation, the said power and rights shall determine as to the land or to that part of it, as the case may be, at the expiration of six months from the date on which the notice was given:

Provided that (as respects any land ceasing to be controlled land under sub-paragraph (2) of paragraph 1 of this Schedule by reason of the placing of a building, structure or erection in controlled land after apparatus has been placed in it) this sub-paragraph shall have effect subject to the like saving for the right of undertakers as is contained in the proviso to the said sub-paragraph (2).

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- (2) The [^{F20}street][^{F20}roads] authority shall pay to the undertakers the amount of any cost reasonably incurred by the undertakers of or in connection with any removal of apparatus rendered necessary by such a determination, and of executing any other undertakers' works or taking any other measures the execution or taking whereof is rendered necessary thereby for the purposes of the supply or service for which apparatus whose removal is rendered necessary was used.
- (3) Where after apparatus has been placed in controlled land by virtue of an authorisation under this Schedule the land becomes part of the [^{F19}street][^{F19}road], if any consent would have been requisite for the placing thereof had it been placed in the [^{F19}street][^{F19}road] immediately after that land became part thereof, the relevant power of the undertakers to which section one of this Act applies shall be exercisable in relation to the apparatus as if that consent had been given unconditionally.

Textual Amendments

- F19** Word “road” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(i\)](#)
- F20** Word “roads” substituted (S.) for word “street” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 39\(33\)\(i\)](#)

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