



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART III

#### STREET WORKS IN ENGLAND AND WALES

##### *Reinstatement*

#### **70 Duty of undertaker to reinstate.**

- (1) It is the duty of the undertaker by whom street works are executed to reinstate the street.
- (2) He shall begin the reinstatement as soon after the completion of any part of the street works as is reasonably practicable and shall carry on and complete the reinstatement with all such dispatch as is reasonably practicable.
- (3) He shall before the end of the next working day after the day on which the reinstatement is completed inform the street authority that he has completed the reinstatement of the street, stating whether the reinstatement is permanent or interim.
- (4) If it is interim, he shall complete the permanent reinstatement of the street as soon as reasonably practicable and in any event within six months (or such other period as may be prescribed) from the date on which the interim reinstatement was completed; and he shall notify the street authority when he has done so.
- (5) The permanent reinstatement of the street shall include, in particular, the reinstatement of features designed to assist people with a disability.
- (6) An undertaker who fails to comply with any provision of this section commits an offence and is liable on summary conviction—
  - [<sup>F1</sup>(a) in the case of an offence consisting of a failure to comply with subsection (3) or (4A), to a fine not exceeding level 4 on the standard scale; and
  - (b) in any other case, to a fine not exceeding level 5 on that scale.]

*Status: Point in time view as at 04/10/2004.*

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- (7) In proceedings against a person for an offence of failing to comply with subsection (2) it is a defence for him to show that any delay in reinstating the street was in order to avoid hindering the execution of other works, or other parts of the same works, to be undertaken immediately or shortly thereafter.

#### Textual Amendments

- F1** S. 70(6)(a)(b) substituted for words in s. 70(6) (4.10.2004 for E. for specified purposes, 26.11.2007 for W. for specified purposes, 1.4.2008 for E.W. in so far as not already in force) by [Traffic Management Act 2004 \(c. 18\)](#), **ss. 40(3)**, 99(1); S.I. 2004/2380, **art. 2(d)(ii)** (with **art. 3**); S.I. 2007/1890, **art. 2**, **Sch.**; S.I. 2007/3174, **art. 2**, **Sch.** (with **art. 4**)

#### Modifications etc. (not altering text)

- C1** S. 70 excluded (27.11.1992) by S.I. 1992/2984, **art. 9**
- C2** S. 70(3)(4): functions of a local authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by S.I. 1999/2106, **art. 2**, **Sch. 2 para. 19(1)**

#### Commencement Information

- II** S. 70 wholly in force: s.70(1)-(3)(5)-(7) in force at 1.1.1993 see **s. 170(1)** and S.I. 1992/2984, **art. 2(2)**, **Sch. 2**; s. 70(4) in force at 14.7.1992, see **s. 170** and S.I. 1992/1686, **art. 2**, **Sch.**

## 71 Materials, workmanship and standard of reinstatement.

- (1) An undertaker executing street works shall in reinstating the street 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) He shall also ensure that the reinstatement conforms to such performance standards as may be prescribed—
- in the case of interim reinstatement, until permanent reinstatement is effected, and
  - in the case of permanent reinstatement, for the prescribed period after the completion of the reinstatement.

This obligation is extended in certain cases and restricted in others by the provisions of section 73 as to cases where a reinstatement is affected by subsequent works.

- (3) Regulations made for the purposes of this section may make different provision in relation to different classes of excavation and different descriptions of street, and in relation to interim and permanent reinstatement.
- (4) The Secretary of State may issue or approve for the purposes of this section codes of practice giving practical guidance as to the matters mentioned in subsections (1) and (2); and regulations made for the purposes of this section may provide that—
- so far as an undertaker complies with such a code of practice he shall be taken to comply with his duties under this section; and
  - a failure in any respect to comply with any such code is evidence of failure in that respect to comply with those duties.

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- (5) An undertaker who fails to comply with his duties under this section commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F2</sup>level 5] on the standard scale.

#### Textual Amendments

- F2** Words in s. 71(5) substituted (4.10.2004 for E.) by [Traffic Management Act 2004 \(c. 18\), ss. 40\(1\)\(2\), 99\(1\), Sch. 1; S.I. 2004/2380, art. 2\(d\)\(i\)](#) (with art. 3)

## 72 Powers of street authority in relation to reinstatement.

- (1) The street authority may carry out such investigatory works as appear to them to be necessary to ascertain whether an undertaker has complied with his duties under this Part with respect to reinstatement.

If such a failure is disclosed, the undertaker shall bear the cost of the investigatory works; if not, the street authority shall bear the cost of the investigatory works and of any necessary reinstatement.

- (2) Where an undertaker has failed to comply with his duties under this Part with respect to reinstatement, he shall bear the cost of—
- a joint inspection with the street authority to determine the nature of the failure and what remedial works need to be undertaken,
  - an inspection by the authority of the remedial works in progress, and
  - an inspection by the authority when the remedial works have been completed.
- (3) The street authority may by notice require an undertaker who has failed to comply with his duties under this Part with respect to reinstatement to carry out the necessary remedial works within such period of not less than 7 working days as may be specified in the notice.

If he fails to comply with the notice, the authority may carry out the necessary works and recover from him the costs reasonably incurred by them in doing so.

- (4) If it appears to the street authority that a failure by an undertaker to comply with his duties under this Part as to reinstatement is causing danger to users of the street, the authority may carry out the necessary works without first giving notice and may recover from him the costs reasonably incurred by them in doing so.

They shall, however, give notice to him as soon as reasonably practicable stating their reasons for taking immediate action.

#### Modifications etc. (not altering text)

- C3** [S. 72](#): functions of a local authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by [S.I. 1999/2106, art. 2, Sch. 2 para. 1\(m\)](#)

## 73 Reinstatement affected by subsequent works.

- (1) The provisions of this section apply in relation to an undertaker's duty under section 71(2) to ensure that a reinstatement conforms to the prescribed performance

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standards for the requisite period; and references to responsibility for a reinstatement and to the period of that responsibility shall be construed accordingly.

- (2) Where a reinstatement is affected by remedial works executed by the undertaker in order to comply with his duties under this Part with respect to reinstatement and the extent of the works exceeds that prescribed, the subsequent reinstatement shall be treated as a new reinstatement as regards the period of his responsibility.
- (3) Where the street authority carry out investigatory works in pursuance of section 72(1) and the investigation does not disclose any failure by the undertaker to comply with his duties under this Part with respect to reinstatement, then, to the extent that the original reinstatement has been disturbed by the investigatory works, the responsibility of the undertaker for the reinstatement shall cease.
- (4) Where a reinstatement is affected by remedial works executed by the street authority in exercise of their powers under section 72(3) or (4) (powers to act in default of undertaker)—
  - (a) the undertaker is responsible for the subsequent reinstatement carried out by the authority, and
  - (b) if the extent of the works exceeds that prescribed, the subsequent reinstatement shall be treated as a new reinstatement as regards the period of his responsibility.
- (5) The following provisions apply where a reinstatement is affected by subsequent works in the street otherwise than as mentioned above.
- (6) If the reinstatement is dug out to any extent in the course of the subsequent works, the responsibility of the undertaker for the reinstatement shall cease to that extent.
- (7) If in any other case the reinstatement ceases to conform to the prescribed performance standards by reason of the subsequent works, the responsibility of the undertaker for the reinstatement is transferred to the person executing the subsequent works; and the provisions of this Part apply in relation to him as they would have applied in relation to the undertaker.
- (8) Where there are successive subsequent works affecting a reinstatement, then as between earlier and later works—
  - (a) subsections (6) and (7) apply in relation to the cessation or transfer of the responsibility of the person for the time being responsible for the reinstatement; and
  - (b) if the reinstatement ceases to conform to the prescribed performance standards by reason of the works or any of them, it shall be presumed until the contrary is proved that this was caused by the later or last of the works.

**Modifications etc. (not altering text)**

C4 S. 73(5)-(8) extended (27.11.1992) by S.I. 1992/2984, art. 11

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