
STATUTORY INSTRUMENTS

2012 No. 2547

HIGHWAYS, ENGLAND

The Traffic Management (Luton Borough Council) Permit Scheme Order 2012

Made - - - - *3rd October 2012*

Coming into force - - *5th November 2012*

The Secretary of State for Transport having approved the Luton Borough Council Permit Scheme under section 34(2) of the Traffic Management Act 2004⁽¹⁾ makes this Order in exercise of the powers conferred by sections 34(4) and (5) and 39(2) of that Act.

Citation and commencement

1. This Order may be cited as the Traffic Management (Luton Borough Council) Permit Scheme Order 2012 and comes into force on 5th November 2012.

Interpretation

2. In this Order—

“Luton Borough Council Permit Scheme ” means the permit scheme set out in the Schedule to this Order in terms commonly known as the “East of England Common Permit Scheme” which was prepared and submitted to the Secretary of State by Luton Borough Council and has been approved by the Secretary of State; and

“specified streets” has the meaning given by regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007⁽²⁾.

Commencement of Permit Scheme

3. The Luton Borough Council Permit Scheme comes into effect on 5th November 2012.

Application of Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007

4. Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 shall apply to the specified streets within the Luton Borough Council Permit Scheme.

(1) 2004, c.18.
(2) [S.I. 2007/3372](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Transport

3rd October 2012

Norman Baker
Parliamentary Under Secretary of State
Department for Transport

SCHEDULE

Article 2

LUTON BOROUGH COUNCIL PERMIT SCHEME



East of England Permit Scheme



Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

This document has been produced for the East of England Permit Scheme Local Highway Authorities, comprising of Hertfordshire County Council; Luton Borough Council, Southend-on-Sea Borough Council and Bedford Borough Council (owner(s)).

No part of this document may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic mechanical, photocopying, or otherwise, without either prior written permission of the owner(s).

© East of England Permit Scheme (2012)

Version (1.2). Released on 24 May 2012.

Permit Scheme Content

Permit Scheme Content	i
1 Background	3
2 Objectives of the Permit Scheme	5
3 Permit Scheme Principles for Coordination.....	7
4 Objectives and Benefits of the Permit Scheme	10
5 Common Elements with NRSWA.....	12
6 Permit Scope	14
7 Types of Permit	16
8 Permit Applications	18
9 How to Make a Permit Application	20
10 Content of Permit Applications.....	22
11 Timings of Permit Applications.....	26
12 Decisions with Regards to Permit Applications	31
13 Permit Variations	34
14 Revocation.....	37
15 Fees	38
16 Permit Conditions	41
17 Inspections	52
18 Sanctions.....	53
19 Dispute Resolution.....	57
20 Related Matters and Procedures	60

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.



21	Changes and Ceasing to Operate.....	68
22	Street Works Registers and National Street Gazetteer NSG.....	69
23	Monitoring and Evaluation	76
24	Transitional Arrangements.....	78
25	Permit Fee Payment.....	79
	Appendix A – Glossary	83
	Appendix B – Dis-applied Sections from the NRSWA(1991).....	98
	Appendix C - Modifications to NRSWA (1991).....	99
	Appendix D –Standard Conditions	101
	Appendix E –Conditions Upon Immediate Activities.....	103
	Appendix F – Application & Responses Times.....	104
	Appendix G – Disruption Effect Score.....	105
	Appendix H – Permit Fees.....	108
	Document Control Sheet.....	112

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

1 Background

- 1.1 This permit scheme, known as the East of England Permit Scheme or within this document as the "Permit Scheme", is based on Part 3 of the Traffic Management Act 2004 ("TMA") (sections 32 to 39) and the Traffic Management Permit Scheme (England) Regulations 2007 ("the Regulations"), Statutory Instrument 2007 No. 3372 made on 28 November 2007. All details in the Code of Practice for Permits dated March 2008 (*the "Code of Practice"*), apply, unless stated otherwise, within the Permit Scheme.
- 1.2 This document will be submitted under section 33(1) of TMA for approval by the Secretary of State for Transport as the "appropriate national authority".
- 1.3 The Permit Scheme is a "common" permit scheme (*in contrast to a joint permit scheme*) developed and operated by a number of local highway authorities in the East of England region, referred to as the "Permit Authority" or the "Permit Authorities". The Permit Scheme has a single set of "rules" which each Permit Authority operating the Permit Scheme applies independently to their own roads, subject to normal cross boundary liaison and co-operation. As individually operated schemes these have required an application and an Order for each participating authority. Where either a Design, Build, Finance and Operate (DBFO) or a "Contracting Out Order" is in force for an organisation, then it will be necessary for the authority controlling the contracting out provision or the DBFO contract to apply to operate this Permit Scheme on their behalf or pass that arrangement to the contracted out organization or the DBFO operator in accordance with current legislation.
- 1.4 The Permit Scheme (as a scheme defined within the TMA), is designed to control the carrying out of relevant activities on the public highway. It replaces the "notice system" under the New Roads and Street Works Act 1991 (NRSWA) whereby Statutory Undertaker companies inform highway authorities of their intentions to carry out works in their areas. It uses similar concepts to the notice system in a number of key areas, such as road categories and works categories. This is to ensure consistency and facilitate better co-ordination.
- 1.5 The Permit Scheme has been prepared by representatives of the highway authorities in the East of England region in compliance with the requirements set out in the Regulations.
- 1.6 In making the application to the Secretary of State under Regulation 3(1) to run this Permit Scheme, a full consultation in relation to the Permit Scheme was carried out which includes those stakeholders that are set out in Regulation 3(1).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 1.7 The highway and traffic authorities in the East of England region, to which the Permit Scheme applies, in preparing the Permit Scheme have also had regard to the requirements of the Equality Act 2010.
- 1.8 Careful consideration and attention has been given in developing the Permit Scheme to reflect the needs of pedestrians and motorists with disabilities. There has been wide ranging consultation with a number of groups well placed to assist on issues, which concern, in particular, those with disabilities.
- 1.9 A Permit Authority will apply the scheme across the whole of the area encompassed by that authority's boundaries.
- 1.10 The Permit Scheme applies to the road categories as set out in paragraph S1.3.1 of the Specification for the Reinstatement of Openings in Highways, Third Edition for each of the highway authorities operating the Permit Scheme. The Permit Scheme shall not apply to roads not maintained at the public expense. Within the Permit Authority's area permits will be required on all road categories.
- 1.11 To assist in the identification of the road categories each Permit Authority will provide, through any current NSG Custodian, an Additional Street Record for each street for which a permit to carry out activities is required.
- 1.12 The Permit Scheme will apply to a person or organisation responsible for commissioning activities [works] in streets covered by the Permit Scheme. In the Permit Scheme these persons or organisations will be referred to as a "Promoter" who will be either a statutory undertaker or a participating Council as a highway or traffic authority
- 1.13 Highway Authorities operating the Permit Scheme must apply for permits in the same manner as a Statutory Undertaker. All fees and charges for highway authorities will not apply in the application of the Permit Scheme, but shadow fees and charges should be collated and monitored in demonstration of "Parity".

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

2 Objectives of the Permit Scheme

- 2.1 Section 59 of NRSWA places a duty on highway authorities to co-ordinate works of all kinds on the highway. Equally important is the parallel duty on Statutory Undertakers to co-operate in this process under Section 60. The TMA and the associated Regulations widened the Section 59 coordination duty to include other prescribed activities that involve temporary occupation or use of road space and incorporates any activities included in a permit scheme.
- 2.2 The Permit Scheme has been prepared to take into consideration the fundamentals of street and road works while delivering the statutory duties. The key objectives of the Permit Scheme include:
- a) To ensure effective co-ordination
 - b) To ensure adherence to health and safety and CDM
 - c) To protect apparatus, assets and structures
 - d) To minimise disruption and inconvenience
 - e) To tackle congestion
 - f) To encourage good practice
 - g) To encourage collaboration
 - h) To provide better communication to all road users
 - i) To demonstrate parity for all Promoters
- 2.3 All works comprising and categorised as "specified works" will require a permit. Details regarding the description "specified works" requiring a permit are contained in Section 9.1 of the Code of Practice under the heading of "registerable activities". Registerable activities for the Permit Scheme are set out section 6.2.
- 2.4 Permits will be required for all registerable activities and works for road purposes except activities licensed under section 50. All applications must be made by licensed undertakers or highway authorities. Each application will be treated in a non-discriminatory way as required in Regulation 40. This will be monitored by conforming to the Chapter 20 Code of Practice which stipulates a number of Key Performance Indicators for use by a Permit Authority: KPIs 1 and 2 are mandatory.

KPI 1 - The number of permit and permit variation applications received, the number granted and the number refused;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

KPI 2 – The number of conditions applied by condition type.

- 2.5 In addition, members of the Permit Scheme will adopt KPIs 3 and 4 to demonstrate parity of treatment between their own road works and streets works undertaken by statutory undertakers:

KPI 3 - Number of approved extensions;

KPI 4 – The number of occurrences of reducing the application period.

- 2.6 These KPI's apply to both Road Works and Street Works and will be produced periodically by the Permit Authority and published to the Permit Authority website.
- 2.7 The Permit Authority accepts that when measuring KPI 3, a permit variation received from a Promoter may not specifically relate to a duration extension.
- 2.8 Any changes made to the KPIs included with the Code of Practice will also be affected by the Permit Authority to monitor the Permit Scheme.

3 Permit Scheme Principles for Coordination

- 3.1 All activities performed for the purposes of highway maintenance can reduce the width of the street available to traffic, pedestrians and other users. Highway activities can also inconvenience businesses and local residents. The scales of disruption experienced on the highway are relative to the type of activities being performed and the capacity of the street. Works where the traffic flow is close to, or exceeds, the physical capacity of the street may cause congestion and disruption. Small-scale works in non-traffic sensitive streets might only experience minimal delays to residents and delivery vehicles but the inconvenience they cause is an aspect of disruption that can still be an issue for residents.
- 3.2 Effective co-ordination and management by the Permit Authority is essential to ensure that traffic disruption is minimised whilst allowing Promoters the required time and space to complete their works.
- 3.3 The Permit Scheme is not intended to prevent or delay activities necessary for the installation of new services, maintenance or improvement of the road network, or the services running underneath it. The Permit Scheme aims to achieve parity and balance between the interests of the various parties.
- 3.4 Minor works and short duration activities, particularly in non-traffic-sensitive situations, are unlikely to cause significant disruption. However where smaller multiple activities are close together they can cause disruption. Effective co-ordination therefore needs to take into account proposals of every scale and duration.
- 3.5 Before any specified works are carried out on the specified street a permit must be obtained from the Permit Authority, in accordance to the Permit Scheme.
- 3.6 Under the Permit Scheme, all Promoter activities are treated in the same way with regard to coordination and the setting of conditions.
- 3.7 **Principles for Promoters**
- 3.7.1 It is essential that everyone involved in activities on the highway take both the Permit Scheme objectives and the broader TMA objective of expediting the movement of traffic into account. To meet these objectives the Permit Authority and Promoter must adhere to four key principles:
- i. The need to balance the potentially conflicting interests of road users, Promoters' and their customers;
 - ii. The importance of close co-operation and liaison between the two parties;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- iii. Acknowledgement that planned activity programmes and practices may have to be adjusted to ensure that the statutory objectives of the coordination provisions are achieved;
 - iv. The provision of timely, clear, accurate and complete information.
- 3.7.2 The Permit Scheme will give the participating authorities greater influence over how and when activities are carried out although the initial responsibility for planning, supervising and carrying out activities remains with the Promoter.
- 3.7.3 Promoters must consider the needs of all road users, including those with disabilities, whether they are pedestrians, cyclists or motorists, throughout the planning and execution of activities. All Promoters should also have regard to existing road activities and consider how their proposals will integrate with such activities and the broader operation of the local and strategic highway network. This has implications for:
- a) The timing of activities, for example, to avoid peak periods, the duration of the work, out of hours working;
 - b) The method works are carried out, including complying with;
 - i. Road safety, health and safety and CDM legislation;
 - ii. The effective management of noise, lighting and traffic management;
 - iii. The programming of activities, and;
 - iv. The coordination of activities with other Promoters.
- 3.7.4 Promoters must be prepared to discuss their proposals with other interested parties such as neighbouring authorities, bus operators, rail operators, schools, businesses and resident's. Where necessary, proposals may be required to be modified when appropriate and practical.
- 3.7.5 The greater the disruption an activity is likely to cause; the sooner the application must be made. Promoters should recognise that statutory application periods are a minimum and whenever possible longer periods of notice should be given. This benefits both the Permit Authority and the Promoter - if modifications are required, the earlier the Permit Authority informs the Promoter, the easier it will be for them to comply.
- 3.7.6 Promoters should also take into account the space needed for both the works and the storage of plant or materials when assessing the likely disruption an activity might cause. Where storage outside of the working space, including where appropriate in another street; it is required that the Promoter should consider impact not only on traffic disruption, but also the impact on the local environment. Conditions may be applied when storage of plant or materials could cause disruption or network congestion.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

3.8 Collaborative Working

- 3.8.1 Collaborative working within the Permit Scheme not only includes trench sharing between Promoters, but also provides opportunity for cooperation and coordination between Promoters with respect to concurrent activities on a single street. The primary objective of collaborative working is to coordinate activities so that they take place during a single road closure.
- 3.8.2 In addition to considering activities on a single street, when assessing the application for a permit the Permit Authority may also consider planned works nearby including planned works on the motorway and trunk road, if applicable, following consultation with the Highways Agency. The Permit Authority may seek opportunity for nearby works, on another street, but affecting the same traffic flow, to take place at alternative or similar timings in order to minimise the overall effect to traffic flow.
- 3.8.3 The Permit Scheme recommends and encourages Promoters to consider collaborative working when possible. It is understood that there are often issues in such arrangements with regards to contractual, CDM and site management requirements, but where possible every opportunity should be sought to minimise the disruption to users of the highway.
- 3.8.4 No permit fee will be charged for any permit where the works are carried out with collaborative working involving more than one other Promoter and/or trench sharing.

3.9 Forward Planning

- 3.9.1 Forward planning information on large-scale and potentially disruptive activities is included in the permits register at the earliest opportunity. This will enable Promoters to:
- a) Take part in early co-ordination;
 - b) Consider joint working;
 - c) Consider trench sharing;
 - d) Highlight other activities which need to be co-ordinated with these activities;
 - e) Produce reports for the Permit Co-ordinators.
- 3.9.2 For the purposes of forward planning, information supplied to the street works register should give as much detail as possible. The more information provided enables a more consistent and accurate coordination programme to be delivered. This information should be reviewed and updated regularly to include details as they are finalised. Forward planning information does not remove the need to apply for a Provisional Advance Authorisation or a permit at the appropriate time.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

4 Objectives and Benefits of the Permit Scheme

- 4.1 Any activity carried out in a street has the potential to cause disruption depending on its duration; location; scale and how it is carried out.
- 4.2 The strategic objective for the Permit Scheme is to provide a capability to manage and maintain the local highway network for the safe and efficient use of road space, whilst allowing Promoters access to maintain their services and assets.
- 4.3 Under this overarching objective, the principle of the Permit Scheme is to improve the planning, scheduling and management of activities so that they do not cause unnecessary traffic disruption to any road user.
- 4.4 The objectives mentioned above will help the Permit Authority meet their network management duty under the TMA. Coordination of activities through the Permit Scheme will enable differences between those competing for space or time in the street, including traffic, to be resolved in a positive and constructive way.
- 4.5 The delivery of this strategic objective will be achieved through the following sub-objectives:
 - a) to provide opportunities for commonality and cross boundary coordination.
 - b) to treat all activities equally, giving and fulfilling the parity mentioned frequently within the industry.
 - c) to provide a consistent framework so that Promoters can standardise their procedures across the East of England.
 - d) to proactively manage works on roads, thereby making the highway authority more responsible for its actions.
 - e) to apply a consistent approach to coordination across all roads and modes of transportation.
 - f) to enable businesses and Public Transport Operators to operate more efficiently through quicker and more reliable delivery of goods, services and access to customers.
 - g) to support the provision of a more reliable and better service of Public transport, potentially further relieving congestion on the road by attracting motorists onto public transport.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 4.6 Through the delivery of these objectives, the following benefits to be derived from the operation of the Permit Scheme have been identified::
- a) to minimise inconvenience and disruption caused by activities to people using the streets, including paying particular attention to providing for people with a disability;
 - b) to minimise congestion and delay to traffic (all modes), together with reducing associated pollution;
 - c) To minimise other impacts on the community and the environment;
 - d) to improve public awareness and journey planning through improved visibility of works and communication;
 - e) protect the structure of the street and the integrity of apparatus in it;
 - f) ensure safety – for those using, living or working on the street, including those engaged in activities controlled by the Scheme.
- 4.7 Works will always need to be carried out by Promoters, but people will be more understanding if they perceive that the activities are being managed by the Permit Authority and Promoters in ways that minimise impact. These quality of life factors are of particular relevance on the minor, more residential roads.
- 4.8 The "other impacts" include more general quality of life factors related to the effect that activities have on the lives of local people. This could include:
- a) consideration to the environmental impact of activities, for example where works involve excavating activities under the canopy of a tree, emphasis will be applied to the Promoter to adhere to the appropriate Code of Practice requirements when excavating.
 - b) minimising any impact where permission for the storage of materials or plant is required, outside of the main activity. The locations of these storage areas can create difficulties for traffic flows, for example business with deliveries.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

5 Common Elements with NRSWA

- 5.1 To facilitate working across highway authority boundaries, the Permit Scheme uses the same or similar definitions or requirements as used in the NRSWA notice system for:
- a) Registerable activities/works;
 - b) Categories of activities/works (Major, Standard, Minor and Immediate);
 - c) Street gazetteers, including street referencing by means of Unique Street Reference Number (USRN) and Additional Street Data (ASD);
 - d) Street reinstatement categories as defined in the Specification for the Reinstatement of Openings in Highways;
 - e) The distinction between main roads and minor roads, where such distinctions are relevant; and
 - f) Streets designated as protected, having special engineering difficulty or traffic sensitivity.
- 5.2 Highway Authorities operating the Permit Scheme must be set up to receive applications, issue and receive notices and otherwise communicate electronically. All such communications relating to works on the highway will be made using the Electronic Transfer of Notifications (EToN) system where ever possible.
- 5.3 All streets maintained by or on behalf of the Permit Authority are included within the Permit Scheme; these are the "specified streets" as set out in regulations. Trunk roads and motorways for which the Highways Agency is the highway authority are not included in the Permit Scheme.
- 5.4 Privately maintained streets are not included in the Permit Scheme, but will be added if they are subsequently adopted by the Permit Authority and shown as maintainable within the street gazetteer.
- 5.5 **Street Gazetteer**
- 5.5.1 Each Permit Authority will also operate and maintain a street gazetteer including a list of Unique Street Reference Numbers (USRN) and Additional Street Data (ASD).
- 5.5.2 Every highway authority has a Street Gazetteer which forms part of the National Street Gazetteer (NSG) which is held centrally on behalf of all local highway authorities by a custodian.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 5.5.3 In relation to permits, the term "*street*" refers to an individual USRN. Details about the Street Gazetteer, and the Additional Street Data associated with each street on the Street Gazetteer are maintained on the street works register.
- 5.6 **Streets with Special Designations and Controls**
 - 5.6.1 Streets designated under NRSWA with special controls, protected streets, streets with special engineering difficulty and traffic-sensitive streets, will have the same designations under the Permit Scheme.
- 5.7 **Reinstatement Categories**
 - 5.7.1 The reinstatement categories of streets used in the Permit Scheme are the same as the reinstatement categories under NRSWA.
 - 5.7.2 The reinstatement category, as given in the Additional Street Data must be treated as definitive. If any Permit Authority has not entered reinstatement categories for streets on the NSG, the streets will all be treated as category 4 for the purposes of the Permit Scheme and for overrun charges and other elements of NRSWA.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

6 Permit Scope

- 6.1 The Permit Scheme applies to all registerable activities as defined in Section 9.1.1 of the Code of Practice that are undertaken on any publicly maintainable highways that are the responsibility of participating highway authorities. The Permit Scheme does not apply to activities licensed under Section 50.
- 6.2 The term "registerable activities" corresponds to what are "specified works" under the Regulations. The following activities defined in the Regulations as specified works are registerable for all Promoters and information related to them has to be recorded on the register:
- a) All activities that involve the breaking up or resurfacing of any street;
 - b) All activities that involve the opening of the carriageway or cycleway of traffic sensitive streets at traffic-sensitive times;
 - c) All activities that require the use of any form of temporary traffic control as defined in the Code of Practice for Safety at Street Works and Road Works;
 - d) All activities that reduce the number of lanes available on a carriageway of three or more lanes;
 - e) All activities that require a Temporary Traffic Regulation Order or notice, or the suspension of pedestrian crossing facilities;
 - f) All activities that require a reduction in width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time;
- 6.3 Bar Holes which are used to detect and monitor gas leaks fall into the registerable category. When bar holes are carried out and it is known that no further activity in the street is required (such as when a gas leak is reported but none detected), a registration under Section 70 (3) of NRSWA should be sent within 10 ten days, once final monitoring checks have been established. The bar holes will count as a single excavation and reinstatement for registration purposes.
- 6.4 An application for a permit in respect of a bar hole must be made within two hours of the commencement of any other registerable activity (*i.e. excavation, or any other activity defined above*) associated with the bar holes. In this latter case, these bar holes will not count as further excavations and reinstatements for the purposes of registrations but will be incorporated with the registerable activity.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 6.5 Non registerable activities are activities which do not fall under criteria set out in section 6.2 and can take place without requiring a permit. If the circumstances change so that the work then falls under "registerable activities", the work must cease with the highway fully restored for use by all traffic, and the correct permit obtained.
- 6.6 The following activities are classed as non registerable:
- a) Traffic census surveys, as disclosure of this information prior to a census taking place can encourage a change to the normal pattern of traffic flows;
 - b) Pole testing which does not involve excavation does not require a permit; and
 - c) Fire service vehicles parked adjacent to fire hydrants being tested provided the work is done outside of traffic sensitive periods.
- 6.7 Permits are valid from the start date to the end date of the permit. The start and end dates are calendar days and will include weekends and bank holidays even if these are not working days, subject to the conditions on the permit. The permit will include information on the duration of the works.
- 6.8 Even when a permit has been issued there may be reason for an earlier start to the planned activity that has been applied for –such agreement for this early start will be confirmed by the issue of a permit. In certain circumstances the request for an earlier start may be at the Permit Authority's request. If the Permit Authority has requested an earlier start then there will be no fee charged for the issue of this a permit.
- 6.9 All registerable activities for which a permit is required, but has not been granted cannot be carried out without committing an offence. Works for emergency purposes can commence with a subsequent permit application, as defined within the Permit Scheme.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

7 Types of Permit

- 7.1 The Permit Scheme provides for the establishment of different classes of permit. The Permit Scheme therefore establishes that the requirements shown in Chapter 10 of the Code of Practice applies.
- 7.2 The Permit Scheme has been designed so that:
- a) In relation to category 0, 1, 2, and traffic sensitive streets, the planned commencement date and finishing date for the activity are the start date and end date respectively on the permit. The permit is not valid before the start date on the permit and ceases to be valid once the end date has passed.
 - b) On category 3 and 4 streets that are not traffic sensitive, permit start and end dates allow for flexibility in the start of the activity, but once the activity is started it must be completed within the activity duration period specified in the permit. The starting window is five working days for major and standard activities and two working days for minor activities. This is in line with the validity period within the NRSWA notice system.
- 7.3 **Provisional Advance Authorisation (PAA)**
- 7.3.1 Within the Permit Scheme under Regulation 11 a provisional advance authorisation must be obtained as part of the application process for certain classes of permits. PAAs are a means of enabling significant activities to be identified, co-ordinated and programmed in advance, by allowing activities to be provisionally "booked in" by the Permit Authority pending the subsequent decision on whether, and with what conditions, to issue a permit for the activities. They are in many ways equivalent to advance notices issued under s54 of NRSWA.
- 7.3.2 The Permit Scheme incorporates a requirement for PAAs in relation to major works, but not in relation to other work. The PAA application must be submitted not less than three months in advance of those activities or as agreed with the Permit Authority. The information required in support of an application for a PAA is equivalent to that required in support of an application for a permit although very detailed information may not be known at this early stage.
- 7.3.3 It is recognised that in accordance with the Technical Specification for EToN where a major activity does not involve asset activity a PAA cannot be generated and therefore in such circumstances a permit application will be made in the first instance.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 7.3.4 In circumstances where a PAA has been granted, but a full permit has not yet been issued and proposals change, the Promoter must inform the Permit Authority of the proposed changes and the Permit Authority will indicate whether or not a new application for PAA or permit must be made by the Promoter.
- 7.3.5 This reflects the importance of ensuring that PAAs can be properly considered and issued in the expectation that a permit will ultimately be issued for the activities. The purpose of the PAA is to allow the Promoter to advise that he or she has work to undertake and would like to provisionally reserve workspace on the highway, although it must be made clear [Regulation 11(5)] that the issue of a PAA does not guarantee that a permit will subsequently be issued. In keeping with this purpose, the Permit Scheme requires an application for a PAA to specify proposed start and end dates for the relevant activities, although there is sufficient flexibility to enable the dates to be reasonably adjusted when a permit is ultimately issued.
- 7.3.6 For major works the Promoter will be required to provide the final detailed information in support of the application for a permit at least 10 days before the activity is due to commence.
- 7.3.7 The Permit Scheme encourages the earliest visibility for planned major activities and as such any Promoter who provides a PAA at least six months prior to the proposed activity date and does not vary the proposed works will not be charged a Fee for the PAA or permit application.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

8 Permit Applications

- 8.1 The information which shall accompany a permit application is set out within Section 10.14 of the Code of Practice and section 10 of this document. This information should, wherever possible be supplied electronically using the EToN system and must be within the timescales as set out in Appendix F of this document.
- 8.2 Applicants should also note that in line with Regulation 9(9), the Permit Scheme requires Promoters applying for permits or Provisional Advance Authorisations to copy their applications to any authority, Statutory Undertaker or other relevant body that has requested to see notices or permit applications on certain streets.
- 8.3 Whilst the Permit Scheme is a Common Permit Scheme, where an activity crosses the boundary between Permit Authorities, the Promoter must apply for a permit from each authority. Where an activity crosses the boundary between a Permit Scheme and an area where noticing under NRSWA is used, both regimes will need to be followed. However permit fees are only payable to a Permit Authority.
- 8.4 The minimum times within which applications must be made are set out in Section 11 and Appendix F of this document. Promoters are however encouraged to contact the Permit Authority early so that conditions can be discussed and, if possible, an agreement can be reached so that the application is approved quickly. Early applications will improve the co-ordination process and enable the Permit Authority to better control activities that take place on the highway.
- 8.5 **Activity Categories**
- 8.5.1 Applications from Promoters when booking road space through the Permit Scheme must use the following activity categories: Major, Standard, Minor and Immediate (*defined below*).
- 8.5.2 **Major Activities** are defined as those activities which:
- a) have been identified in a Promoters' annual operating programme or are normally planned or known about at least six months in advance of the proposed start date for the activity; or
 - b) require a Temporary Traffic Regulation Order (i.e. not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities other than immediate activities; or
 - c) have a duration of 11 days or more, other than immediate activities.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 8.5.3 **Standard Activities** are defined as those activities, other than immediate or major activities, that have a planned duration of between four and ten days inclusive.
- 8.5.4 **Minor Activities** are those activities, other than immediate or major activities, where the planned duration is three days or less.
- 8.5.5 **Immediate Activities** are either:
- a) emergency works, which are defined in section 52 of NRSWA, are works required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property. This applies to both street works and works for road purposes which fall within the definition of activities. The term also includes activities not falling within that definition but which cannot be severed from those that do - such as activities away from the emergency site that are necessary to shut off or divert a supply; or,
 - b) remedial works for dangerous defects are classed as emergency works (*but there will be a need to cross reference these to the parent activity*); or,
 - c) urgent activities which are defined in the Regulations as activities:
 - i. (*not being emergency works*) whose execution at the time they are executed is *required (or which the person responsible for the works believes on reasonable grounds to be required)*;
 - ii. to prevent or put an end to an unplanned interruption of any supply or service provided by the Promoter;
 - iii. to avoid substantial loss to the Promoter in relation to an existing service; or
 - iv. to reconnect supplies or services where the Promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and,
 - v. includes works that cannot reasonably be severed from such works.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

9 How to Make a Permit Application

- 9.1 Where the Permit Scheme is in operation, any Promoter as prescribed in the Regulations who wishes to perform or carry out an activity must first obtain a permit from the relevant Permit Authority. This permits the Promoter to carry out the specified activity, at the specified location, between the dates shown and agrees the conditions which may be attached.
- 9.2 The timings of applications will vary according to the proposed activity, however where early applications are received, the Permit Authority will be able to give better advice in relation to the use of conditions, requirements and deliver more effective coordination especially in the cases of major works.
- 9.3 Permit applications, wherever possible, must be made electronically using the EToN system, but where this is not possible, they may also be made by alternative means, i.e. by fax, email, post or hand delivery.
- 9.4 The definitive format and content of both paper and electronic permit applications is given in the Technical Specification for EToN, and all applications must comply.
- 9.5 The description of activities must be in plain English without any industry specific jargon. A standard description used consistently, with added text for exceptions, allows quicker analysis resulting in clearer information and helps a Permit Authority to co-ordinate activities. Promoters and the Permit Authority are encouraged to agree standard descriptions locally that can be used by all Promoters.
- 9.6 **The Application Process**
- 9.6.1 A permit application process starts when the recipient receives the application not when it was sent. In most cases when using EToN this process should be almost instantaneous and would be assumed that the application was received at the time it was given.
- 9.6.2 Where a permit application has failed three times by EToN and the notice or application cannot be sent for reasons such as server failure, notification can be given by fax or telephone for immediate activities with a formal EToN application sent as soon as reasonably practical. Where the activity falls into Major, Standard or Minor an application can be made by other electronic means such as email or fax.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 9.6.3 It is assumed that notices or applications sent by fax have been received when transmitting equipment records satisfactory completion of transmission. Other methods of making applications include by post or by hand, but the postal method may not guarantee that the application will be received on the next working day. Following recovery of the EToN system a retrospective application should be sent through to the relevant Permit Authority so that works are recorded correctly on the street works register.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

10 Content of Permit Applications

- 10.1 All permit applications received by the Permit Authority must contain a required level of information in order for the Permit Authority to properly assess an application. Details such as duration, location, timings, method and traffic management provisions must be indicated on applications. The permit application must contain the following information:
- a) **The Street** - An application shall relate to proposed activities in only one street. A street for these purposes should correspond to a USRN.
 - b) **Detailed Description of Activity and Collaborative Promoters** - For all works a detailed description of the activity, clearly setting out what the works are and their purpose must be provided to allow the Permit Authority to assess its likely impact. Where collaborative working is proposed the Promoter must provide a detailed description of the collaborative scheme of works.
 - c) **Contact Details** – each application must include the contact details of the person appointed by the Promoter to deal with problems that may occur during the activity, including the provision made for out-of-hours contact by the Promoter. Where collaborative works are to be performed, the identity of the lead Promoter must also be provided.
 - d) **Location** - Promoters must give an accurate location using a spatial feature (point, line or polygon) covering the extent of the works area based on National Grid References (NGRs). The space identified needs to cover all the area used by the activity, including for storage of materials, working space, safety zone, provision for pedestrians and traffic management (as applicable).
 - e) **Duration** - Each application for a permit must include proposed start and end dates of the works which in effect will be the date from which the Promoter requires the road space until the road space is no longer required. The dates included on the permit are calendar days, not working days. Details of the times of day when the activity is to be carried out must also be provided, including any proposal to work at night. If the Promoter proposes to undertake activity on weekends or Bank Holidays to speed up the activity and reduce disruption, then this must be included with the application. This information will be taken into account when imposing conditions on the permit.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- f) **Illustration** - Promoters should provide an illustration of the activity with their application for a permit where they consider there is potential for disruption due to the position and size of the activity. Illustrations where provided, should be based on an extract of the plan held by the Promoter showing the location of their apparatus at the site in question. Promoters are encouraged to provide illustrations in appropriate cases as in situations where the Permit Authority requires an illustration and this has not been submitted as part of the application, this application will be refused with a request for the illustration to be provided.

The illustration must include details of the activity, whether it is likely to affect more than one lane of the street. The Technical Specification for EToN provides appropriate details as to the form of such illustrations, but plans, digital photographs and similar would normally be required. How the illustration is to be transmitted can also be found in the Technical Specification for EToN. Activities on those streets, or parts of a street, subject to a Special Engineering Difficulty designation will in any case require a plan and section as indicated in NRSWA Schedule 4 (2).

For certain activities and/or locations, the Permit Authority may request additional information in relation to contingency plans for expedient removal of site occupation, as part of the application.

Where it is not possible for a Promoter to submit an illustration to the Permit Authority using EToN, then the Promoter should contact the Permit Authority in the first instance to discuss and agree an alternative method.

- g) **Method** - Details of the proposed techniques, such as open cut, trench share, minimum dig technique or no dig must be provided.
- h) **Traffic Management, Parking and Traffic Regulation Orders/Notices** - Where traffic management proposals will be required as a consequence of the proposed works then a description of the proposals and when they will be instituted as part of the works must be provided in the application.

Any requirement for action on the part of the Permit Authority, including those listed below, must be included within the application:

- (i) the need to make Temporary Traffic Regulation Orders (TTROs);
- (ii) Notice to suspend parking restrictions;
- (iii) to give approval for all multi-way portable traffic signals;
- (iv) to give approval for 2 way portable traffic signals on traffic sensitive streets;
- (v) to give approval for the storage of materials or plant on the highway;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (vi) to give approval for the deactivation of permanent traffic signals; and
- (vii) to give approval for the closure of controlled pedestrian crossings.

An associated traffic management plan for traffic sensitive streets must be provided within the application, together with justification for use of 24 hour portable traffic signals. The costs associated with these are not within the scope of the permit fees and will be separately applied.

- i) **Inspection Units** - To ensure consistency the Permit Authority require applications to include the provisional number of estimated inspection units appropriate to the activity, in accordance with the rules laid down in the Inspections Code of Practice and in The Street Works (Inspection Fees) (England) (Amendment) Regulations 2004.
- j) **Site Depth** - Permit schemes should require that Promoters provide their best estimate of the excavation depth as part of the application. While this might be expressed as a range, it should nonetheless provide a meaningful indication of the nature and extent of activity involved.
- k) **Reinstatement Type** - The application must, wherever possible, indicate whether the activity is intended to be completed with interim or permanent reinstatement or a mixture of both.
- l) **Proposed Conditions** –Promoters are encouraged to support their applications with suitable conditions should they find that the location, type of work to be undertaken, road category or any other site based circumstance require consideration.

The approach adopted by the Technical Specification for EToN, is based on the Promoter including conditions in their permit application. If the Permit Authority does not agree with the condition(s) applied or requires additional conditions then the permit can only be refused with an inclusion of a comment to reflect the change required. This will require a new permit application to be submitted by the Promoter. The Permit Authority will consider all permit applications on an equal basis.

10.2 Form of the Issued Permit

- 10.2.1 A permit will be issued in accordance with the Technical Specification for EToN. A permit application will be generated by the Promoter and granted by the Permit Authority, unless the application is deemed to have been granted where no refusal has been issued within the specific period. The permit will contain all relevant conditions so that there is no ambiguity about the validity and terms of the permit.
- 10.2.2 In accordance with Regulation 12 and as allowed within the Technical Specification for EToN, each permit will have a unique reference number

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 10.2.3 For all permits it is a requirement that where there are any other linked permits, references to those other linked permits must also be included with the permit. This is a standard condition of this Permit Scheme.
- 10.2.4 Where remedial works are to be carried out following completion of permitted works a new permit is required. This new permit must cross-reference the original activity. This is a standard condition of the Permit Scheme.
- 10.2.5 Where a Promoter is making an application for a permit or variation as a result of a Permit Authority action, *for example in circumstance where the Permit Authority has imposed a variation*, it is recommended that they include a comment to this effect within their application. If applicable, reference to another relevant permit application can also be included.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

11 Timings of Permit Applications

- 11.1 For effective planning and co-ordination, information needs to be provided to the Permit Authority in good time. In accordance with the advice contained in the Statutory Guidance, the Permit Scheme provides for the minimum time periods before the proposed start date of an activity by which time the relevant permit application needs to be made by the Promoter and a subsequent response made by the Permit Authority.
- 11.2 It is essential that applications for permits and variations are made in a timely manner.
- 11.3 The Permit Authority is aware of the need to be proactive in running a scheme. Time limits have been set out in Appendix F of the Permit Scheme committing the Permit Authority to respond to applications within set periods. For consistency across boundaries, the Permit Scheme has used the time periods set out in the Table in Section 11.3 of the Code of Practice.
- 11.4 A "response" for these purposes means a decision to grant or refuse a permit, but where there are reasons why the permit cannot or should not be granted in the terms applied for (*e.g. because of insufficient or obviously incorrect information or because of a clash with other activities*), the response indicating that a permit will not be granted in those terms will explain the reasons, which will enable the Promoter to make a revised and compliant application.
- 11.5 **Timing of Applications and Responses**
- 11.5.1 The time period is measured from the time of receipt of the application by the Permit Authority. The EToN system will provide an auditable record the actual date and time for the receipt of the application; however the calculation of the application and response time for a permit received after 16:30 will use the next working day as the effective start date.
- 11.6 **Minimum Application Times – Major Activities**
- 11.6.1 Under the Permit Scheme, for a major activity Promoters are required to apply for both a PAA at least three months in advance of the proposed activity and a permit ten days before the activity is due to start.
- 11.6.2 In accordance with the Technical Specification for EToN where a major activity does not involve asset activity a PAA cannot be generated and therefore in such circumstances a permit application will be made in the first instance.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

11.7 Minimum Application Times - Standard Activities

11.7.1 A permit application for standard activities is required ten days before the proposed start date.

11.8 Minimum Application Times - Minor Activities

11.8.1 A permit application for minor activities is required three days before the proposed start date.

11.9 Minimum Application Times - Immediate Activities

11.9.1 In order not to prevent activities that are necessary for emergency or urgent reasons, the Permit Scheme provides that these works may proceed without a permit given their nature. Promoters must apply for a permit within two hours of the immediate activity commencing or, in the case of the works commencing out of normal working hours, within two hours of the start of the next working day.

11.9.2 In all instances of an Immediate Activity, the Promoter must telephone the Permit Authority immediately after works commence on such streets where such a requirement is designated by the Permit Authority (*as indicated in the ASD for that Permit Authority*). This is a standard condition for the Permit Scheme.

11.10 Non Compliance with the Minimum Application Times

11.10.1 Early Starts

11.10.2 Where it is not possible for a Promoter to adhere to the minimum application times then the Permit Authority may consider applications where mitigating circumstances justify this failure. Permission to allow a Promoter to submit such an application is solely at the discretion of the Permit Authority and will only be given exceptionally.

11.10.3 Where an application is granted, *thereby providing such permission*, it will be recorded by the Permit Authority. Where permission is not granted the application will be refused.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

11.10.4 Variations and Extensions

11.10.5 To vary or extend a permit, an application must be made by the Promoter a minimum of two days before the permit expires or at a point when the existing permit has more than 20% of its duration to run, whichever is the longer.

11.10.6 Where the Promoter fails to apply for a permit variation or extension within the relevant time limits, the Permit Authority may consider applications to vary or extend permits where the Promoter is able to provide mitigating circumstances justifying the failure to adhere to the relevant timings.

11.10.7 It may be relevant for the Permit Authority to take account of the need to avoid the Promoter leaving the project site unnecessarily. Permission to allow a Promoter to submit such an application is solely at the discretion of the Permit Authority and will only be given exceptionally

11.10.8 Agreement Process

11.10.9 In situations where a Promoter cannot comply with the minimum application times, they must initially contact the Permit Authority to discuss the application and the associated justification. At such time the Permit Authority may agree for the application to be submitted.

11.10.10 In circumstances where the Permit Authority will accept such an application, the Promoter should then submit a relevant application to the Permit Authority – providing the detail and justification within the application - in order to obtain a formal grant for the early start, variation or extension to the permit.

11.11 Maximum Response Times

11.11.1 Appendix F of the Permit Scheme sets out the time limits within which a Permit Authority can respond to applications. It is essential that a Permit Authority replies to permit applications within the given response times. If it fails to do so, the permit is deemed to be granted in the terms of the application.

11.11.2 A "response" for the purposes of the Permit Scheme means a decision to grant or refuse a permit. Where there are reasons why the permit cannot or should not be granted in the terms applied for (e.g. because of insufficient or obviously incorrect information or because of a clash with other activities), the response indicating that a permit will not be granted in those terms will explain the reasoning, which will enable Promoters to make a revised and compliant application.

- 11.12 Response Times - Major and PAAs**
- 11.12.1 In respect of major activities the maximum response time for issuing a PAA is one calendar month from the date of receipt of the application and in respect of an application for a permit, five days from the date of receipt of the application.
- 11.13 Response Times - Standard Activities**
- 11.13.1 In respect of applications for a permit for standard activities, the maximum response time is five days from the date of receipt.
- 11.14 Response Times - Minor Activities**
- 11.14.1 In respect of applications for a permit for minor activities, the maximum response time is two days from the date of receipt.
- 11.15 Response Times - Immediate Activities**
- 11.15.1 In respect of applications for immediate activities the maximum response time is two days from the date of receipt. Works of this nature may proceed without a permit; however the Permit Authority may consider making the activity subject to conditions or refusing the permit application. .
- 11.16 Response Times - Variations to Permits**
- 11.16.1 In respect of applications to vary a permit the maximum response time is two days from the date of receipt.
- 11.16.2 There is no provision for the variation of a PAA.
- 11.17 Phasing of Activity**
- 11.17.1 One permit can only relate to one phase of an activity. A phase of an activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of the works, for example a separate permit would be required for interim and permanent reinstatements.
- 11.17.2 The dates given in a permit application and in the issued permit will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 11.17.3 A Promoter must clarify when an activity is to be carried out in phases on the application. Each phase will require a separate permit and, if a major activity involving asset activity also a PAA, which will be cross referenced to the other permits.
- 11.18 Phased activities must relate to the same works.
- 11.19 **New customer connections**
- 11.19.1 A new main or cable run, which includes new customer connections, can be classed as one phase if all the work is completed in a single occupation of the street. Otherwise a new permit must be obtained for the customer connections stage.

12 Decisions with Regards to Permit Applications

- 12.1 The Permit Authority reaching a decision on an application for a permit must act reasonably and in particular will consider whether issuing the permit will accord with the statutory duties to co-ordinate and to manage the network and the objectives of the Permit Scheme.
- 12.2 When reaching decisions on permit applications, the Permit Authority will consider all aspects of the proposed activity and other influences that may affect traffic. These include but may not be limited to:
- a) The road network capacity;
 - b) Safety (major impacts such as on traffic signal operation);
 - c) The scope for collaborative working arrangements, including trench and duct sharing between Promoters;
 - d) The overall effect upon the local and regional highway network;
 - e) The optimum timing of activities from all aspects;
 - f) The effect on traffic, in particular, the need for temporary traffic restrictions or prohibitions;
 - g) Appropriate techniques and arrangements particularly at difficult road junctions and pinch points;
 - h) The working arrangements required in protected and traffic-sensitive streets, and streets with special engineering difficulties;
 - i) The effect of skip, scaffold, storage and hoarding licences, pavement licences, any known special events and other licences or consents issued in respect of affected streets under the Highways Act 1980;
 - j) The environmental impact of the proposed works;
 - k) Developments for which planning permission has been granted on streets affected by the works;
 - l) The benefits to be achieved from extended working hours;
 - m) Effect of a planned activity to public transport routes;
 - n) contingency plans for expedient removal of site occupation.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

12.3 Permit Issue and Deemed Permit

- 12.3.1 Where the Permit Authority is content with the proposal having taken into account all relevant matters set out in an application and any other material considerations, including ensuring the statutory duties to co-ordinate and to manage the network and that the Permit Scheme objectives are met, it will issue a permit to the Promoter within the response times.
- 12.3.2 The permit will cross reference the details provided in the application, including any associated documentation such as drawings, and any conditions imposed by the Permit Authority. For details and requirements of permit contents please refer to Section 10.
- 12.3.3 Where the Permit Authority fails to respond within the response times then the permit is deemed to be granted and in such terms only as reflected in the application. In such circumstances there will be no fee charged.

12.4 Refusal of Permit Applications

- 12.4.1 Whilst a Permit Authority cannot refuse legitimate activities, it can refuse a permit application if elements of the proposed activity, such as timing, location or conditions are not acceptable when measured in accordance with the relevant factors as referred to in Section's 9 and 10. In such cases the Permit Authority will contact the Promoter as soon as possible and within the response period specified in Appendix F, to explain precisely why the application is not satisfactory and which aspects need modification.
- 12.4.2 A Promoter may cancel an application by way of an electronic works notice at any point up until the Permit Authority has either granted or refused the application. No fee will be charged for the cancellation or withdrawal of an application under these circumstances.
- 12.4.3 There is no legislation that states a Promoter has to respond to a works comment within specific time limits, however the clock for reply keeps running even though queries have arisen. Time limits are provided for reply because both the Permit Scheme and the Code of Practice state that if agreement cannot be reached in the time available, the Permit Authority will have no option but to refuse the permit.

12.5 Examples of Reasons for Refusal

- 12.5.1 The following provides examples of matters that are likely to lead to applications being refused or subject to requests for further information or modification:

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- a) **Overlapping Activities** - Where other activities are scheduled to take place in the same street, or other streets affected by the proposed activity, at the same time, the authority may refuse a permit for the period requested but propose to grant it for different times. Information about some other activities is available to the Promoter through the Permit Register, so in such situations the Promoter must contact the authority to discuss acceptable options before applying for a permit. In appropriate cases the Permit Authority will encourage collaboration between Promoters.
- b) **Timing and Duration** – A Promoter must ensure when making an application for a permit that the proposed duration of the activity takes into account both his legitimate need to complete the activity in an efficient and economic manner and the legitimate interests of other users of the highway. The Permit Authority may query the proposed duration, for example on the grounds that:
 - i. it can be completed more expeditiously or, that realistically, not enough time has been allowed; or,
 - ii. that the specific dates and times proposed may clash with other proposed activities or events which occupy road space, in such a way as to be likely to cause an unacceptable level of disruption.
- c) **Location of Activity** - A permit must specify the location where the activity is to take place. The Permit Authority may refuse to issue a permit due to the proposed location of the activity. This is a similar power to that under Section 56A of NRSWA *i.e. where the location of a proposed activity is unacceptable to the Permit Authority because the street in which the works are proposed is already heavily congested with underground services, or has an important traffic function, yet does not warrant protected street status.*

Refusals on this basis would only apply:

- i. In relation to the installation of new apparatus - it cannot be used to require existing apparatus to be moved, or
- ii. Where disruption would be reduced by installing the apparatus in an alternative street where it is reasonable to use the alternative street or a different location within the same street.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

13 Permit Variations

- 13.1 In accordance with Regulation 15, the Permit Scheme allows for the variation of permits and for conditions to be attached to permits. This is important as it allows the Permit Authority, to actively manage other activities on the network in the light of changing circumstances. Variations can take place at any time after the permit has been issued and before the activity has commenced or during the activity itself. However applications by the Promoter, if a variation is required, must be made before the permit end date is passed.
- 13.2 PAAs cannot be varied. In circumstances where a PAA has been given but a full permit has not yet been issued and proposals change, the Promoter must inform the Permit Authority of the proposed changes and the Permit Authority will indicate whether or not a new application for a PAA or permit must be made by the Promoter.
- 13.3 Error corrections are to be made in accordance with the Code of Practice Chapter 10.16.
- 13.4 In accordance with Regulation 15 (2) applications by the Promoter to vary a permit or to vary permit conditions must be made in the following way:
- a) Where the existing permit has more than 20% of its duration or more than two working days to run, whichever is the longer, the Promoter shall apply for a variation; or
 - b) In any other case the Promoter shall first contact the Permit Authority to ascertain whether the authority is prepared to grant a variation and only apply, if the authority is so prepared.
- 13.5 Activities can be particularly subject to change where a Promoter has to make several excavations or registerable openings of the street in order to locate a fault. An example would be where gas had migrated along a duct to emerge from the ground some distance from the actual leak. In such circumstances the Permit Authority will comply with section 48 of the Statutory Guidance. While the Permit Scheme seeks to avoid too many permit variations, it is nonetheless important that the Permit Authority knows what is going on so that they can coordinate and manage these and other works in the area.
- 13.6 For multiple excavations the first application will contain the location of the initial excavation or opening. If any further excavations are required, refer to the Code of Practice paragraph 12.2.5.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

13.7 Variation at Permit Authority's Initiative

- 13.7.1 In accordance with Regulation 15 (3) the statement of policy as to the circumstances in which a Permit Authority will vary permits on its own initiative is set out below (*the issue of revocation of permits is addressed separately in Section 14*).
- 13.7.2 One of the main features of Permit Scheme is that it effectively allows road space to be "booked" by Promoters for their activities.
- 13.7.3 Once the permit is issued it will provide the Promoter with reasonable confidence that the road space will be available for them. Nevertheless, even when a permit has been issued by the Permit Authority, circumstances beyond the authority's control may cause the authority to have to review the permit and may lead them to conclude that the permit or its conditions need to be changed.
- 13.7.4 Such changes will be the exception and will only happen when the new circumstances could not have been reasonably predicted or where the impact is significant. Examples of such circumstances include:
- problems which would lead to traffic being diverted onto the road where an activity was underway or about to start, but the permit had been issued.
 - roads closed by floods or burst mains;
 - a dangerous building or structure;
 - an unexploded bomb;
 - a significant traffic disruption has ensued;
- 13.7.5 If the consequent disruption cannot be mitigated in a better way it may then be necessary to vary the permit for the activity *e.g. by changing the time or manner of working*.
- 13.7.6 In such circumstances the Permit Authority will first contact the Promoter to discuss the best way of dealing with the situation whilst meeting the co-ordination duties and other statutory requirements of those involved. The aim of those discussions is to try to reach an agreement and see if a variation is a feasible option.
- 13.7.7 If agreement is reached, the Permit Authority will issue an Authority Imposed Variation to the Promoter. The Promoter may then either cancel the existing permit and apply for a new permit in those terms; or they may apply for a permit variation. The latter will be more appropriate if the Promoter needs to reconsider elements of its plans within the parameters agreed with the authority.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 13.7.8 If agreement cannot be reached, the Permit Authority will then revoke the permit. The Promoter would have the option of invoking the dispute resolution procedure where it disagrees, set out in Section 19.
- 13.7.9 No fee is payable for either the permit variation, or a new permit for the original planned activity if appropriate, as a result of a variation initiated by the Permit Authority. If at the same time the Promoter seeks a variation which is not the result of the circumstances causing the Permit Authority's action, a variation fee would be payable, subject to the exemptions in Section 15.
- 13.7.10

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

14 Revocation

- 14.1 There is no mechanism in the Permit Scheme for formally suspending or postponing a permit, only for varying or revoking one. If the Permit Authority has to suspend or postpone an activity for which it has already given a permit but which it intends must happen at a later date, the Permit Authority will contact the Promoter and agree that a variation is submitted by the Promoter. There will be no fee for this permit variation.
- 14.2 If the Promoter wishes to cancel a permit for which they have no further use, they must use the cancellation notice as specified in the Technical Specification for EToN. There is no fee for such a cancellation notice, but there will be no refund of the fee required for issuing the permit.
- 14.3 The Permit Authority can revoke a permit at its own initiative; in particular, it has the power to do so under Regulation 10(4) where there has been a breach of a condition (*which is also a criminal offence*). In such circumstances the Permit Authority may use the provisions replacing section 66 of NRSWA to clear the street, if required, namely the provisions under Regulation 18 - referred to in Section 18 of the Permit Scheme.
- 14.4 In accordance with Regulation 15 (3) the statement of policy as to the circumstances in which a Permit Authority will revoke permits on its own initiative is as follows.
- a) As with variations where circumstances arise which cause the authority to have to review the permit, they may lead them to conclude that the permit needs to be revoked rather than simply being varied.
 - b) Revocation will be the exception and will only happen when the new circumstances could not have been reasonably predicted or where the impact is significant.
- 14.5 No charge will be made for revocation where a permit is revoked on the Permit Authority's own initiative. If as a result of the revocation a Promoter has to apply for a new permit there would be no fee for the new permit, except where the original permit is revoked as a consequence of any action or omission on the part of the Promoter.
- 14.6 In these circumstances, revocation will only be used as an alternative to criminal action, where it is reasonable, taking into account the nature of the breach and where it is proportionate.
- 14.7 Where the Promoter disagrees with the Permit Authority's decision in any of the above respects, then the Promoter would have the option of invoking the dispute resolution procedure detailed in Section 19.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

15 Fees

- 15.1 In accordance with the provisions set out in Section 37 of the TMA and Regulation 30, the Permit Authority may charge a fee for each of the following:
- a) the issue of a permit;
 - b) an application for a permit, where the Permit Scheme requires a Provisional Advance Authorisation to be obtained as part of that application; and
 - c) each occasion on which there is a variation of a permit or the conditions attached to a permit.
- 15.2 The Permit Authority will charge Fees in accordance with Regulation 30.
- 15.3 Permit fees do not include costs charged or recoverable by highway authorities in relation to consents or other requirements such as for Temporary Traffic Orders or Notices or parking suspensions related to other works being carried out.
- 15.4 It is not the purpose of fee charging under the Permit Scheme to generate revenue for the Permit Authority; although subject to the constraints set out a Permit Authority may cover its costs.
- 15.4.1 Fees are payable by Statutory Undertakers, but highway authorities are not charged. This is due simply to the fact that the money charged would only circulate around a highway authority. However to promote good practice the Permit Authority is encouraged to use a shadow charging arrangement to show the cost of issuing permits to its own Promoters both to help understand its own costs and to set those alongside the costs to other Promoters. This is not a statutory requirement and it is not a requirement of the Permit Scheme.
- 15.5 **Level of Fees**
- 15.5.1 The Secretary of State in making an order for the Permit Scheme will have considered the fee levels and the justification for them as part of the application to operate the Permit Scheme.
- 15.5.2 The Regulations and Statutory Guidance set maximum fees the Permit Authority may not exceed. The fees are structured to reflect the greater work involved in handling larger activities and busier roads.
- 15.5.3 With regard to the variation of permits, the Regulations and Statutory Guidance set a maximum flat fee for permit variations initiated by the Promoter with a lower fee for category 3 and 4 non traffic-sensitive streets and a higher fee for category 0, 1 and 2 and traffic-sensitive streets.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 15.5.4 If a permit variation moves an activity into a higher fee category, the Promoter will be required to pay the difference in permit fee as well as the permit variation fee.
- 15.5.5 All the Permit Scheme fee levels are at or within the current statutory maxima.
- 15.5.6 The permit Fees for each individual Permit Authority involved with the Permit Scheme are shown in Appendix H. These fee levels will also be published to the Permit Authority website.
- 15.6 **Circumstances where no Fee will be Charged**
- 15.6.1 No fee will be charged in the circumstances described below:
- a) **Cancellation of a permit** - prior to the Permit Authority's determination, a Promoter cancels a permit application;
 - b) **Refusal of Permit or Variation** - when an application for a permit or variation is refused;
 - c) **Revocation of Permit** – where a permit is revoked on the Permit Authority's initiative and the Promoter had to apply for a new permit, there would be no fee for the new permit, except where the original permit is revoked as a consequence of any action or omission on the part of the Promoter.
 - d) **Variation of Permit at Permit Authority's Initiative** - for permit variations initiated by the Permit Authority, unless at the same time the Promoter seeks variations which are not the result of the circumstances causing the Permit Authority's action - in that case a variation fee would be payable.

In addition, if the Promoter decides to cancel the existing permit as a result of a Permit Authority imposed variation, any new permit for the originally planned activity would not be subject to a fee.
 - e) **Deemed Permits** - where the Permit Authority fails to respond to an application for a permit within the relevant response time and the permit is subsequently deemed to be granted.
 - f) **Permits for Section 81 NRSWA** – works which are complete in relation to repairing apparatus to a permanent standard as the result of a section 81 notification from a Permit Authority, within seven days of notification.
 - g) **Coring Activity** - any coring activity where the scope of the specified works is limited to the breaking up of any street. Where a coring activity scope of work covers additional criteria - as defined within Section 6.2 (b) to (f) (*inclusive*) of the Permit Scheme - the permit for this activity would be subject to a fee.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- h) **Permits for Collaborative Works** - where at least two or more Promoters intend to collaborate their works within the same site over the same period they should submit applications at the same time or ensure the applications are at least received by the Permit Authority within three working days of each other, beginning with the day on which the first application is received (see Regulation 31). In such circumstances none of the permits will attract a permit fee.
 - i) **Highway Authority Works** -permits required by the highway authority.
 - j) **Phasing of Works to Lessen Risk and Inconvenience to Highway Users** - where temporary reinstatement is required by the Permit Authority in particular to minimise risk to the public and allow safe passage. The Permit Authority in these particular circumstances will request that the Promoter submit a new permit application for the remaining works. No fee will apply for this permit application.
 - k) **Advanced Coordination**- for planned major activities where a PAA application is made at least six months prior to the proposed activity date and the proposed works do not vary.
- 15.6.2 Where a Promoter expects a permit or variation would not be subject to a fee it is recommended that they include a comment to this effect within their application. If applicable reference to another permit, *for example in circumstance where the Permit Authority has imposed a variation*, within the new application would be encouraged.
- 15.7 **Fee Review**
- 15.7.1 It is noted that the Secretary of State may need to review fee levels particularly closely in the first years of the Permit Scheme. This is with a view to ensuring that the overall income from fees paid by statutory undertakers does not exceed the prescribed costs described in Regulation 29.
- 15.7.2 The Permit Authority will review fees annually to satisfy themselves and the Secretary of State that overall fee income does not exceed allowable costs, in line with the Regulations. In the event of any surplus in a given year, the fee income will be applied towards the cost of the Permit Scheme in the next year and the fee levels adjusted accordingly.
- 15.7.3 A sustained surplus would indicate that the income was regularly exceeding the prescribed costs and that the fee levels should be adjusted. In such circumstances the Permit Authority will adhere to relevant regulations to affect any amendments to the Permit Scheme.
- 15.7.4 The outcome of annual fee reviews will be published and open to public scrutiny.

16 Permit Conditions

16.1 Principles for Conditions

- 16.1.1 The Permit Scheme includes for the attaching of conditions to permits and also specifies the types of conditions that will be applied. Any permit issued will specify in detail the activity it allows and the conditions attached. Any constraints in the original application will be reflected in the conditions in the permit.
- 16.1.2 For example, if the planned activity will be located in a street which is traffic sensitive at some times and the permit application stated that the activity was to be outside the traffic sensitive times, then '*working outside of traffic sensitive times*' will be made a condition of the permit.
- 16.1.3 Any permit issued must set out in detail the activity it allows as set out in Section 10 and the conditions attached.
- 16.1.4 In applying conditions the Permit Authority will consider the proposed activity's potential to cause disruption. Where possible, conditions attached to a permit will provide flexibility for the Promoter by requiring an outcome rather than stipulating the method by which the work must be carried out. When setting any condition, the Permit Authority must act reasonably and take account of how feasible it is for the Promoter to comply.
- 16.1.5 If it appears to the Permit Authority that a condition attached to a permit has been breached then it may decide to impose sanctions detailed in Section 18. It is the policy of every Permit Authority that where appropriate before taking any action, the Permit Authority will contact the Promoter and seek to discuss the matter before deciding to take action.
- 16.1.6 The Permit Authority also has the power in such circumstances to revoke the permit under Regulation 10(4). The policy that will be applied is set out in Section 14.
- 16.1.7 The Permit Authority may also vary the conditions on a permit after it has been issued, as an Authority Imposed Variation - set out in Section 13 of this document.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

16.2 Condition Types

16.2.1 The Permit Authority has a range of conditions which they can apply to permits, referred to as "types", (*listed below*) as detailed in section 10 of the Regulations.

- Timing and duration of activity;
- Road space;
- Traffic management provisions;
- Methodology for carrying out activities;
- Consultation and publicity;
- Environmental conditions.

16.2.2 There are no local conditions within the Permit Scheme.

16.2.3 Conditions applied to a permit by the Permit Authority will be pertinent to the objectives of the Permit Scheme, including the reduction of congestion and disruption, recognising the needs of other users of the highway and the integrity of the highway itself.

16.2.4 Standard conditions are conditions that will be imposed on all permits. The Permit Authority will expect compliance to these conditions without the need for them to be specified within an application. It is accepted that not all standard conditions will apply to all permits; however the description of the standard condition will provide sufficient detail to identify circumstances where the condition does not apply.

16.2.5 The Permit Scheme includes standard conditions which are summarised within Appendix D.

16.3 Applying a Condition to a Permit

16.3.1 Where the Permit Authority considers it necessary and appropriate to impose conditions that differ from the proposals in the application then the Permit Authority will state the reasons for this on their refusal of the permit. The Promoter can then choose whether to make a revised application or dispute the matter.

16.3.2 For the application of permits, the main principle behind the Technical Specification for EToN is that when the Promoter submits an application to the Permit Authority they enter the content of the permit, *for example the timing, duration and work methodology*. The Permit Authority cannot amend the content of a permit, including the conditions attached.

- 16.3.3 If the Permit Authority does not agree with the condition(s) applied or requires additional conditions then the Permit Authority will refuse the application with an inclusion of a comment to reflect the changes required. The Promoter should submit a subsequent permit application with any agreed changes. It is the responsibility of the Promoter to ensure the application meets the permit conditions specified by the Permit Authority.
- 16.3.4 Promoters are encouraged to consider the inclusion of conditions on their permit during the initial application. By doing so, the likelihood of the Permit Authority refusing a permit, with a subsequent re-application could be minimised.
- 16.3.5 Where a Promoter recognises that multiple conditions should be used, or as indicated by the Permit Authority, all multiple conditions should be included on the permit application.
- 16.4 Conditions upon Immediate Activities before Permit Issued**
- 16.4.1 By virtue of the Regulations, activities that are necessary for emergency or urgent reasons (*i.e. immediate activities*) can commence and continue for an initial stage without requiring a permit to be obtained first. The Permit Authority has the power under Regulation 13 to impose conditions in such circumstances upon immediate activities for the period between starting work on site and receiving a permit.
- 16.4.2 Until a permit is issued following an application for an immediate activity, a Promoter will be required to work within the terms of their application; for example if the application refers to specific working hours then the Promoter must work within those hours.
- 16.4.3 Promoters of immediate activities must contact the Permit Authority immediately where the specified street is susceptible to unplanned disruption as indicated in the ASD for that Permit Authority.
- 16.4.4 Promoters should display the permit reference number in respect of permits for immediate works on site within two hours of the immediate activity commencing or, in the case of the works commencing out of normal working hours, within two hours of the start of the next working day. This condition takes into consideration the requirement of the Promoter to submit an application for an immediate activity, in addition to the Promoter generating the permit reference number.
- 16.4.5 A list of conditions for immediate activities is included in Appendix E of the Permit Scheme and will be published on the Permit Authority website.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

16.5 Model Text for Conditions

- 16.5.1 The Permit Scheme allows for the Promoter and Permit Authority to reference model text for conditions within their permit.
- 16.5.2 The use of model text for conditions will provide opportunity for expediency in the permit application and to mitigate any EToN limitations in the practical application (*description*) of conditions - *especially in the use of multiple conditions*.
- 16.5.3 The model text for conditions is suggested text for conditions which the Permit Authority expects to apply or to be applied to permits. When referencing a model text for condition, either the Promoter or Permit Authority should make reference to the relevant model text reference number and/or the specified text. For expediency a reference to the model text number and any associated content can be applied.
- 16.5.4 For example, a model text for condition reference MC7 may specify "that an activity may only take place when a minimum road space of [] metres is available to all pedestrian traffic". In circumstance where a minimum road space of 1.2 metres will be made available this condition could be applied as "(MC7) 1.2 metres".
- 16.5.5 The Permit Authority will publish a list of uniform model text for conditions on their website. These will be applicable to all Permit Authorities within the Permit Scheme; therefore the references will apply to the same model text for conditions for all the Permit Authorities.
- 16.5.6 During the operation of the Permit Scheme, the Permit Authority and/or Promoters may identify further model text for conditions that can be applied to support the operation and objectives of the Permit Scheme. Prior to bringing these into effect, the relevant Permit Authority proposing the change will discuss this text with the Promoter at the appropriate forums.
- 16.5.7 To ensure there are no errors or misunderstandings in the application of model text for conditions, any published model text will not be superseded. New model text will be given a unique number (*applied in numerical order*).
- 16.5.8 When applying the use of model text for conditions both the Promoter and Permit Authority must ensure that there is no ambiguity within the description or understanding of the condition. The Promoter is encouraged to contact the Permit Authority during the application stage to clarify any interpretation or application of conditions, if needed.

16.6 Publication of Conditions

16.6.1 All Permit Authorities will publish and maintain a list of the standard conditions, conditions upon immediate activities before the permit is issued and model text for conditions for the Permit Scheme on their website.

16.7 Conditions Available on Site

16.7.1 The Permit Authority recognises the importance for the Promoter work-force to have access to the permit detail, including conditions when carrying out the planned activity. It is recommended that the Promoter ensures that this information is available on site, but also recognises that there may be an administrative burden to comply with a standard condition to have this information available, upon request.

16.7.2 Working in breach of a condition, or without a valid permit, on the basis of lack of knowledge from the Promoter work-force will not be accepted by the Permit Authority as any form of mitigation for this failure.

16.8 Conditions for Timing and Duration of Activity

16.8.1 Conditions for timing and duration of activity may include:

- Any date(s) between the start and completion dates on which works should not take place, which may also include periods when not only should no work take place, but that the site should also be cleared of all plant materials and equipment, including all traffic management, lighting and guarding;
- The times of day at which works can and cannot be carried out;
- Whether or not the duration of the work includes, allows for, or requires weekend and Bank Holiday working.

16.8.2 As set out in Section 12, when considering a permit application the Permit Authority may consider an alternative period is appropriate. Where the Promoter disagrees they may appeal in line with the dispute resolution procedure set out in Section 19.

16.8.3 Conditions may be applied by the Permit Authority to control the timing and duration of planned works, especially if the activity is in a street which is traffic-sensitive in some places and/or at some times and the application stated that the activity was to be outside the traffic-sensitive places and times. If a Promoter is aware of a reason for the application of a timing and/or duration condition, then they are encouraged to use this type of condition within the initial application.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 16.8.4 As referred to in Section 7 the permit activity start and end dates in relation to category 3 and 4 streets, that are not traffic sensitive, allow for flexibility in the start of the activity although it must be completed by a specific date. The start and end date of the permit will therefore not simply match the start and finish dates of the activity. In some instances the Permit Authority may want to control this flexibility, for example to allow the planned activity to proceed, whilst also taking into account the use of the road-space for other events, such as a market. In these circumstances a condition may be applied to a permit.
- 16.8.5 Where an activity contains phased works, the works comprised in the next phase of the activity shall not commence before the works comprised in the current phase are complete. This is a standard condition of all permits.
- 16.8.6 Reasonable Period for Section 74 purposes
- 16.8.7 For all works the "reasonable period" for Section 74 purposes will be the same as the duration of the activity set out in the permit.
- 16.8.8 The start and end dates will be in calendar days, even though many aspects of Permit Schemes will operate on working days. Where a permit allows working at weekends or on Bank Holidays, then the permit start and end dates will also accommodate that, even if those days do not count towards the reasonable period under Section 74 of NRSWA or the starting window.
- 16.9 **Conditions for Road Space**
- 16.9.1 Conditions for road space will take into consideration the amount of space taken by the activity in the highway and the impact of congestion and disruption. Where the area required to carry out the actual work is relatively small then it may be that the activity will have little effect on traffic. Where associated plant and excavated material take up a greater area, possibly resulting in lane restrictions and/or temporary traffic control measures, the impact could be magnified considerably – especially when works are complete, but such associated items remain in the highway.
- 16.9.2 The following road space conditions could be attached to a permit:
- whether materials and plant can be stored on site;
 - the width and/or length of road space that can be occupied;
 - the road space that is available to traffic at certain times of day.
- 16.9.3 When applying conditions related to road space, the Permit Authority will recognise that these conditions have to be realistic and allow for works to be carried out in compliance with statutory guidance and codes of practice, especially in relation to safety and within the restrictions imposed by the available industry resources and technical capabilities.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 16.9.4 If a Promoter is concerned about the safety at work in compliance with a condition, they must contact the Permit Authority to discuss this and reach agreement on the permit.
- 16.9.5 It is a standard condition of this Permit Scheme that in order to minimise disruption, plant; equipment that has become unnecessary; or surplus materials; or spoil should be removed from site at the end of works or phase of works, irrespective of the end date of the valid permit. It is accepted that safety signage is a necessary exception to this condition.
- 16.9.6 The Permit Authority recognises the impact to users of the highway resulting from visible route signage for a diversion no longer in effect. It is therefore a standard condition of the Permit Scheme that diversion signage is only visible to the highways user when the diversion is in operation.
- 16.9.7 Where it is considered necessary to limit the impact of the works to the road space, either through the space occupied for works or to ensure that a certain width of road space is to be available to traffic (*vehicles and/or pedestrians*) a condition may be applied.
- 16.9.8 The Code of Practice for Safety at Street and Road Works indicates that one metre minimum width of footway must be available for pedestrians where footways are affected by works. In circumstances where a minimum width greater than one metre is required a condition may be applied.
- 16.9.9 In certain circumstances, for example in town centres or out of town pedestrianised shopping centres, it may be reasonable for the Permit Authority not to allow any materials or equipment being left on site unattended overnight. In these situations a condition may be applied.
- 16.9.10 Where permission for the storage of materials or plant is required, outside of the main activity, the location of these storage areas can create difficulty to traffic flows. Furthermore the areas for storage sites chosen often result in public complaints on the impact to local residents and other frontagers. Emphasis will be applied to the Promoter to obtain a Section 171 License under the Highways Act 1980 in advance. Together with any other related approvals, it will be a standard condition that storage areas are agreed beforehand with approval from the appropriate Authority.
- 16.10 Traffic Management Provisions**
- 16.10.1 As set out in Section 10, Promoters must submit details of any traffic management proposals with their permit applications. The way traffic is managed during the activity can have a major influence on congestion and disruption. For example a Promoter may propose closing a road, and whilst this may be necessary in some cases, in others it may be possible - and less disruptive - to keep at least part of the road open. With smaller scale activities, portable light signals may be sufficient.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 16.10.2 In such circumstances the Permit Authority may apply conditions for traffic management provisions, for instance
- the road, or relevant section of the road is closed to traffic during the works;
 - that shuttle working and/or portable lights are to be used.
- 16.10.3 Where advanced approval for any traffic management, parking restriction and/or traffic regulation order or notice is required this must be noted within the application. It is acknowledged that a permit may be granted prior to any necessary order or approval being in place. In these circumstances, it is a standard condition of the Permit Scheme that no activity, or part of the activity for which the necessary order or approval is required, can commence without the necessary order or approval in place.
- 16.10.4 It is possible that traffic management arrangements may change during the course of an activity. These changes can be included in the conditions where it is known that such changes will be needed. In all cases when traffic management arrangements change, the Promoter must inform the Permit Authority before any changes take place. This is a standard condition for all such permits.
- 16.10.5 It is a requirement of the Permit Scheme that Promoters at the application stage inform the Permit Authority when changes to traffic management measures are likely to be needed during the course of permitted works in order to inform road users and implement complementary traffic management measures to minimise disruption. Where it becomes apparent that traffic management measures are required, or need to be varied, after the permit has been issued then the Promoter must apply for a variation to the permit and must contact the highway authority as soon as possible.
- 16.10.6 It is a standard condition of the Permit Scheme that where 24 hour temporary traffic signals are to be used, these will be manually operated on traffic sensitive streets, during traffic sensitive times.
- 16.10.7 Where there are either deliveries to a site, or where spoil or other material are to be removed from a site, the Promoter is responsible to ensure that the movement of traffic passing the site is not in any way significantly delayed or interrupted by that operation in line with Safety at Street Works and Road Works Code of Practice. This is a standard condition of the Permit Scheme.
- 16.11 Conditions for Methodology for Carrying Out Activities**
- 16.11.1 The method the Promoter proposes to employ to carry out an activity can also have a significant effect on the level of disruption. A Permit Authority may therefore attach conditions relating to the methodology for carrying out activities.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 16.11.2 It is recognised that in many cases the Permit Authority would not be in a position to make an engineering judgement on the proposed methodology, however the Permit Authority must be satisfied that minimum dig technology can be employed wherever practical to minimise inconvenience to the public and reduce congestion. It is therefore a requirement that a Promoter details in their application the methodology they propose to use.
- 16.11.3 The Permit Authority will take account of the fact that site conditions may be different to those planned for in the application and the Promoter may need to revert to other dig methods. In such cases an application for a permit variation would be required unless the Permit Authority decides that it is not necessary in the individual circumstances.
- 16.12 Conditions for Consultation and Publicity**
- 16.12.1 To achieve many of the objectives of the Permit Scheme the advanced publicity and consultation of planned works will be the key for success. Supporting this, the availability of on-site information for the highway user on works in progress will provide needed information to assist in journey planning and managing the effect of any disruption.
- 16.12.2 Advanced Publicity
- 16.12.3 Where activities have the potential to be especially disruptive to local residents, businesses and/or road users, the Permit Authority may attach a condition requiring the Promoter to provide advanced notice to nearby householders or businesses, or to traffic or pedestrians using the road.
- 16.12.4 In order to be beneficial such an exercise has to be carried out well before the activity commences. The need for such an exercise will be identified at either the permit or PAA application stage in order to ensure that the Promoter has sufficient time to carry out any related exercise. In respect of permit applications for major works where advanced publicity is required, the permit application may have to provide evidence that the exercise has been carried out.
- 16.12.5 The effect of planned activities to a Public Transport provider, such as bus company, has to be taken into consideration when the Permit Authority considers the permit application. These providers require consultation on the planned works to provide alternative services in order to minimise the impact of works. A condition may be applied as a result.
- 16.12.6 Where the Promoter has to seek a variation or an extension to a permit, the authority will have a further opportunity to attach a condition for consultation and publicity (*if the circumstances justify it*). In these circumstances, the Permit Authority must act reasonably and such conditions will be local to the site and the activity.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

16.12.7 Display of Permit Numbers and Other Related Signage

16.12.8 For all planned works a Permit Reference Number must be prominently displayed at all times on site for each phase of the works. This reference number will comprise content of the EToN Works Reference number. Displaying this information will assist in identification of the site for the Permit Authority and members of the Public. It is a standard condition of this Permit Scheme that works shall not commence until a site information board has been erected on site in a prominent place so that it may be read easily by the Public, clearly displaying the correct Permit Reference Number. The sign will remain in place for the duration of works.

16.12.9 As defined within the Technical Specification for EToN, the Works Reference is allocated by the Promoter and includes the Promoter Prefix and District. The works reference must be unique to an individual works and must not be re-used following permanent cancellation of proposed works. For the Permit Scheme, the Permit Reference Number displayed does not need to include the Promoter Prefix and District.

16.12.10 Where emergency works have started, it is accepted that the permit reference number may be unavailable and therefore cannot be immediately displayed on site. Promoters should display the permit reference number in respect of permits for immediate works on site within two hours of the immediate activity commencing or, in the case of the works commencing out of normal working hours, within two hours of the start of the next working day..

16.12.11 Standard conditions related to the display of the Permit Reference Number are to assist inspections, particularly in relation to the checking of conditions with which Promoters are required to apply and also to help identify the site for members of the public who may report queries to the Permit Authority or Promoters.

16.12.12 In certain circumstances the location of planned works may have an impact to local business, especially within the footprint of the activity. In these circumstances a condition related to specific signage may be applied.

16.13 Condition for Environmental Factors

16.13.1 A Permit Authority may apply a condition for an environmental factor when considering the impact of the proposed activity to the local environment, including local residents and the highway infrastructure.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 16.13.2 Promoters must contact the relevant Permit Authority's Environmental Health Officers (EHO), or where the Permit Authority is not the Environmental Health Authority for the area of the works, the EHO of the local authority in whose area the works are to be carried out, when drawing up proposals that involve carrying out works during environmentally sensitive hours. That is, hours outside of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on a Saturday (see Section 60, Control of Pollution Act 1974). This should ensure that wherever possible, and at reasonable cost, the requirements of the EHO's can be met.
- 16.13.3 The Permit Authority may need to impose environmental conditions to protect residents or people working, as well as schools, close to the proposed activities from disturbance particularly as a result of noise. This can be done by imposing conditions limiting the times of day when the permitted activities can take place.
- 16.13.4 The Permit Authority may also need to impose environmental based conditions where there is concern about maintaining the site in a clean and tidy condition, including removal of any spillage of materials on the public highway, during and on completion of the works. In such circumstances a condition requiring action at the end of any working period to ensure that waste, whatever the source, must not be left on site may be applied.
- 16.13.5 Where trees will be affected by proposed activities, Promoters must adhere to the Specifications for the Reinstatement of Openings in Highways (SROH). This is a standard condition of the Permit Scheme. The Permit Authority may contact their arboriculture team or equivalent prior to processing the application for guidance. Any requirements from the arboriculture team may subsequently be reflected in a condition.
- 16.14 Imposing Conditions upon Highway Authority Works Permits**
- 16.14.1 Standard conditions will be imposed upon all permits regardless of Promoter. In addition, the Permit Authority will impose conditions upon a permit in respect of works to be carried out by or on behalf of a highway authority in the same form and for the same reasons for any Promoter.
- 16.14.2 In addition, in accordance with Regulation 10 (3) conditions on such permits may also require the highway authority to consult with any person who has apparatus likely to be affected by the works and require the highway authority to take all reasonably practicable steps to comply with any requirement made by that person which is reasonably necessary for the protection of the apparatus or for securing access to it.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

17 Inspections

- 17.1 The procedures for dealing with all aspects of inspections under the Permit Scheme, with the exception of those related to overrun charges under Section 74 of NRSWA and permit condition checks, will reflect the procedures set out in the current Code of Practice for Inspections.
- 17.2 The three types of inspections used within the Permit Scheme include:
- a) Sample Inspection
 - b) Defect Inspection
 - c) Investigatory Inspection
- 17.3 Inspections under the Permit Scheme will follow the sample inspection methodology for assessing and carrying out all category A, B and C inspections which are those that are:
- a) Undertaken during the progress of the works;
 - b) Undertaken within the six months following interim or permanent reinstatement; and
 - c) Undertaken within the three months preceding the end of the guarantee period.
- 17.4 In addition, inspections under the Permit Scheme will include processes for dealing with any defective signing and guarding and for reinstatements; improvement plans; together with any costs that may be recoverable, e.g. *sample inspections fees from the Promoter*.
- 17.5 **Section 74**
- 17.5.1 These inspections are related to works that should have been completed by a due date or have been notified as having done so.
- 17.5.2 Permit Authorities will run the overrun charging scheme alongside the Permit Scheme under Section 74 of NRSWA as set out in section .20.
- 17.6 **Permit Conditions**
- 17.6.1 Adhoc inspections will check for compliance with any permit conditions required under any particular permit, which are not included in any other inspections procedures..

18 Sanctions

- 18.1 In accordance with the Statutory Guidance and the sanctions provided by the Regulations for which the Permit Authority may use to achieve compliance with Permit Schemes, the policy of the Permit Authority is as follows.
- 18.2 Where there is proof that any Statutory Undertaker has committed a criminal offence the Permit Authority, where it is both practicable and appropriate, may contact the Statutory Undertaker before taking action against the Statutory Undertaker and seek to discuss the matter in order to establish whether such action is required.
- 18.3 As defined within the Regulation (18), the Permit Authority may take action for unauthorised works, where a Promoter:
- a) undertakes, without a permit, works for which a permit is required to have been obtained; or
 - b) breaches a permit condition.
- 18.4 Any Statutory Undertaker not working within the content of an issued permit (*either granted or deemed*) will be seen as undertaking works, without a permit, for which a permit is required to have been obtained. It is the Promoters responsibility to ensure the content of the permit accurately reflects the proposed activity.
- 18.5 **Criminal Offences**
- 18.5.1 Regulation 19 provides that it is a criminal offence for an Statutory Undertaker or someone acting on its behalf to undertake works without a permit. The offence carries a maximum fine of level 5 on the standard scale.
- 18.5.2 Permit offences apply only to Statutory Undertakers and not to highway authorities. However the Permit Authority is required to monitor the performance of highway authority promoters to ensure a consistent approach and it will therefore be a matter of public record if a highway authority acts in such a way that would amount to the commission of an offence under Regulations 19 and 20 were it not the highway authority.
- 18.5.3 Regulation 20 provides that it is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake works in breach of a condition.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

18.6 Fixed Penalty Notices (FPN)

- 18.6.1 Regulations 21 to 28 (and Schedules 1 and 2) authorise the Permit Authority to issue Fixed Penalty Notices (FPNs) in respect of the criminal offences. Fixed Penalty Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.
- 18.6.2 FPNs shall be in the form as set out in Regulations 23(1) and Schedule 1 of said Regulations.
- 18.6.3 Section 98 (2) of NRSWA provides that a notice given after 16:30 on a working day is deemed to have been given on the next working day.
- 18.6.4 In accordance with Regulation 27 if the Permit Authority considers that a FPN which has been given ought not to have been given, it shall give to the person to whom that notice was given a notice withdrawing the FPN. The notice shall be in the form set out in Schedule 2 of the *Regulations (or in a format substantially similar)*.

18.7 Prosecution

- 18.7.1 If the Statutory Undertaker pays either the full penalty or the discounted amount within the required period, then no further proceedings can be taken against that Statutory Undertaker for that offence.
- 18.7.2 If the Statutory Undertaker does not pay the penalty within the 36 calendar days then the authority may bring proceedings in the Magistrates' Court for the original offence. Legal action must be taken before the expiry of the six months deadline from the date of the offence for bringing a case before the Magistrates' Court (Section 127 of the Magistrates' Courts Act 1980). This is the case even if the FPN was not given for some time after the offence was committed.
- 18.7.3 In circumstances where a Fixed Penalty Notice has been issued in relation to an offence, but the Permit Authority subsequently forms the view that it would be more appropriate to prosecute the offender, the Permit Authority must withdraw the Notice under Regulation 27 before bringing the proceedings unless the payment of FPN has been made. Further the Permit Authority may consider the most appropriate action in the circumstances is to proceed directly to prosecution of the offence.

18.8 Application of Money by the Permit Authority

- 18.8.1 The Permit Authority may deduct from the fixed penalties received under Section 37 (6) of the TMA, the reasonable costs of operating the FPN scheme under which they are paid.

18.8.2 The Permit Authority shall apply any net proceeds from the costs of operating the FPN scheme to promoting and encouraging safe, integrated, efficient and economic transport facilities and services, to, from and within its area.

18.8.3 The Permit Authority will need to be able to demonstrate that the costs of running the FPN scheme are reasonable and that the net proceeds after deducting these costs are being correctly applied. Those enquiring should note that accounts are generated annually.

18.8.4 Although it is not a requirement that separate accounts should be kept for the FPN scheme, it should be possible to follow the audit trail to check income and expenditure.

18.9 Regulation 18 – Discretionary Unauthorised Works Notices

18.9.1 There is a discretionary power under Regulation 18 (1), by which a Permit Authority may instead of proceeding by way of the criminal sanction route, issue a notice. Such a power may be used where a person undertakes works without a permit for which a permit is required to have been obtained or breaches a permit condition. The Permit Authority will only issue such a notice where it is considered to be an appropriate response in the circumstances and not as a matter of course.

18.9.2 Where such a notice is issued it will require the person to take such reasonable steps as are specified in the notice, which may include steps to remove the works, to remedy the breach or to minimise or discontinue any obstruction to the street connected with the works, and to propose remedial action which must be undertaken within the timeframe set in the notice.

18.10 Failure to take Remedial Action

18.10.1 Where a notice is issued under Regulation 18 (1) and the relevant person has not taken the remedial action within the timeframe, the Permit Authority under Regulation 18 (3) may take such steps as it considers appropriate having regard to the original non-compliance, at the cost of the Statutory Undertaker. The policy to be applied in such circumstances is that failure to comply with a Regulation 18 Notice within the relevant period will normally lead to such action being taken on the part of the Permit Authority.

18.11 Other Offences under NRSWA

18.11.1 Any offences relating to sections of NRSWA which run in parallel to Permit Schemes will continue to apply. These include offences relating to reinstatements, overrunning works and failure to send appropriate notices.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

18.12 Revocation of Permit

18.12.1 Whilst it is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake works in breach of a condition, as a further alternative to taking criminal action in such circumstances against the Statutory Undertaker the Permit Authority has the power under Regulation 10(4) to revoke the permit. This power is addressed in Section 14.

18.13 Keeping of Records

18.13.1 The Permit Authority will keep records of all sanctions under the Permit Scheme. This information will be made available to any Permit Scheme working group and facilitated by HAUC.

19 Dispute Resolution

- 19.1 The TMA provides wide powers to devise a suitable dispute resolution procedure and to identify the stages of the permit application process at which it can be invoked. There are no prescribed statutory dispute resolution procedures as yet and the approach taken therefore is to build on arrangements which already exist through the Highways Authorities and Utilities Committee (HAUC UK) at local and national level for resolving disputes and are set out in the Code of Practice.
- 19.2 The Permit Authority and Promoter are expected to use their best endeavors to resolve disputes without having to refer them to a formal appeals procedure. This might, for instance, be achieved by referring the issue to management for settlement.
- 19.3 **Incidence of Dispute Resolution**
- 19.3.1 Two stages of the permits process provide for dispute resolution:
- a) A Promoter applies for a permit, the Permit Authority makes it clear that it will only issue the permit with conditions attached or with different dates than in the application, and may in fact issue a permit in those terms. The Promoter believes that one or more of these conditions are unreasonable or unrealistic. The two parties are unable to resolve their differences; or
 - b) A Promoter who has been issued with a permit and has started work realises that they will no longer be able to comply with the original permit. The Promoter therefore applies to the Permit Authority for the permit to be varied or extended. The two parties are unable to reach agreement on any variation or whether any variation should be allowed.
- 19.3.2 The Permit Authority and Promoter should try, where ever possible, to resolve their disagreements between themselves. However, it is recognised that occasionally this may not be possible.
- 19.4 **Appeals Procedure**
- 19.4.1 The dispute resolution procedure for appeals under the Permit Scheme may be by way of dispute review, adjudication or arbitration.
- 19.5 **Dispute Review**
- 19.5.1 If agreement cannot be reached locally on any matter arising under any part of the Permit Scheme the dispute will be referred for review on the following basis:

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- a) **Straightforward issues** - Where the two parties consider that the issues involved in the dispute are relatively straightforward, the matter will be referred to impartial members of a regional HAUC (that is those not representing parties directly involved in the dispute) for review. That review should take place within five working days from the date of referral. Both parties are recommended to accept the result as binding.
 - b) **Complex issues** - If the parties to the dispute think the issues are particularly complex, they should/will ask HAUC (UK) to set up a review panel of four members - two statutory undertaker and two Permit Authority representatives. One of the four persons will be appointed as Chair of the panel by the HAUC (UK) joint chairs.
- 19.5.2 Each party must make all relevant financial, technical and other information available to the review panel. The review would normally take place within ten working days from the date on which the issue is referred to HAUC (UK). It is recommended that both parties accept the advice given by the review panel as binding.
- 19.6 **Adjudication**
- 19.6.1 If agreement cannot be reached by the procedure above, for instance if one or more of the parties does not accept the ruling of the Regional HAUC or HAUC (UK) review as binding, the dispute will be referred to independent adjudication provided that the parties agree that the decision of the adjudicator is deemed to be final. The costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them. Where the adjudication route is followed, the parties should apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from suitable recognised professional bodies.
- 19.6.2 Where the parties do not agree that the decision of the adjudicator is deemed to be final the Promoter will have the option of challenging the Permit Authority's decision through the administrative court by way of judicial review.
- 19.7 **Arbitration**
- 19.7.1 Disputes relating to matters covered by the following sections of NRSWA may be settled by arbitration, as provided for in Section 99 of NRSWA:
- a) **Section 61 (6)** - consent to placing apparatus in protected streets;
 - b) **Section 62 (5)** - directions relating to protected streets;
 - c) **Section 74 (2)** - charges for occupation of the highway where works are unreasonably prolonged;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- d) **Section 74A (12)** - charges determined by reference to duration of works;
- e) **Section 84 (3)** - apparatus affected by major works;
- f) **Section 96 (3)** - recovery of costs or expenses.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

20 Related Matters and Procedures

20.1 Permit Authority Contact Details

20.1.1 Each Permit Authority will publish their contact details, including out-of-working-hours, to their website.

20.2 Traffic Restrictions and Road Closures

20.2.1 Provisions governing temporary road closures and traffic restrictions for works or other activities in the street are found in Sections 14 – 16 of the Road Traffic Regulation Act 1984, as amended by the Road Traffic (*Temporary Restrictions*) Act 1991, and Regulations made under the 1984 Act.

20.2.2 There are two procedures:

- a) Where urgent action is needed the relevant Permit Authority may issue a 'temporary notice' imposing a short term closure or restriction. Prior notice is not necessary. The notice is limited to 21 calendar days if there is a danger to the public or risk of serious damage to the road, independent of street works, a leaking gas main, for example. It can be extended by one further notice. The notice is limited to 5 calendar days if there is no risk of danger or damage.
- b) In less urgent cases the Permit Authority may make a 'temporary order', which may remain in force for up to 18 months. This is limited to six months for footpaths, bridleways, cycle tracks and byways open to all traffic.

20.2.3 A temporary notice and a temporary order may provide that restrictions have effect only when traffic signs are lawfully in place. This will help limit traffic disruption where activities progress along a length of road.

20.2.4 In extraordinary circumstances, the Road Traffic Regulation Act 1984 Section 49(4A) allows the police to suspend designated street parking places temporarily to prevent or mitigate traffic disruption, or danger to traffic. This could prove useful to Promoters carrying out emergency works.

20.3 Temporary Notices

20.3.1 This procedure will normally only apply to immediate activities. The Promoter will inform the relevant Permit Authority as soon as practicable if a closure or traffic restriction is needed. The Permit Authority will consult with the police and all relevant parties, and confirm, as soon as possible, whether or not a notice will be made.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

20.3.2 The Permit Authority must state in the notice:

- a) the reason for issue;
- b) its effect;
- c) alternative routes (where applicable); and
- d) the date and duration of the notice.

20.3.3 The Permit Authority must also notify the emergency services and any other Permit Authority with roads that may be affected. This should be done on, or before, the day the notice is issued.

20.4 Temporary Orders

20.4.1 A temporary traffic order is generally needed for planned activities in the street (except where the order follows a closure notice). If a closure order is needed, the Promoter should notify the Permit Authority at least three months in advance. This will allow the authority time to consult, and to obtain approvals and advertise the order.

20.4.2 Activities that require a temporary traffic order are automatically classed as major works and require at least three months' notice for applying for a PAA, initially, and a temporary traffic order.

20.4.3 The Promoter must submit all the information needed to justify a road closure with the application for an order.

20.5 Maintenance of Statutory Undertakers' Apparatus

20.5.1 Statutory Undertakers have a duty, under Section 81 of NRSWA, to maintain apparatus in the street to the reasonable satisfaction of the street authority, having regard for the safety and convenience of traffic, the structure of the street, and integrity of apparatus in it. Bridge, sewer and transport authorities also have an interest, so far as any land, structure or apparatus they own is concerned.

20.6 Practical Considerations

20.6.1 Although NRSWA gives street authorities certain default powers to inspect and carry out emergency works, neither street authorities nor Statutory Undertakers expect the need to arise. However, should it happen, then (without impeding any immediate emergency action) the matter will be referred to the agreed dispute resolution procedure.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 20.6.2 The relevant street authority will immediately notify the Statutory Undertaker if surface apparatus is found to be defective or the cause of significant surface irregularity, or where an unexplained subsidence or other disturbance of the road surface occurs. This will be done in accordance with the protocols set out in the Technical Specification for EToN. The relevant street authority may arrange a site meeting by agreement with the Statutory Undertaker.
- 20.6.3 If the fault identified by the street authority is for or as a result of previously un-attributable activities by Statutory Undertakers, and a Statutory Undertaker subsequently accepts responsibility for that activity, the Statutory Undertaker must apply for a permit for any registerable activity required to rectify the problem. The Statutory Undertaker must use their own activity reference, rather than that generated by the street authority.
- 20.6.4 If the problem is agreed to be the Statutory Undertaker’s responsibility, they must take immediate action to investigate and initiate any necessary remedial works, in accordance with the following principles:
 - a) Dangerous defects – requires an immediate response;
 - b) Non-Dangerous – requires a response within the timescales agreed with the street authority.
- 20.7 **Dangerous Occurrence or Defects**
- 20.7.1 Apparatus that requires an immediate response or remedial works or to avoid injury or damage to persons or property shall be considered dangerously defective.
- 20.7.2 The street authority may execute any emergency action needed to safeguard the public, for example, by fencing off the location from traffic and the general public.
- 20.7.3 Non-Dangerous defect or occurrence requires a response within the timescales agreed with the street authority. Non-Dangerous defective apparatus is apparatus which requires attention to comply with specifications or remove nuisance; or has the potential to escalate to “Dangerous” in the near future.
- 20.7.4 The decision on whether an occurrence is Dangerous or Non-Dangerous will, by necessity, have to be made on site. The relevant street authority will make the decision objectively. It should not be challenged unreasonably.
- 20.7.5 A Statutory Undertaker may reduce the time for response, *to meet operational needs for example*, but must not exceed the agreed timescales. It is important that only the responsible Statutory Undertaker, or a specialist contractor working on its behalf, investigates suspected damaged or defective apparatus, excluding manhole covers and frames.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 20.7.6 The street authority will carry out investigations or remedial works (*using appropriately trained and experienced persons*) only in an emergency, or where the Statutory Undertaker is unable or unwilling to use their own operatives or specialist contractor.
- 20.7.7 Permit applications for any necessary remedial work that is a registerable activity must be made following the rules set out in the Permit Scheme and using the protocols set out in the Technical Specification for EToN.
- 20.7.8 If the street authority has opened the street or exposed a Statutory Undertaker's apparatus in an emergency, or in the circumstances described above, the Statutory Undertaker will assist the authority by jointly inspecting the problem, within a reasonable time agreed between them, to agree a remedial plan and timescale. The reasonable costs incurred by the street authority may be charged to the Statutory Undertaker.
- 20.8 **Working near Rail Tracks**
- 20.8.1 Particular attention must be given to the possible effects of activities taking place at or in the vicinity of level crossings. Promoters planning works in such locations must refer to the advice of the Code of Practice , or as subsequently amended, which sets out Network Rail's requirements.
- 20.9 **Vehicle Parking at Street and Road Works**
- 20.9.1 This is not safety advice. The Code of Practice on Safety at Street Works and Road Works should always be consulted.
- 20.10 **Vehicle within Activity Site**
- 20.10.1 A works vehicle may be parked in an activity site provided that it is necessary for the carrying out of that activity. Basic site layouts are shown in the Code of Practice on Safety at Street Works and Road Works.
- 20.10.2 A vehicle entirely within the coned-off area of the site may require a larger coned-off area than would otherwise be the case.
- 20.11 **Vehicle located outside Activity Site**
- 20.11.1 A vehicle may be parked outside an activity site provided the parking rules that apply to any other vehicle in that street are obeyed. Outside of the activity site, the vehicle has no special status and no exemption from parking enforcement.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

20.12 Implications

20.12.1 When assessing the impact of activities, the parking of any vehicles associated with the activity must be taken into account. This is a particular problem for activities which, but for the presence of a works vehicle, would take place entirely within the footway. If a vehicle is parked adjacent to the activity, in a place which vehicles could not normally use, then it must be part of the activity site. It must be signed and guarded appropriately. The activity is then not wholly confined to the footway but encroaches onto the carriageway. Applications for permits must reflect this.

20.13 Parking Restrictions

20.13.1 A Traffic Regulation Order imposing parking restrictions on a particular street should already contain an exemption allowing for activities to take place in a parking bay. Promoters should check whether any further dispensation is required well before the works are due to start.

20.13.2 It will be a condition of a permit where parking restrictions or suspension is required that the necessary order or approval will be in place before the activity, or the relevant part of the activity, starts on site. This is a standard condition of the Permit Scheme.

20.14 Storage of Materials

20.14.1 Promoters must take care to place materials so that they do not cause an obstruction to road users. The location of any storage outside of the designated working space must be with the advance agreement of the Permit Authority. These storage areas will require a separate licence under section 171 of the Highways Act 1980.

20.14.2 This is especially important if materials are stored away from the working space, but still within the highway boundaries.

20.15 Apparatus Belonging to Others

20.15.1 There may be other apparatus where activities are planned and under Section 69 of NRSWA, those carrying out activities must ensure that the owners of that apparatus are able to monitor the activity and that requirements to take reasonable steps to protect the apparatus are followed. Failure to do so is a criminal offence.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

20.16 Assessing the Impact of Activities

20.16.1 All activities in the highway have a disruptive effect on traffic. An assessment of that effect is part of the process for the application of a permit to be carried out by the Permit Authority, where deemed necessary.

20.17 Disruption Effect Score

20.17.1 The Disruption Effect Score is based on a measure of congestion resulting from a restriction on the highway. It is derived from a number of simple factors that should be easily established for any given activity.

20.17.2 The nature of traffic flow and the relationship between flow, capacity, and delay are highly complex and subject to a variety of factors. However three specific factors can be used to provide an indication of congestion: the total width of a road; the extent to which the activities reduce the available width; and the traffic flow. Appendix G contains further detail on the application of the Disruption Effect Score.

20.18 Impact Assessments

20.18.1 Assessment of the impact of activities on general traffic, buses and pedestrians may be included, together with the disruption effect score, in the information considered for a permit application. The assessment is a broad indicator of the likely disruptive effect of the proposed activity.

20.19 Use of Impact Assessments

20.19.1 The impact assessment will be used within the co-ordination process to prioritise activities according to their potential for causing disruption. The assessment may also be used to provide public information on the disruptive effects of activities.

20.20 Environmental Issues

20.20.1 Where works are planned near any conservation areas, culverts, water courses, trees with preservation orders, basements, bridges, monuments or any other location where environmental factors may be of concern, Promoters are strongly advised to liaise with the authority's relevant departments to ensure that environmental officials along with any necessary authority officers are notified when drawing up their proposals. This should ensure that wherever possible, and at reasonable cost, their requirements can be met.

20.20.2 Promoters considering the burying of plant and apparatus that is currently above ground should contact any other Promoter with similar apparatus in order to ascertain whether they would share the underground facility.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

20.21 Overrun Charging Scheme – Section 74 NRSWA

- 20.21.1 Permit Authorities will each run a scheme for overrun charging under Section 74 of NRSWA to operate alongside the Permit Scheme. Like permit schemes, Section 74 schemes are not compulsory, however, unlike permit schemes; an authority does not require Secretary of State approval.
- 20.21.2 The Section 74 Regulations current at the time of drafting the Permit Scheme namely the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations will apply but may be subject to change from time to time in which case the amended or replacement Regulations will apply. The operation of the overstaying regime however is modified under the Permit Scheme to incorporate the process of setting and modifying the duration of the activity (or "works" in Section 74 terms) through the permit application, approval and variation processes.
- 20.21.3 Activities carried out by a Promoter on behalf of a highway authority or by the highway authority themselves are not subject to Section 74 overrun charges. However, under the Permit Scheme, Promoters of such activities will be required to follow the same procedures as Promoters who are Statutory Undertakers.

20.22 Exempt Activities

- 20.22.1 Certain types of activities are exempt from Section 74 charging:
- a) activities in non-traffic sensitive streets that require opening the highway, but not breaking it up;
 - b) replacing manhole or chamber covers - that do not involve breaking up the street;
 - c) replacing poles, lamps, columns or signs in the same location where that does not involve breaking up the street;
 - d) pole testing that does not involve breaking up the street;
 - e) bar holes; and
 - f) works carried out on behalf of a highway authority.
- 20.22.2 If one of the exemptions applies, the Promoter must record the appropriate charge exemption in the permit application and Works Clear/Closed notices - see the Technical Specification for EToN.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

20.23 Prescribed Period

20.23.1 The "Prescribed Period" is the period during which no overrun charges can be levied. It is set down by the Secretary of State in the Section 74 Regulations which currently (as of April 2009) provide it as two days, starting on the day works begin.

20.24 Section 58 & 58a Restrictions

20.24.1 Details of Section 58 and 58A restrictions will be provided as required under 8.3 of the Code of Practice.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

21 Changes and Ceasing to Operate

- 21.1 It may be necessary to change the Permit Scheme from time to time.
- 21.2 As the Permit Scheme is a Common Scheme it will only be possible to change the principal Permit Scheme where a unanimous decision is reached in favour of the change by all the Permit Authorities operating the Permit Scheme. To do so the Permit Authority, under Regulation 5, must ask the Secretary of State to agree to such a change to the Permit Scheme with an explanation and justification of the change(s) proposed. The Secretary of State will then consider whether the proposed changes can be agreed. Thereafter, in accordance with Regulation 5, the Permit Authorities must ask the Secretary of State to agree to such a scheme.
- 21.3 Currently there is no time limit within which agreed changes may be brought into effect. The Permit Scheme Authorities will liaise with the Department for Transport about this at an early stage.
- 21.4 In accordance with Regulation 5 and Regulation 3, prior to applying to the Secretary of State, the proposed changes to the Permit Scheme will be subject to consultation with the same consultees (*if they still exist*) as the original Permit Scheme; although the appropriate consultation period may be less depending on the nature and significance of the change.
- 21.5 **Ceasing to Run the Permit Scheme**
- 21.5.1 If a Permit Authority wishes to cease to run the Permit Scheme, they will first consult all interested parties and then apply to the Secretary of State to revoke the Permit Scheme, in so far as their roads are concerned, in accordance with Regulation 5. Where more than one Permit Authority wishes to cease to run the Permit Scheme then each Permit Authority must make an individual application to the Secretary of State.
- 21.5.2 Until an Order is made by the Secretary of State revoking their operating of the Permit Scheme it will continue in operation in that Permit Authority's area. A Permit Authority cannot, therefore, discontinue their operation of the Permit Scheme in their area and re-establish a notice system without the approval of the Secretary of State.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

22 Street Works Registers and National Street Gazetteer NSG

- 22.1 In accordance with Part 7 of the Regulations the Permit Authority will maintain a register in connection with their Permit Scheme. Each Permit Authority will maintain its own local register for its own geographic area. It will include information on all streets other than those streets that are the responsibility of another authority
- 22.2 The Permit Authority will also maintain a street works register required under Section 53 of NRSWA for any private streets and for historic information.
- 22.3 Details in respect of registers are also shown in Chapter 3 of the Code of Practice and requirements for NRSWA registers are contained in the Code of Practice for Co-ordination of Street Works and Works for Road Purposes and Related Matters.
- 22.4 The statutory requirements for maintaining the two registers will be met in such a way that the information can be combined easily to aid the coordination of activities and to provide information to road users.
- 22.5 **Form of Registers**
- 22.5.1 The registers will be kept on an electronic system. In accordance with The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 requirement, the Permit Registers will use Geographic information System (GIS) by October 2008/April 2009. Permit registers will follow this requirement to ensure consistency between all holdings of street related data. Each register will be maintained against the same digital map base to ensure consistency between all holdings of street-related data. This common geographical dataset will be vector based, nationally consistent, maintained and seamless, with changes published on a regular update cycle.
- 22.5.2 The Permit Authority will ensure that all information held in the permit register is referenced to the Elementary Street Unit (ESU) Identifier, and the Unique Street Reference Number (USRN). The Permit Authority will follow the requirements in the Technical Specification for EToN for the street works register.
- 22.5.3 The permit register will include:
- a) vector objects (*polygons, lines and points*) representing real-world geographical features and boundaries, each with well-defined lifecycles and royalty-free unique identifiers suitable for referencing; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- b) road centreline geometry objects, each with royalty-free unique identifiers, which reference the road surface and form a complete and fully consistent topological network with no breaks or misalignments at administrative boundaries. All Permit Scheme Authorities will synchronise their holdings of the common digital map data so that they all contain the same version of the data at any given point in time.

22.5.4 The minimum specification of the common map base is as follows:

- a) Scale Urban areas: 1:1250;
- b) Rural areas: 1:2500;
- c) Remote areas: 1:10000;
- d) Accuracy Urban areas: $\pm 1.0\text{m}$;
- e) Rural areas: $\pm 2.0\text{m}$;
- f) Remote areas: $\pm 4.0\text{m}$;
- g) Coverage: National and seamless, exhausting space over all land areas;
- h) Geometry Types: Point, Line and Polygon;
- i) Classification: Objects classified by physical form; and
- j) Update Cycle: every 6 months

22.6 Content of Registers

22.6.1 The Permit Scheme registers will record:

- a) copies of all Provisional Advance Authorisation, permit and permit variation applications submitted to the Permit Authority relating to registerable activities in any street;
- b) copies of all permits and PAAs given by the authority, including conditions attached as well as all variations to permits and conditions, including any permits "deemed" to be granted;
- c) copies of all revoked permits, refused PAAs and refused permits, together with the reasons for such refusals;
- d) copies of all notices, consents and directions served by a street authority under Sections 58 or 58A of NRSWA;
- e) copies of all notifications served by a Promoter / Statutory Undertaker under Sections 58 and 58A of NRSWA;
- f) copies of all notices given under Section 74 of NRSWA;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- g) description and location of activities for which plans and sections have been submitted under Schedule 4 of NRSWA (streets with special engineering difficulties);
- h) particulars of notices given by any relevant authority under Schedule 4 of NRSWA;
- i) particulars of street works licences under Section 50 of NRSWA, including details of conditions and changes of ownership and of any NRSWA notices or directions associated with those licenses;
- j) information under Section 70 (3) and (4A) of NRSWA as to completion of reinstatements;
- k) particulars of apparatus notified to the street authority under Section 80(2) of NRSWA;
- l) every notice of works pursuant to Section 85 (2) of NRSWA;
- m) details of every street for which the highway authority are the street authority;
- n) details of every street which is a prospectively maintainable highway over which a Permit Scheme would operate;
- o) details of every street over which a Permit Scheme would operate and which is a highway but for which it is not the highway authority; and
- p) details of every street which is a:
 - i. protected street;
 - ii. street with special engineering difficulties; or
 - iii. traffic-sensitive street.
 - iv. private street

22.6.2 Authorities will ensure that their register includes the road category of each street.

22.7 Access to Registered Information

22.7.1 Everyone has a right to inspect the register(s), free of charge, at all reasonable times, except as noted below where there are restrictions. "All reasonable times" may be taken to mean normal office hours (e.g. 08:00 to 16:30, Monday to Friday except Bank Holidays).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 22.7.2 The Permit Authority will publish a limited content version of their register on their public website or version of their register. This will be available 24 hours a day, seven days a week, except for those occasional times when it will be unavailable due to upgrade and maintenance. This work will, *wherever possible*, be done outside normal office hours.
- 22.7.3 Much of the detailed information in the register is unlikely to be of interest to the Public and it is the responsibility of each Permit Authority to decide how much information to make available in this way. Permit applications and notices contain information such as names and telephone numbers of contacts in organisations. Whilst the Permit Authority will restrict such contact information being published, the Promoter should take responsibility to ensure information contained in free-text fields does not contain information that they do not want to be published. The Permit Authority will make it clear that they are not responsible for the accuracy of information concerning those activities for which they are not the Promoter.
- 22.7.4 The websites will allow records to be searched by the USRN or the "street descriptor" (the street name, description or street number) as given in the NSG. The Highways Agency has its own methods of disseminating such information on trunk roads and motorways. Public access to websites will be read-only to prevent unauthorised amendment to records.
- 22.8 Restricted Information**
- 22.8.1 Restricted information is anything certified by the Government as a matter of national security, or information which could jeopardise the Promoter's commercial interests such as details of a contract under negotiation. The Promoter must indicate restricted information on the application.
- 22.8.2 The approach taken is that restrictions on the release of information should be as limited as possible. In particular, it will not be assumed that because some item of information about an activity needs to be restricted, all information about it needs to be. For example, a PAA might need to be restricted for commercial reasons, whereas a later permit need not be. The case for restriction will be considered on an item-by-item rather than an activity-by-activity basis.
- 22.8.3 The right of access to restricted information is limited to:
- a) persons authorised to execute any type of activity in the street; or
 - b) persons "otherwise appearing to the authority to have a sufficient interest".
- 22.8.4 Any person wishing to see restricted information must satisfy the Permit Authority, as a minimum, that his interest is greater than the general interest of the ordinary member of the public.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

22.9 Street Gazetteer

- 22.9.1 The Permit Scheme recognises that a key element of controlling or managing an activity is knowing accurately where the activity will take place, in which street and where in the street.
- 22.9.2 There is already a nationally consistent street gazetteer system for identifying streets that is used under NRSWA whereby every highway authority produces a Local Street Gazetteer (LSG) and a copy is held centrally by the NSG Custodian. Each of these local gazetteers shall contain the information, required by and defined in the Technical Specification for ETon, about the streets in that Permit Authority's area.
- 22.9.3 The Permit Authority and Promoters must obtain full copies and updates of the street data from the NSG Custodian's website.
- 22.9.4 Under this system each street has a Unique Street Reference Number (USRN). The Permit Scheme provides for the same system to be used, along with the Additional Street Data linked to those streets.
- 22.9.5 USRNs can refer to a whole street (as identified on the ground) or, if the street is long, to part of a street between significant junctions. Under the Permit Scheme a "street" refers to that length of road associated with a single USRN, i.e. to part of a whole street where a street is subdivided.
- 22.9.6 It is the responsibility of the highway authority (*which in the case of the Permit Scheme is the Permit Authority*), either individually or jointly with others, to create, maintain and publish street gazetteer data for all streets within their geographical area, whether or not they are the street authority for any particular street.
- 22.9.7 The specification for street gazetteers is set out in British Standard BS 7666. The Standard specifies three levels of detail; the highest, level 3 includes the geospatial representation of the centre-line of the street as well as the end points. With the degree of attention which will be exercised by the Permit Authority, accurate locations will often need the centre-line information if the impact of activities is to be properly assessed.

22.10 Additional Street Data (ASD)

- 22.10.1 Additional Street Data (ASD) refers to other information about streets held on the NSG Custodians website alongside the NSG data. Highway authorities, Promoters and other interested and approved parties may obtain copies and updates to this data from the Custodian.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 22.10.2 Authorities will provide the following information for the ASD alongside NSG data:
- a) the Primary Notice Authority for each street;
 - b) whether the street is publicly maintainable, prospectively publicly maintainable, or private;
 - c) whether the street, or part of the street, is covered by a Permit Scheme or NRSWA notification regime, which the Permit Authority is or street authority is and details of shared streets if this applies.
 - d) any other authorities and Promoters with an interest in the street;
 - e) the street reinstatement category;
 - f) designations of protected streets;
 - g) designations of streets with special engineering difficulty; and
 - h) designations of traffic-sensitive streets.
- 22.10.3 The Permit Authority may also provide the following information for the ASD which is optional:
- a) whether the street is subject to early notification of immediate activities;
 - b) where possible, streets on which it might be expected that conditions relating to the non-use of that street for new apparatus, but not the maintenance of existing apparatus, may be used; and
 - c) other features of the street, such as structures, environmental areas, parking restrictions, priority lanes, special surfaces, standard surface and special construction needs etc.
- 22.10.4 Designations may cover only part of a street or may vary along a street. The relevant detail should/will be recorded in the ASD.
- 22.11 Responsibility for Creating and Updating ASD**
- 22.11.1 Where the street authority is also the highway authority, it creates the ASD together with the NSG.
- 22.11.2 Where the street authority is not the highway authority, it may create and submit its own ASD to the NSG Custodian. This will be referenced to the highway authorities' gazetteers. Organisations that fall into this category are:
- a) The Highways Agency (which manages the motorway and trunk road network in England)

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

b) Network Rail (which is the street authority for level crossings between the barriers).

22.11.3 Any other authority, Promoter or interested party must send their records to the NSG Custodian to ensure that their interest in a street is logged. The interest records should/will be entered into the ASD maintained by the highway authority.

22.11.4 This is particularly appropriate to neighbouring authorities in the exercise of their network management duty. The NSG Custodian will administer this process.

22.12 Use of ASD and Level 3, Street Gazetteer

22.12.1 All Promoters are advised to use the level 3 gazetteer and this ASD information when making their permit applications.

22.12.2 Promoters must ensure that they make their permit application to the appropriate Permit Authority.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

23 Monitoring and Evaluation

- 23.1 The objectives of the Permit Scheme are set out in Section 2
- 23.2 In accordance with the Regulations, the Permit Authority will seek to evaluate the Permit Scheme so as to measure whether the objectives are being met.
- 23.3 The Permit Scheme is a common scheme, which in itself means that the objective of providing a common framework for all Promoters who need to carry out their works in the East of England region will be met. However a formal evaluation process for all the objectives is recognised as being required.
- 23.4 Specific guidance is provided by the Department for Transport in respect of the objective of ensuring parity of treatment, under Regulation 40, for all types of work and Promoter.
- 23.5 The Permit Authority accepts that the operation of the Permit Scheme would be subject to the Council's own audit process to assess regulatory compliance, together with the efficiency and the effectiveness of the scheme. This process would complement and not supersede any additional measures agreed at regional or national forums, or those introduced through revised legislation.
- 23.6 **Non-Discrimination: Parity Treatment**
- 23.6.1 A key principle and objective of the Permit Scheme is that it treats all activities covered by the Permit Scheme on an equal basis. The Regulations provide for permit schemes to include both street works by statutory undertakers (*as defined in NRSWA*) and highway works (*as defined in Section 86 (2) of NRSWA*) as works for road purposes. Although the term "specified works" is used generically in the Regulations, "activities" is used in the Permit Scheme to encompass both types of works and anticipates subsequent sets of Regulations which may extend the scope of permit schemes to other activities on the street.
- 23.6.2 Whilst not all activities require a permit, Promoters are strongly recommended to check the Permit Authority street works register to ensure that they are not planning to work at the same time as other activities in that street.
- 23.6.3 Permits for all qualifying street works and works for road purposes, and all applications (*which can only be made by licensed undertakers or highway authorities*), will be treated in a non-discriminatory way, as required in Regulation 40. In effect the highway authority's activities and their applications will be treated in exactly the same way as those of a licensed undertaker's with regard to co-ordination and the setting of conditions.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 23.6.4 In order to show that the Permit Authority is operating the Permit Scheme in a fair and equitable way each Officer responsible for making any decision related to a permit application be separated from the highway activities of the authority.
- 23.6.5 In addition each Permit Authority will apply a set of Key Performance Indicators (KPIs) developed by the DfT and set out in the Code of Practice. Each Permit Authority must report against these KPIs on an annual basis, together with any measurement of the Permit Scheme objectives.
- 23.6.6 Each Permit Authority must apply two mandatory KPI's and select an additional two. These KPI's are set out in section 2 of the Permit Scheme.
- 23.6.7 The KPI reports will be discussed at quarterly co-ordination meetings (as defined under the NRSWA) as well as other regular meetings with Promoters such as regional Highways Authorities Utilities Committee, which will provide the forum for monitoring compliance with Regulation 40.
- 23.6.8 If any Promoter considers that they are not being treated in accordance with Regulation 40 then they can take the matter up either through the regular coordination or similar meeting or the dispute resolution procedures highlighted in Section 19.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

24 Transitional Arrangements

- 24.1 The basic rules of transition will apply on all roads where the Permit Scheme operates:
- a) The Permit Scheme as provided for herein will apply to all activities where the administrative processes, such as an application for a permit or Provisional Advance Authorisation, start after the commencement date;
 - b) Activities which are planned to start on site more than one month after the changeover date (for standard, minor and immediate activities) or three months after (for major activities) must operate under the Permit Scheme. This means that even if the relevant section 54 or section 55 NRSWA notice has been sent before the relevant changeover date, the Promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a permit. If the Promoter has not substantially begun the activity (or phase of activity) by the time limit for the notice, 1 month or 3 months as appropriate, then again the Promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a permit.
 - c) Any other activities which started under the notices regime and which will start on site less than one month or three months after the changeover date (according to activity category) will continue under that regime until completion.
- 24.2 Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. Activities coordinated in the run-up to the imposition of a restriction might be such a situation. In those few cases, Promoters must contact the Permit Authority so that discussions can take place to ensure a practical way of dealing with the activities can be resolved.
- 24.3 It should be noted that, following each Order being made giving effect to the Permit Scheme from a specified date, each Permit Authority shall provide those parties referred to in regulation 3(1), to include all relevant Promoters, notification not less than four weeks before the date on which the Permit Scheme will commence, as specified in Regulation 17(1).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

25 Permit Fee Payment

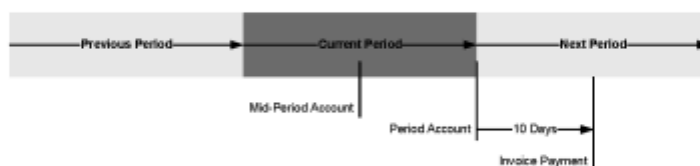
- 25.1 All Promoters, except on behalf of highway authority works, will be required to pay fees for permits to the Permit Authority and may have to pay a penalty to the Council if they receive a Fixed Penalty Notice for a permit related offence. Although the Permit Authority may keep the permit fees and FPN penalties separate for accounting purposes.
- 25.2 In most cases the Statutory Undertaker will already have arrangements in place for payments to the Permit Authority in relation to NRSWA e.g. for inspection or for section 74 overrun charges. These arrangements can be used for permit fee payments provided there is transparency over precisely which permit a payment is for. In any event, the Permit Authority will provide flexibility over how payments are made - although electronic payments are the preferred option, other means are possible.
- 25.3 **Payment Options**
- 25.3.1 The range of payment options available are:
- a) electronic payment using the Bankers Automated Clearing Services ("BACS"): the Statutory Undertaker must contact the Permit Authority, Finance Department;
 - b) via the Permit Authority website;
 - c) by post to Permit Authority Finance Department at the relevant address.
- 25.3.2 For BACS payment, the Statutory Undertaker must support payment with details of the permit reference covered by the payment and the amount being paid in relation to each.
- 25.3.3 When paying by telephone or via an e-payment system, the Statutory Undertaker must quote details of the permit reference covered by the payment and the amount being paid in relation to each
- 25.3.4 When paying by post, the payment must be accompanied by a list of the permit reference covered by the payment and the amount being paid in relation to each.
- 25.3.5 If the Statutory Undertaker wishes to pay using a credit/debit card, they need to contact the Permit Authority in good time to confirm that their card is accepted. It's important that the authority is informed which permit fee is being paid. This will not only provide an audit trail, but will also ensure that payments can be made quickly and with the minimum of queries.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 25.3.6 While the use of electronic payment methods is strongly encouraged, in the event of a systems failure a Statutory Undertaker may use any of the other options available.
- 25.3.7 The Statutory Undertaker must set up payment facilities, provide contact details and agree methods of payment with the Permit Authority Finance Department.
- 25.4 Permit Fee Payment and Reconciliation**
- 25.4.1 There is no specific legislation regarding the reconciliation and invoicing arrangements for permit fees, however it is recognised that the internal financial arrangements of a Permit Authority and Statutory Undertaker do differ and some flexibility must be provided for this process.
- 25.5 As a standard process for permit fee payment and reconciliation it is expected that an account for a specified period will be produced, containing the permit fees to be charged for that period. Each account will have a reference number which can be used as the reference for any payment, instead of the individual permit numbers.
- 25.6 The Permit Authority will submit this account to the relevant Statutory Undertaker to provide an opportunity for them to reconcile the charges to be invoiced for the specified period, prior to the generation of an invoice for payment.
- 25.6.1 The Permit Authority will confirm with each Statutory Undertaker the invoicing arrangements together with the frequency of the account reconciliation and/or invoicing. This section contains a standard payment and reconciliation model, including (a) the information to be provided within the account issued to the Statutory Undertaker; and (b) the reconciliation and invoicing process.
- 25.6.2 The following standard procedure for the reconciliation and payment of permit fees is recommended:
- a) An account of the permit fees to be charged for during the specified period will be produced by the Permit Authority and submitted to the Promoter to review for reconciliation. Two accounts during the period will be produced (1) a mid-period account; (2) at the period end to provide a full account.
 - b) There will be a period after receipt of the mid-period account to enable the Statutory Undertaker to liaise with the Authority to confirm fees and charges.
 - c) There will be a period of 10 days after receipt of the full account to confirm fees and charges for the entire period.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- d) During both of the reconciliation periods the Promoter must proactively contact the Permit Authority if they have any comments or queries on the content of the account.
- e) Once the reconciliation period is complete, a full invoice for the full period will be issued.



- 25.6.3 If during the reconciliation the Permit Authority and Promoter cannot reach agreement on a permit fee and any details are still under discussion, these fees will be omitted from the final account for the period and subsequent invoice. Fees under discussion can be included or not included as a result of discussions, in a later invoice.
- 25.6.4 The account produced by the Permit Authority will contain the following information related to the specified period:
 - i. **Account Reference** - The reference for the account, or list of permit fees to be charged for;
 - ii. **Date Issued** - Date the account was issued to the Statutory Undertaker (DD/MM/YYYY format);
 - iii. **Account Period** – start and end date for the period the account relates to;
 - iv. **District** - the Statutory Undertaker Operational District (OD Number)
- 25.6.5 In addition to the information listed above, the account will also include details of the permit being charged for. These details will include:
 - i. **Application Type** – PAA, permit or permit variation;
 - ii. **Permit Number** – the EToN Works Reference number, including the application and response sequence numbers, for each PAA, permit or permit variation;
 - iii. **Date Granted** –the date (DD/MM/YYYY) when the PAA, permit or variation was granted by the Permit Authority;
 - iv. **Works Category** - the type of works for which the permit has been issued;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- v. **Reinstatement Category** - the reinstatement category of the street for the permit activity;
 - vi. **Permit Fee and Discount** – the permit fee being charged and any related discount applied.
- 25.6.6 To provide sufficient detail for the Promoter to reconcile the account, the account will include details of PAA, permit and variations that are not subject to a fee.
- 25.6.7 The process for permit fee payment and reconciliation should be consistent for all Permit Authorities. This will support the Statutory Undertakers in their own internal invoice payment arrangements and should provide consistency when dealing with any queries that may arise.
- 25.6.8 The account period and subsequent invoicing frequency may vary from the standard four-weekly cycle, to a weekly, fortnightly, monthly or quarterly basis depending on the volumes of work. This would enable the Permit Authority to invoice the Statutory Undertaker with larger volumes of work more frequently, if required.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appendix A – Glossary

Term	Explanation
Above Ground	Any works which do not involve the breaking up or opening of the street or tunnelling or boring under it
Activity	Means street works as defined within part 3 of NRSWA except for works under license such as Section 50 of NRSWA and works for road purposes as set out in Section 86 of NRSWA.
Apparatus	Section 105 of NRSWA states "apparatus includes any structure for the lodging therein of apparatus or for the gaining access to apparatus".
Appeals	Appeal Where there is an unresolved disagreement between the Promoter and the Permit Authority about a Permit Authority's decision or actions the Promoter may appeal using the procedure in Section 19
Arbitration	As defined in Section 99 of NRSWA, "any matter which under this Part is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers".
ASD	Additional Street Data (ASD) means other information held on the National Street Gazetteer Custodians website alongside the NSG adjudication
Bank holiday	As defined in Section 98 (3) of NRSWA, "bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated".
Bar hole	A bar hole is used to detect and monitor gas leaks.
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street).
Bridge	As in Section 88 (1) (a) of NRSWA, "references to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street".

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Bridge authority	As defined in Section 88 (1) (b) of NRSWA, "bridge authority means the authority, body or person in whom a Permit Scheme bridge is vested".
Bridleway	As defined in Section 329 of the Highways Act 1980, "bridleway means a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway".
Carriageway	As defined in Section 329 of HA 1980, "carriageway means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles".
Central Register	A central register is a register covering two or more street authority areas that is maintained by one single authority, the 'register authority'. For example, a central register could include all authorities in a metropolitan or county area.
Code of Practice for Permits	The means the Traffic Management Act 2004 Code of Practice for Permits (March 2006), as published by the Department for Transport. Referred to as the "Code of Practice" within the Permit Scheme.
Co-ordination Meetings	Quarterly meetings to co-ordinate works in the highway authority and neighbouring authorities roads.
Critical gyratory or roundabout system	A gyratory or roundabout system where, in the absence of street works or works for road purposes, no less than 5 per cent of peak hour vehicles on average are delayed by more than 20 seconds.
Critical signalised junction	A traffic signal junction at which, in the absence of street works or works for road purposes and at times when the exit is not blocked, no less than 5 per cent of peak hour vehicles on average fail to clear the junction on the first green signal.
Culvert	A structure in the form of a large pipe or pipes, box or enclosed channel generally used for conveying water under a road.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Cycle track	As defined in Section 329 of the HA 1980, "cycle track means a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot".
Day	Unless explicitly stated otherwise the reference to day means a working day.
DfT	Department for Transport.
Disability	As defined in Section 105 (5) of NRSWA, "Section 28 of the Chronically Sick and Disabled Persons Act 1970 (power to define "disability" and other expressions) applies in relation to the provisions of this Part as to the provisions of that Act".
Disability Equality Duty	Means the duty under Section 49A of the Disability Discrimination Act 1995, inserted by the Disability Discrimination Act 2005 which requires that "(1) Every public authority shall in carrying out its functions have due regard to— (a) the need to eliminate discrimination that is unlawful under this Act; (b) the need to eliminate harassment of disabled persons that is related to their disabilities; (c) the need to promote equality of opportunity between disabled persons and other persons; (d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons; (e) the need to promote positive attitudes towards disabled persons; and (f) the need to encourage participation by disabled persons in public life. (2) Subsection (1) is without prejudice to any obligation of a public authority to comply with any other provision of this Act.
Distribution Network Operator (DNO)	Operator of an electricity distribution network.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

e-government	The Government objective to deliver efficiency savings while improving the delivery of public services by joining up electronic government services around the needs of customers.
Emergency works	As defined in Section 52 of NRSWA, "emergency works means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property".
EToN	Electronic Transfer of Notifications
Excavation	"Breaking up" (as defined above).
Extensible Markup Language (XML)	A self-describing data format providing (amongst other things) a method of transferring data between systems. Note that the UK Government eGIF standard mandates XML for this purpose.
File transfer protocol (FTP)	A method of transferring data between computers defined by RFC959 (RFCs - Request for Comments) are the standard documents that define the operation of the internet).
Fixed Penalty Notice	As defined in schedule 4B to NRSWA, "fixed penalty notice means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty".
Footpath	As defined in Section 329 of the HA 1980, "footpath means a highway over which the public have a right of way on foot only, not being a footway".
Footway	As defined in Section 329 of the HA 1980, "footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only".
Frontager	A person or body occupying premises abutting the street.
Geographical information system (GIS)	A computer system for capturing, storing, checking, integrating, manipulating, analysing and displaying data related to positions on the Earth's surface.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

HA 1980	The Highways Act 1980.
HAUC(UK)	The Highway Authorities and Utilities Committee for the UK.
Heavy commercial vehicle	As defined in Section 138 of the Road Traffic Regulation Act 1984, "heavy commercial vehicle means any goods vehicle which has an operating weight exceeding 7.5 tonnes".
Highway	As defined in Section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway".
Highway authority	As defined in Sections 1 and 329 of the HA 1980.
Highway works	"works for road purposes" or "major highway works".
Highways Act 1980	(dual carriageways and roundabouts); (c) substantial alteration of the level of the highway; (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway; (e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980; (f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges); (g) provision of a cattle-grid in the highway or works ancillary thereto; or (h) tunnelling or boring under the highway"
Immediate activities	immediate activities or works are either emergency works as defined in Section 52 of NRSWA or urgent activities or works as defined in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.
In	As defined in Section 105 (1) of NRSWA, "in, in a context referring to works or activities, apparatus or other property in a street or other place includes a reference to works or activities, apparatus or other property under, over, along or upon it".
Land	As defined in Section 329 of HA 1980, "land includes land covered by water and any interest or right in, over or under land".
Level 1 (or 2, or 3) Gazetteer	As defined in the British Standard BS7666.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Local authority	As defined in Section 270(1) of the Local Government Act 1972(a) and includes the Common Council of the City of London.
Local highway authority	As defined in Section 329 of HA 1980, "local highway authority means a highway authority other than the Minister".
Local planning authority	Has the same meaning as in the Town and Country Planning Act 1990.
Local register	A local register is a register that is maintained by a single street authority for their own geographic area and will include information on all streets other than those streets that are the responsibility of another street authority.
Local street gazetteer	A subset of the NSG containing details of all streets in a local highway authority area, being a self-contained entity created and maintained by the local highway authority covering all streets in their geographic area regardless of maintenance responsibility.
Main roads	Category 0, 1 and 2 streets and category 3 and 4 streets that are traffic-sensitive for all or part of the time.
Maintainable highway	As defined in Section 329 of HA 1980, a "highway maintainable at the public expense means a highway which by virtue of Section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense".
Maintenance	As defined in Section 329 of HA 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly".
Major activities	Activities which have been identified in an Promoter's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the works; or street works, other than immediate works, where (i) the street authority has indicated to the undertaker; or (ii) the undertaker considers, that an order under Section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads) is required; or street works, other than immediate street works, which have a planned duration of 11 days or more".

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Major bridge works	As defined in Section 88 (2) of NRSWA, "major bridge works means works for the replacement, reconstruction or substantial alteration of a bridge".
Major highway works	As defined in Section 86 (3) of NRSWA, "major highway works means works of any of the following descriptions executed by the highway authority in relation to a highway which consists of or includes a carriageway - (a) reconstruction or widening of the highway; (b) works carried out in exercise of the powers conferred by Section 64 of the Highways Act 1980 (dual carriageways and roundabouts); (c) substantial alteration of the level of the highway; (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway; (e) the construction or removal of a road hump within the meaning of Section 90F of the Highways Act 1980; (f) works carried out in exercise of the powers conferred by Section 184 of the Highways Act 1980 (vehicle crossings over footways and verges); (g) provision of a cattle-grid in the highway or works ancillary thereto; or (h) tunnelling or boring under the highway".
Major transport works	As defined in Section 91 (2) of NRSWA, "major transport works means substantial works required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking".
Material consideration	A consideration which relates to the carrying out of registerable activities and the impact of those activities. The weight to be accorded to any material consideration will depend upon the circumstances of the case.
Minor roads	Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time.
Minor works	Minor works are those street works other than immediate works or major works where the planned duration is three days or less
National Grid Reference (NGR)	Location reference using nationally defined eastings and northings.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

National Land and Property Gazetteer (NLPG)	Gazetteer providing a national reference of land and property related Data Nationally consistent street gazetteer (NSG), a database defined as "an index of streets and their geographical locations created and maintained by the local highway authorities" based on the BS7666 standard
Nationally Consistent Street Gazetteer (NSG)	A database defined as "an index of streets and their geographical locations created and maintained by the local highway authorities" based on the BS7666 standard.
Network management duty	As set out under Section 16 of the TMA is a duty imposed upon the local traffic authority to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following overriding objectives: (a) securing the expeditious movement of traffic on the authority's road network; and (b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.
Notice management system	Notice management systems receive electronic street works notices and are used by street authorities to manage them together with other relevant information.
NRSWA	New Roads and Street Works Act 1991
NSG	National Street Gazetteer
NSG Custodian	The body appointed to manage the NSG on behalf of the local highway authorities.
ODD	Operational District Data
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any "breaking up" of the street.
Ordnance Survey Grid	A spatial location based on the geospatially referenced national grid owned by the Ordnance Survey.
OSGR	Ordnance Survey Grid Reference

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Passenger Transport Authority	One of seven authorities (Greater Manchester, Merseyside, South Yorkshire, Strathclyde, Tyne & Wear, West Midlands and West Yorkshire) made up of representatives from local authorities in the area, responsible for public transport in their area.
Passenger Transport Executive	The executive arm of a Passenger Transport Authority.
PAA	Provisional Advanced Authorisation. An indication of the likely future issue by the Permit Authority of a permit for certain proposed works.
Pedestrian Planning Order	This refers to an order made under Section 249(2) or (2A) of the Town and Country Planning Act 1990.
Permit Authority	The relevant local highway authority or authorities operating the Permit Scheme, under a legal Order.
Portable Traffic Signals	Portable signals used to control traffic at road junctions (multi-way) or to control traffic along a road (two-way), which are defined within the Traffic Signs Regulations and General Directions (2002).
Prescribed	As defined in Section 104 of NRSWA, "prescribed means prescribed by the Secretary of State by Regulations, which may (unless the context otherwise requires) make different provision for different cases".
Promoter	A person or organisation responsible for commissioning activities [works] in streets covered by the Permit Scheme. In the Permit Scheme Promoters will be either a statutory undertaker or a participating Council as a highway or traffic authority.
Protected street	Any street that serves a specific strategic traffic need and therefore needs to be protected from unnecessary excavation and works and providing there is a reasonable alternative route in which undertakers can place the equipment that would otherwise lawfully have been placed in the protected street. See Section 61 of NRSWA.
Provisional street	A street that does not yet have an entry in the NSG. Typically these will be newly created and/ or private streets.
Public sewer	Public sewer has the same meaning as in the Water Industry Act 1991.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Railway	As defined in Section 105(1) of NRSWA, "railway includes a light railway other than one in the nature of a tramway".
Reasonable period	As defined in Section 74(2) of NRSWA, in accordance with Regulation 37(4).
Reasonable times	A reasonable time may be taken to mean normal office hours (08:00 to 16:30, Monday to Friday except Bank Holidays)
Registerable activities	As set out in Section 4 registerable activities correspond to what are "specified works" in the Traffic Management Permit Schemes (England) Regulations 2007.
Regulations	The Traffic Management Permit Scheme (England) Regulations 2007
Reinstatement	As defined in Section 105 (1) of NRSWA, "reinstatement includes making good".
Reinstatement Category	The reinstatement category of a street in the Permit Scheme is the same as the reinstatement category under NRSWA, as defined in the Specification for the Reinstatement of Openings in Highways.
Relevant authority	As defined in Section 49 (6) of NRSWA, "references in this Part to the relevant authorities in relation to any works in a street are to the street authority and also (a) where the works include the breaking up or opening of a public sewer in the street, the sewer authority; (b) where the street is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, that authority; and (c) where in any other case the street is carried or crossed by a bridge, the bridge authority".
Remedial works	Remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and Regulations.
Road	Means "Highway".

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Road category	This means one of the road categories specified in paragraph 1.3.1 of Chapter S.1 of the code of practice entitled "Specification for the Reinstatement of Openings in Highways" dated April 2010, or where revised or reissued from time to time.
Road works	Works for road purposes.
Schema (XML)	Schemas express shared vocabularies and allow machines to carry out rules made by people. They provide means for defining the structure, content and semantics of XML documents.
Sewer	As defined in the Water Industry Act 1991 "includes all sewers and drains (not being drains within the meaning given by this subsection) which are used for the drainage of buildings and yards appurtenant to buildings".
Small Openings and Small Excavations	All openings with a surface area of two square metres or less.
Special Engineering Difficulties (SED)	By virtue of Section 63 of NRSWA, the term special engineering difficulties relates to streets or, more commonly, parts of streets associated with structures, or streets of extraordinary construction where street works must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure with attendant danger to person or property.
Specified works	Means registerable activities and comprises both street works and works for road purposes as described in the Permit Scheme
Standard works	Standard works are those street works, other than immediate works or major works, which have a planned duration of between four and ten days inclusive.
Statutory Guidance	Means the Traffic Management Act 2004 Statutory Guidance for Permits.
Statutory right	As defined in Section 105 (1) of NRSWA, "statutory right means a right (whether expressed as a right, a power or otherwise) conferred by an enactment (whenever passed or made), other than a right exercisable by virtue of a street works licence".

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Statutory Undertaker	As defined in Section 48 (4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be".
Street	As defined in Section 48 (1) of NRSWA, "street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare (a) any highway, road, lane, footway, alley or passage; (b) any square or court; (c) any land laid out as a way whether it is for the time being formed as a way or not". Street authority As defined in Section 49 (1) of NRSWA, "the street authority in relation to a street means, subject to the following provisions (a) if the street is a maintainable highway, the highway authority; and (b) if the street is not a maintainable highway, the street managers".
Street managers	As defined in Section 49 (4) of NRSWA, "the expression "street managers", used in relation to a street which is not a maintainable highway, means the authority, body or person liable to the public to maintain or repair the street or, if there is none, any authority, body or person having the management or control of the street"
Street works	Street works As defined in Section 48 (3) of NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street".

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Street works licence	As stated in Section 50 (1) of NRSWA, "the street authority may grant a licence (a "street works licence") permitting a person (a) to place, or to retain, apparatus in the street, and (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).
Technical Specification for EToN	Means the NRSWA (1991) Technical Specification for the Electronic Transfer of Notifications (EToN).
Traffic Regulation Order (TRO) or Traffic Order	This means an Order made under section 1,6,9 or 14 of the Road Traffic Regulation Act 1984.
The "Regulations" or "Regs"	Means the Traffic Management Permit Schemes (England) Regulations 2007 SI 2007 No. 3372.
TMA	The Traffic Management Act 2004.
Traffic	As defined in Section 105 (1) of NRSWA, "traffic includes pedestrians and animals".
Traffic authority	As defined in Section 121A of the Road Traffic Regulation Act 1984: (1)(a)The Secretary of State is the traffic authority for every highway in England for which he is the highway authority within the meaning of the Highways Act 1980; (3) In England and Wales outside Greater London, the council of the county or metropolitan district are the traffic authority for all roads in the county or, as the case may be, the district for which the Secretary of State is not the traffic authority.
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works".
Traffic Order	This means an order made under Section 1, 6 or 9 of the Road Traffic Act 1984.
Traffic sensitive street	This means a street designated by a street authority as traffic-sensitive pursuant to Section 64 of NRSWA and in a case where a limited designation is made pursuant to Section 64 (3) any reference to works in a traffic-sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Tramway	As defined in Section 105 (1) of NRSWA, "tramway means a system, mainly or exclusively for the carriage of passengers, using vehicles guided, or powered by energy transmitted, by rails or other fixed apparatus installed exclusively or mainly in a street"
Transport authority	As defined in Section 91 (1) (a) of NRSWA, "transport authority means the authority, body or person having the control or management of a transport undertaking".
Transport undertaking	As defined in Section 91(1)(b) of NRSWA, "transport undertaking means a railway, tramway, dock, harbour, pier, canal or inland navigation undertaking of which the activities, or some of the activities, are carried on under statutory authority".
Trunk road	As defined in Section 329 of the HA 1980, "trunk road means a highway, or a proposed highway, which is a trunk road by virtue of Section 10 (1) or Section 19 above or by virtue of an order or direction under Section 10 above or under any other enactment".
Unique Street Reference Number (USRN)	As defined in the British Standard BS7666.
Urgent activities or works	are immediate activities which are a) activities (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the activity believes on reasonable grounds to be required) i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker; ii) to avoid substantial loss to the undertaker in relation to an existing service; or iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and (b) Includes activity that cannot reasonably be severed from such activities.
Working day	A working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and for the purposes of the Permit Scheme the commencement of a working day will be treated as being 08:00 and its end as 16:30.
Working Space	As defined on page 5 of the current "Safety at Street Works and Road Works, Code of Practice
Works	Street works or works for road purposes.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Works clear	A works clear notice is used following interim reinstatement.
Works closed	A works closed notice is used following permanent reinstatement.
Works comment	Means an electronic communication using EToN.
Works for road purposes	As defined in Section 86 (2) of NRSWA, "works for road purposes means works of any of the following descriptions executed in relation to a highway: (a) works for the maintenance of the highway; (b) any works under powers conferred by Part V of the Highways Act 1980 (improvement); (c) the erection, maintenance, alteration or removal of traffic signs on or near the highway; or (d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles".
Works Reference	Within the Technical Specification for EToN a works reference is detailed as "allocated by the promoter and includes Prefix and District. The works reference must be unique to an individual works and must not be re-used following permanent cancellation of proposed works".
XML	Extensible Markup Language

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appendix B – Dis-applied Sections from the NRSWA(1991)

NRSWA Section		Change	Permit Regulations - Revised Arrangements
Section 53	The street works register	Disapplied	Permit regulations prescribe similar provisions for permit registers
Section 54	Advance notice of certain works	Disapplied	Replaced by applications for provisional advance authorisation
Section 55	Notice of starting date	Disapplied	Replaced by applications for permits
Section 56	Power to direct timing of street works	Disapplied	Replaced by permit conditions and variations including those initiated by the Permit Authority
Section 57	Notice of emergency works	Disapplied	Replaced by applications for immediate activities
Section 66	Avoidance of unnecessary delay or obstruction	Disapplied	Replaced equivalent provisions for permit authorities to require Promoters in breach of the permit requirements to take remedial action and failing that for the authority to act. 24 hour compliance period to be replaced with a requirement for Promoters to comply within a reasonable specified period determined by circumstances

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appendix C - Modifications to NRSWA (1991)

The Regulations modify the following sections of NRSWA to accommodate the issuing of permits rather than the exchange of notices.

NRSWA Section		Change	Permit Regulations – Revised Arrangements
Section 58	Restriction on works following substantial road works	Modified	The authority's ability to issue permits with start and end dates replacing directions to start works covered in NRSWA S58 (5) to (7) - The regulations provide the equivalent of S58A powers by allowing authorities to take into account whether Promoters responded to the S58 notice by submitting an application for their planned activities
Section 58A	Restriction on works following substantial street works	Modified	Schedule 3A is modified to work in conjunction with permits
Section 64	Traffic Sensitive Street	Modified	Permit regulations provide the requirement for notifying permit applicants the proposals for to designate streets as traffic sensitive
Section 69	Works likely to affect other apparatus in the street	Effectively extended	Permit regulations create an equivalent requirement on highway authority promoters
Section 74	Charge for occupation of the highway where works are unreasonably prolonged	Modified	Permit regulations make provision to operate S74 powers in parallel with Permits
Section 88	Bridge, bridge authorities and related matters	Modified	Modified to work in conjunction with permits

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

100

EAST OF ENGLAND PERMIT SCHEME

Section 89	Public sewers, sewer authorities and related matters	Modified	Modified to work in conjunction with permits
Section 90	Provisions as to reinstatement of sewers, drains and tunnels	Modified	Modified to work in conjunction with permits
Section 93	Works affecting level crossings or tramways	Modified	Modified to work in conjunction with permits.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appendix D –Standard Conditions

Scheme Reference	Description	Condition
16.8.5	Where phased works change during the course of an activity.	The works comprised in the next phase of the activity shall not commence before the works comprised in the current phase are complete.
16.9.5	To minimise disruption by the swift removal of equipment that has become unnecessary and/or by the removal of surplus materials thereby reducing the area occupied.	It is a standard condition of this Permit Scheme that in order to minimise disruption, plant, equipment that has become unnecessary and/or surplus materials or spoil should be removed from site at the end of works or phase of works, irrespective of the end date of the valid permit.
16.9.6	Visible diversion signage.	Diversion route signage must only be visible to the users of the highways when the diversion route is in operation.
16.10.6	Use of temporary traffic signals on traffic sensitive streets, at traffic sensitive times.	Where 24 hour temporary traffic signals are to be used, these will be manually operated on traffic sensitive streets, during traffic sensitive times.
16.10.3	Commencing activity where any advance approval for traffic management, parking restriction and/or traffic order is required.	Where any traffic management, parking restriction and/or traffic regulation Order or notice is required no activity, or part of the activity for which the necessary Order or approval is required, can commence without the necessary order or approval in place.
16.10.4	Where planned traffic management arrangements are phased during the course of an activity.	When traffic management arrangements change, the Promoter must inform the Permit Authority before changes take place.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

16.10.7	Traffic management when clearing spoil from site.	Where spoil is being cleared from site traffic must be suitably managed, in line with Safety at Streetworks and Roadworks, past the works to minimise the disruption to passing traffic.
16.12.8	Display of Permit Reference Number for planned works.	Works shall not commence until a site information board has been erected on site in a prominent place so that it may be read easily by the Public, clearly displaying the correct Permit Reference Number. The sign will remain in place for the duration of works.
10.2.3	Reference to linked Permit(s).	Where there are any other linked permits references to those other linked permits must also be included with the permit.
10.2.4	Cross-reference to the original Permit for remedial works.	Where remedial works are to be carried out following completion of works a new permit is required. This new permit must cross-reference the original activity.
16.13.5 (4.8)	Working near trees.	Where trees will be affected by proposed activities, Promoters must adhere to the Specifications for the Reinstatement of Openings in the Highways (SROH).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appendix E –Conditions Upon Immediate Activities

Scheme Reference	Description	Condition
16.4.2	Working within the terms of application for immediate works.	Until a permit is issued following an application for an immediate activity, a Promoter will be required to work within the terms of their application; for example if the application refers to specific working hours then the Promoter must work within those hours.
11.9.2 16.4.3 16.12.10	Notification of Immediate works to the Permit Authority.	Promoters of immediate activities must contact the Permit Authority immediately where the specified street is susceptible to unplanned disruption as indicated in the ASD for that Permit Authority.
16.4.4 16.12.10	Display of Permit Reference Number for immediate works.	Promoters should display the permit reference number in respect of permits for immediate works on site within two hours of the immediate activity commencing or, in the case of the works commencing out of normal working hours, within two hours of the start of the next working day.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appendix F – Application & Responses Times

Activity Type	Minimum application periods ahead of proposed start date		Minimum period before permit expires for application for variation (including extension)	Response times for issuing a permit or seeking further information or discussion		Response times to applications for permit variations
	Application for provisional advance authorisation	Application for Permit		Application for provisional advance authorisation	Application for Permit	
Major	3 Months	10 Days	2 Days or 20% of the original duration whichever is longest	1 Calendar Month	5 Days	2 Days
Standard	n/a	10 Days		n/a	5 Days	2 Days
Minor	n/a	3 Days		n/a	2 Days	2 Days
Immediate	n/a	2 Hours After		n/a	2 Days	2 Days

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

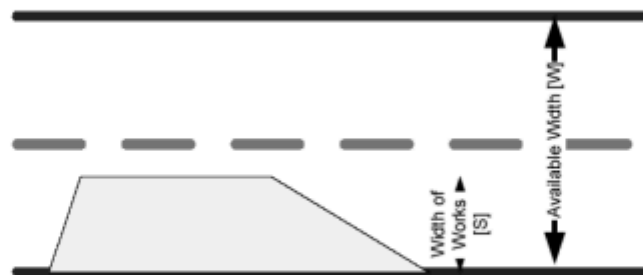
Appendix G – Disruption Effect Score

Derivation of Disruption Effect Score

The disruption effect score is based on the reduction in capacity resulting from an activity on the highway. The reduction in capacity may be calculated using an algorithm that requires the entry of a number of simple factors. These factors are as follows:

Factor	Description
[P]	The daily traffic flow, measured as an average am/pm peak hour flow in PCUs per hour, so that it takes account of HGV percentages. (Source: Highway Authority)
[W]	The total width in metres of the carriageway (or the width of both carriageways for a dual carriageway road) (Source: Ordnance Survey mapping using GIS tools)
[S]	The width in metres of the activity occupying the carriageway, or in the case of activities on the footway, this would be the width in metres of the carriageway occupied by attendant vehicles and associated traffic management, as well as the width needed for any incursion of pedestrians, cyclists and horse riders into the carriageway. (Source: Established as part of the works planning process)

Disruption Effect Score – Calculation Illustration



Calculation of Disruption Effect Score

The following algorithm is used to calculate the Disruption Effect Score:

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

$$\text{Disruption Effect Score} = [(P \times 100) / (1600 \times (W - S) / 3.65)]$$

Use of Disruption Effect Score

The disruption effect score has a number of specific uses including:

- i. Derivation of the Traffic Impact Assessment,
- ii. Objective based prioritisation of activities for co-ordination, and
- iii. Performance indicators

Impact Assessment

The impact assessment is a broad indicator of the potential disruption that could arise from an activity on the highway;

Disruption Effect Score	Impact
Greater than or equal to 75	Severe
Greater than or equal to 50 and less than 75	Moderate
Greater than or equal to 25 and less than 50	Slight
Less than 25	None

Impact on Buses

The impact assessment for bus traffic is assessed for defined bus routes only and is derived as follows:

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Disruption Effect Score Factor	Impact
Greater than or equal to 75	Severe
Dedicated bus lane closed	Severe
Greater than or equal to 50 and less than 75	Moderate
Dedicated bus lane diverted	Moderate
Greater than or equal to 25 and less than 50	Slight
Less than 50	None

Impact on Pedestrians

The impact assessment for pedestrian traffic is derived as follows:

Factor	Impact				
	Footway Hierarchy Category				
	1a	1	2	3	4
Closure	Severe	Severe	Severe	Severe	Moderate
Complete Diversion	Severe	Severe	Severe	Moderate	Slight
Partial Diversion	Severe	Severe	Moderate	Moderate	Slight
Narrowing >50%	Severe	Severe	Slight	Slight	None
Narrowing <50%	Severe	Moderate	Slight	None	None

A 'complete diversion' of a footway is where a new route for pedestrians has been established, for example where there is a requirement to cross the road to use the opposite footway. A 'partial diversion' of a footway is where the route for pedestrians is diverted around the activity's site but remains on the same side of the road. In addition, the impact of any activities on footways associated with urban transport facilities will be considered as 'severe'. For the purposes of this section these are any activities on footways that are within 100 metres of an entrance to a bus, tube, railway or tram station.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Appendix H – Permit Fees

Bedford Borough Council



Reinstatement category of street	0, 1 and 2	3 and 4		3 and 4
Street designated as traffic sensitive or not	All streets	Traffic sensitive at some times/locations		Non traffic sensitive at any time or location
Time and location of activity	Any time and location	Any part within traffic sensitive times at traffic sensitive locations	Wholly within non traffic sensitive times/locations	Any time and location
Provisional Advance Authorisation	£105	£105	£75	£75
Major Activity	£240	£240	£150	£150
Standard activity	£130	£130	£75	£75
Minor Activity	£65	£65	£45	£45
Immediate activity	£60	£60	£40	£40

Permit Variation Fees

For permit variations, the Permit Authority will charge:-

- £45 for all activities on category 0, 1 and 2 streets and category 3 and 4 streets that are traffic-sensitive;
- £35 for all activities on category 3 and 4 non traffic-sensitive streets.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Hertfordshire County Council



Reinstatement category of street	0, 1 and 2	3 and 4		3 and 4
Street designated as traffic sensitive or not	All streets	Traffic sensitive at some times/locations		Non traffic sensitive at any time or location
Time and location of activity	Any time and location	Any part within traffic sensitive times at traffic sensitive locations	Wholly within non traffic sensitive times/locations	Any time and location
Provisional Advance Authorisation	£105	£105	£75	£75
Major Activity	£240	£240	£150	£150
Standard activity	£130	£130	£75	£75
Minor Activity	£65	£65	£45	£45
Immediate activity	£60	£60	£40	£40

Permit Variation Fees

For permit variations, the Permit Authority will charge:-

- £45 for all activities on category 0, 1 and 2 streets and category 3 and 4 streets that are traffic-sensitive;
- £35 for all activities on category 3 and 4 non traffic-sensitive streets.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Luton Borough Council



Reinstatement category of street	0, 1 and 2	3 and 4		3 and 4
Street designated as traffic sensitive or not	All streets	Traffic sensitive at some times/locations		Non traffic sensitive at any time or location
Time and location of activity	Any time and location	Any part within traffic sensitive times at traffic sensitive locations	Wholly within non traffic sensitive times/locations	Any time and location
Provisional Advance Authorisation	£105	£105	£75	£75
Major Activity	£240	£240	£150	£150
Standard activity	£130	£130	£75	£75
Minor Activity	£65	£65	£45	£45
Immediate activity	£60	£60	£40	£40

Permit Variation Fees

For permit variations, the Permit Authority will charge:-

- £45 for all activities on category 0, 1 and 2 streets and category 3 and 4 streets that are traffic-sensitive;
- £35 for all activities on category 3 and 4 non traffic-sensitive streets.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Southend-on-Sea Borough Council



Reinstatement category of street	0, 1 and 2	3 and 4		3 and 4
Street designated as traffic sensitive or not	All streets	Traffic sensitive at some times/locations		Non traffic sensitive at any time or location
Time and location of activity	Any time and location	Any part within traffic sensitive times at traffic sensitive locations	Wholly within non traffic sensitive times/locations	Any time and location
Provisional Advance Authorisation	£98	£98	£70	£70
Major Activity	£218	£218	£140	£140
Standard activity	£123	£123	£75	£75
Minor Activity	£60	£60	£43	£43
Immediate activity	£54	£54	£38	£38

Permit Variation Fees

For permit variations, the Permit Authority will charge:-

- £45 for all activities on category 0, 1 and 2 streets and category 3 and 4 streets that are traffic-sensitive;
- £35 for all activities on category 3 and 4 non traffic-sensitive streets.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

112

EAST OF ENGLAND PERMIT SCHEME

Document Control Sheet

Document Title	East of England Permit Scheme
Revision	1.2
Status	Final
Release Status	Issued for Application
Control Date	24 May 2012

END OF DOCUMENT

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to the Luton Borough Council Permit Scheme.

The Luton Borough Council Permit Scheme is designed to control the carrying out of works in specified streets in Luton by imposing an obligation to obtain a permit from Luton Council before undertaking the works.

Article 3 gives effect to the permit scheme, which will come into effect on 5th November 2012. The permit scheme referred to in this article is set out in the Schedule to the Order.

Article 4 applies Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (which makes provision for the disapplication and modification of enactments in relation to specified works in specified streets) to the specified works and specified streets within the Luton Borough Council Permit Scheme.

A copy of Luton Borough Council Permit Scheme is deposited and can be inspected at the offices of Luton Borough Council, Town Hall, George Street, Luton, LU1 2BQ and is available to inspect on the Council's website <http://www.luton.gov.uk>.