
EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision for the sharing of costs between the Department of the Environment, the bridge authority or the transport authority (“the authority concerned”) and the undertaker where the undertaker’s apparatus in a street is affected by major road, bridge or transport works (“the works”) and measures are required to protect it.

Where the works are initiated by the authority concerned and the measures necessary to protect the apparatus are taken by the undertaker the authority concerned shall pay to the undertaker the whole of his allowable costs (as defined in regulation 1(3)), but only 82 per cent of this sum shall be payable if 75 per cent of the estimate of 82 per cent of the allowable costs is paid as a lump sum before the works begin or, in the case of works lasting longer than 3 months, by instalments during the carrying out of the works (regulations 2 and 8(a)). Where the works are initiated by the authority concerned and the authority concerned also takes the measures needed to protect the undertaker’s apparatus, the undertaker shall pay 18 per cent of the allowable costs (regulation 3). Where the undertaker requests the authority concerned to move his apparatus solely because of a change in the type of road construction, he is liable to pay the whole of the allowable costs (regulation 4). In the case of works initiated by a person other than the authority concerned in its capacity as such or an undertaker the foregoing rules apply to protective measures depending on whether they are taken by the authority concerned or the undertaker, but allowance must be made in full for any contribution agreed to be made towards the cost of those measures (regulation 5).

An undertaker is not liable for costs in relation to providing space in or strengthening of a bridge to accommodate his apparatus (regulation 6(1)) and cannot recover costs where he has placed his apparatus in the street after the authority concerned has given him statutory notice of its intention to carry out works (regulation 6(2)). Provision is made requiring the undertaker to give credit for any gain received by him from betterment of his apparatus or deferment of the need to renew his apparatus resulting from protective measure taken (regulation 7). Further provision is made as to the timing and manner of payment (regulation 8(b)) and exclusions (regulation 9).