

Status: Point in time view as at 05/12/2017.

Changes to legislation: Highways Act 1980, SCHEDULE 12 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 12

Sections 116, 256.

PROVISIONS AS TO ORDERS UNDER SECTION 116 AND CONVEYANCES UNDER SECTION 256

PART I

NOTICES TO BE GIVEN BY APPLICANT FOR ORDER UNDER SECTION 116

1 At least 28 days before the day on which an application for an order under section 116 of this Act is made in relation to a highway the applicant authority shall give notice of their intention to apply for the order, specifying the time and place at which the application is to be made and the terms of the order applied for (embodying a plan showing what will be the effect thereof)—

- (a) to the owners and occupiers of all lands adjoining the highway;
- (b) to any statutory undertakers having apparatus under, in, upon, over, along or across the highway;
- (c) if the highway is a classified road, to the Minister;
- (d) if the highway is a classified [^{F1}road in a non-metropolitan district, to the district council [^{F2}if the highway is a classified road in a Welsh county or county borough and the council of that county or county borough is not the highway authority, to the council of that county or county borough], and if the highway is a classified road] in, or partly in, a parish or community which has a separate parish council or community council, to the parish or community council, as the case may require or, in the case of a parish which does not have a separate parish council, to the chairman of the parish meeting.

Textual Amendments

- F1** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, [Sch. 4 para. 43](#)
- F2** Words in [Sch. 12 para. 1\(d\)](#) inserted (1.4.1996) by [1994 c. 19, s. 22\(1\)](#), [Sch. 7 Pt. I para.29](#) (with [s. 54\(7\)](#), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); [S.I. 1996/396, art. 3, Sch.1](#).

2 Not later than 28 days before the day on which the application is made the applicant authority shall cause a copy of the said notice to be displayed in a prominent position at the ends of the highway.

3 At least 28 days before the day on which the application is made the applicant authority shall publish in the London Gazette and in at least one local newspaper circulating in the area in which the highway is situated a notice containing the particulars specified in paragraph 1 above, except that there may be substituted for the plan a statement of a place in the said area where the plan may be inspected free of charge at all reasonable hours.

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PART II

APPARATUS OF STATUTORY UNDERTAKERS

4 Where this Part of this Schedule applies in relation to a highway, the statutory undertakers whose apparatus is under, in, upon, over, along or across the highway have the same powers and rights in respect of that apparatus, subject to the provisions of this Schedule, as if the order authorising the highway to be stopped up or diverted had not been made or, as the case may be, as if the conveyance of land pursuant to section 256 of this Act had not been made.

5 Where a highway is stopped up or diverted in pursuance of an order under section 116 or land is conveyed pursuant to section 256, the statutory undertakers whose apparatus is under, in, upon, over, along or across the highway may, and, if reasonably requested so to do by the authority on whose application the order was made, or who conveyed the land, as the case may be, shall—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as they may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as aforesaid.

Any works executed under this paragraph (including the provision of apparatus thereunder) are hereafter in this Part of this Schedule referred to as “undertakers’ works”.

6 Subject to the following provisions of this Part of this Schedule, the authority on whose application an order under section 116 stopping up or diverting a highway was made or, as the case may be, the authority who conveyed the land pursuant to section 256, shall pay to any statutory undertakers an amount equal to the cost reasonably incurred by them in or in connection with—

- (a) the execution of undertakers’ works required in consequence of the stopping up or diversion of that highway or, as the case may be, the conveyance of the land, and
- (b) the doing of any other work or thing rendered necessary by the execution of undertakers’ works.

7 If in the course of the execution of undertakers’ works under paragraph 5 above—

- (a) apparatus of better type, of greater dimensions or of greater capacity is placed in substitution for existing apparatus of worse type, of smaller dimensions or of smaller capacity, or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type, dimensions or capacity or the placing of apparatus at that depth, as the case may be, is not agreed by the authority concerned, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the undertakers’ works exceeding that which would have been involved if the apparatus placed had been of the existing type, dimensions or capacity, or at the existing depth, as the case may be, the amount which apart from this paragraph would be payable to the undertakers by virtue of paragraph 6 above shall be reduced by the amount of that excess.

8 For the purposes of paragraph 7 above—

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- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus;
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.
- 9 An amount which apart from this paragraph would be payable to undertakers in respect of works of their by virtue of paragraph 6 above (and having regard, where relevant, to paragraph 7 above) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7½ years earlier so as to confer on the undertakers any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.
- 10 Any question arising under this Part of this Schedule shall, in default of agreement between the parties concerned, be determined by arbitration.

[^{F3}PART III

INTERPRETATION

Textual Amendments

- F3** Sch. 12 Pt. III (para. 11) inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989](#) (c. 22, SIF 107:1), s. 13(1), [Sch. 4 para. 3\(14\)](#)

- 11 In this Schedule “statutory undertakers” includes operators of driver information systems.]

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