



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART III

#### STREET WORKS IN ENGLAND AND WALES

##### *Apparatus affected by highway, bridge or transport works*

#### **83 Works for road purposes likely to affect apparatus in the street.**

- (1) This section applies to works for road purposes other than major highway works (as to which see section 84 below).
- (2) Where works to which this section applies are likely to affect apparatus in the street, the authority executing the works shall take all reasonably practicable steps—
  - (a) to give the person to whom the apparatus belongs reasonable facilities for monitoring the execution of the works, and
  - (b) to comply with any requirement made by him which is reasonably necessary for the protection of the apparatus or for securing access to it.
- (3) An authority who fail to comply with subsection (2) commit an offence in respect of each failure and are liable on summary conviction to a fine not exceeding [<sup>F1</sup>level 4] on the standard scale.
- (4) In proceedings against an authority for such an offence it is a defence for them to show that the failure was attributable—
  - (a) to their not knowing the position, or not knowing of the existence, of a person's apparatus, or
  - (b) to their not knowing the identity or address of the person to whom any apparatus belongs,

and that their ignorance was not due to any negligence on their part or to any failure to make inquiries which they ought reasonably to have made.

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### Textual Amendments

- F1** Words in s. 83(3) substituted (4.10.2004 for E., 26.11.2007 for W.) by [Traffic Management Act 2004](#) (c. 18), ss. 40(1)(2), 99(1), **Sch. 1**; S.I. 2004/2380, art. 2(d)(i) (with art. 3); S.I. 2007/3174, art. 2, Sch. (with art. 4)

### Modifications etc. (not altering text)

- C1** Pt. 3 modified (22.3.2005) by [The Midland Metro \(Wednesbury to Brierley Hill and Miscellaneous Amendments\) Order 2005](#) (S.I. 2005/927), **art. 3(1)(2)** (with art. 51)
- C2** Pt. 3 modified (26.8.2005) by [The River Tyne \(Tunnels\) Order 2005](#) (S.I. 2005/2222), arts. 1, **8(7)** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)
- C3** Pt. 3 modified (25.11.2005) by [The Docklands Light Railway \(Capacity Enhancement\) Order 2005](#) (S.I. 2005/3105), arts. 1, **3(1)** (with arts. 3(5), 15(3))
- C4** Pt. 3 applied (11.1.2006) by [The Cambridgeshire Guided Busway Order 2005](#) (S.I. 2005/3523), arts. 1, **3(1)** (with art. 52)
- C5** Pt. 3 modified (1.2.2011) by [The River Mersey \(Mersey Gateway Bridge\) Order 2011](#) (S.I. 2011/41), arts. 1, **3(1)** (with art. 51, Sch. 10 paras. 68, 85)
- C6** Pt. 3 applied (with modifications) (9.4.2013) by [The Hinkley Point C \(Nuclear Generating Station\) Order 2013](#) (S.I. 2013/648), arts. 1, **9** (with arts. 48, 68, 79)
- C7** S. 83: functions of a local authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by S.I. 1999/2106, art. 2, **Sch. 2 para. 4(a)**
- C8** Ss. 54-106 applied (28.2.2013) by [The Rookery South \(Resource Recovery Facility\) Order 2011](#) 2013 (S.I. 2013/680), **art. 10(3)**
- C9** Ss. 54-106 applied (9.4.2013) by [The Lancashire County Council \(Torrisholme to the M6 Link \(A683 Completion of Heysham to M6 Link Road\)\) Order 2013](#) (S.I. 2013/675), arts. 1, **9(2)**
- C10** Ss. 54-106 applied (15.6.2013) by [The Galloper Wind Farm Order 2013](#) (S.I. 2013/1203), arts. 1, **13(3)** (with arts. 11, 12)
- C11** Ss. 54-106 applied (15.8.2013) by [The North Blyth Biomass Power Station Order 2013](#) (S.I. 2013/1873), arts. 1, **9(3)** (with art. 30)

## 84 Measures necessary where apparatus affected by major works.

- (1) Where an undertaker's apparatus in a street is or may be affected by major highway works, major bridge works or major transport works, the highway, bridge or transport authority concerned and the undertaker shall take such steps as are reasonably required—
- (a) to identify any measures needing to be taken in relation to the apparatus in consequence of, or in order to facilitate, the execution of the authority's works,
  - (b) to settle a specification of the necessary measures and determine by whom they are to be taken, and
  - (c) to co-ordinate the taking of those measures and the execution of the authority's works,
- so as to secure the efficient implementation of the necessary work and the avoidance of unnecessary delay.
- (2) The Secretary of State may issue or approve for the purposes of this section a code of practice giving practical guidance as to the matters mentioned in subsection (1) and the steps to be taken by the authority and the undertaker.

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- (3) Any dispute between the authority and the undertaker as to any of the matters mentioned in subsection (1) shall, in default of agreement, be settled by arbitration.
- (4) If the authority or the undertaker fails to comply with an agreement between them as to any of those matters, or with the decision of the arbitrator under subsection (3), the authority or undertaker shall be liable to compensate the other in respect of any loss or damage resulting from the failure.

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

- C8** Ss. 54-106 applied (28.2.2013) by [The Rookery South \(Resource Recovery Facility\) Order 2011 2013 \(S.I. 2013/680\)](#), [art. 10\(3\)](#)
- C9** Ss. 54-106 applied (9.4.2013) by [The Lancashire County Council \(Torrisholme to the M6 Link \(A683 Completion of Heysham to M6 Link Road\)\) Order 2013 \(S.I. 2013/675\)](#), arts. 1, [9\(2\)](#)
- C10** Ss. 54-106 applied (15.6.2013) by [The Galloper Wind Farm Order 2013 \(S.I. 2013/1203\)](#), arts. 1, [13\(3\)](#) (with arts. 11, 12)
- C11** Ss. 54-106 applied (15.8.2013) by [The North Blyth Biomass Power Station Order 2013 \(S.I. 2013/1873\)](#), arts. 1, [9\(3\)](#) (with art. 30)
- C12** S. 84(1)(3)(4) excluded (27.11.1992) by [S.I. 1992/2984](#), [art. 10](#)  
S. 84(1)(3)(4): functions of a local authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by [S.I. 1999/2106](#), art. 2, [Sch. 2 para. 4\(b\)](#)

#### **Commencement Information**

- I1** S. 84 wholly in force: s. 84(1)(3)(4) in force at 1.1.1993 see s. 170(1) and [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#); s. 84(2) in force at 14.7.1992 by [S.I. 1992/1686](#), art. 3, [Sch.](#)

## **85 Sharing of cost of necessary measures.**

- (1) Where an undertaker's apparatus in a street is affected by major highway works, major bridge works or major transport works, the allowable costs of the measures needing to be taken in relation to the apparatus in consequence of the works, or in order to facilitate their execution, shall be borne by the highway, bridge or transport authority concerned and the undertaker in such manner as may be prescribed.
- (2) The regulations may make provision as to the costs allowable for this purpose.  
Provision may, in particular, be made for disallowing costs of the undertaker—
  - (a) where the apparatus in question was placed in the street after the authority had given the undertaker the prescribed notice of their intention to execute the works, or
  - (b) in respect of measures taken to remedy matters for which the authority were not to blame,and for allowing only such costs of either party as are not recoverable from a third party.
- (3) Where the authority have a right to recover from a third party their costs in taking measures in relation to undertaker's apparatus but in accordance with section 84 it is determined that the measures should be taken by the undertaker, the right of the authority includes a right to recover the undertaker's costs in taking those measures and they shall account to the undertaker for any sum received.

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- (4) The regulations shall provide for the allowable costs to be borne by the authority and the undertaker in such proportions as may be prescribed.

Different proportions may be prescribed for different cases or classes of case.

- (5) The regulations may require the undertaker to give credit for any financial benefit to him from the betterment or deferment of renewal of the apparatus resulting from the measures taken.
- (6) The regulations may make provision as to the time and manner of making any payment required under this section.

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

- C8** Ss. 54-106 applied (28.2.2013) by [The Rookery South \(Resource Recovery Facility\) Order 2011 2013 \(S.I. 2013/680\)](#), **art. 10(3)**
- C9** Ss. 54-106 applied (9.4.2013) by [The Lancashire County Council \(Torrisholme to the M6 Link \(A683 Completion of Heysham to M6 Link Road\)\) Order 2013 \(S.I. 2013/675\)](#), arts. 1, **9(2)**
- C10** Ss. 54-106 applied (15.6.2013) by [The Galloper Wind Farm Order 2013 \(S.I. 2013/1203\)](#), arts. 1, **13(3)** (with arts. 11, 12)
- C11** Ss. 54-106 applied (15.8.2013) by [The North Blyth Biomass Power Station Order 2013 \(S.I. 2013/1873\)](#), arts. 1, **9(3)** (with art. 30)
- C13** Pt. 3 modified (2.4.2004) by [The Docklands Light Railway \(Woolwich Arsenal Extension\) Order 2004 \(S.I. 2004/757\)](#), arts. 1, **3(1)**
- C14** Pt. 3 modified (22.11.2006) by [The Docklands Light Railway \(Stratford International Extension\) Order 2006 \(S.I. 2006/2905\)](#), arts. 1, **3(1)(2)** (with art. 43)
- C15** Pt. 3 modified (13.12.2006) by [The Luton Dunstable Translink Order 2006 \(S.I. 2006/3118\)](#), arts. 1, **3**
- C16** Pt. 3 modified (14.10.2008) by [The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 \(S.I. 2008/2512\)](#), arts. 1, **4(1)** (with art. 36(3))
- C17** Pt. 3 modified (9.6.2009) by [The Nottingham Express Transit System Order 2009 \(S.I. 2009/1300\)](#), arts. 1, **4(1)(2)** (with Sch. 13 para. 14(2), Sch. 14 para. 19, Sch. 16)
- C18** Pt. 3 modified (18.9.2009) by [The London Underground \(Victoria Station Upgrade\) Order 2009 \(S.I. 2009/2364\)](#), arts. 1, **3(1)(2)**
- C19** Pt. 3 modified (21.4.2011) by [The Network Rail \(Hitchin \(Cambridge Junction\)\) Order 2011 \(S.I. 2011/1072\)](#), arts. 1, **4(1)**
- C20** Pt. 3 modified (13.11.2012) by [The Chiltern Railways \(Bicester to Oxford Improvements\) Order 2012 \(S.I. 2012/2679\)](#), arts. 1, **4(1)** (with art. 42(2))
- C21** Pt. 3 modified (22.8.2013) by [The Leeds Railway Station \(Southern Entrance\) Order 2013 \(S.I. 2013/1933\)](#), arts. 1, **3(1)**
- C22** S. 85 excluded (27.11.1992) by [S.I. 1992/2984](#), **art. 10**
- C23** S. 85 applied (18.12.1996) by [1996 c. 61, s. 52, Sch. 15 Pt. 4 para. 4\(8\)\(a\)](#)  
S. 85 applied (10.2.1997) by [S.I. 1997/264](#), art. 28, **Sch. 9 para. 2(7)(a)**  
S. 85 applied (9.11.2001) by [S.I. 2001/3682](#), **art. 33 Sch. 9 para. 2(7)(a)**  
S. 85 applied (9.11.2001) by [S.I. 2001/3682](#), art. 34, **Sch. 10 para. 9(5)(a)** (with Sch. 10 para. 12)
- C24** S. 85 applied (2.4.2004) by [The Docklands Light Railway \(Woolwich Arsenal Extension\) Order 2004 \(S.I. 2004/757\)](#), art. 1, **Sch. 12 para. 2(8)(a)**
- C25** S. 85 applied (22.3.2005) by [The Midland Metro \(Wednesbury to Brierley Hill and Miscellaneous Amendments\) Order 2005 \(S.I. 2005/927\)](#), **Sch. 10 para. 2(7)(a)** (with art. 51)
- C26** S. 85 applied (26.8.2005) by [The River Tyne \(Tunnels\) Order 2005 \(S.I. 2005/2222\)](#), art. 1, **Sch. 11 para. 7(a)** (with arts. 45(1), 48, Sch. 10 paras. 21, 29)
- C27** S. 85 applied (25.11.2005) by [The Docklands Light Railway \(Capacity Enhancement\) Order 2005 \(S.I. 2005/3105\)](#), art. 1, **Sch. 9 para. 2(8)** (with arts. 3(5), 15(3))

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- C28** S. 85 applied (11.1.2006) by The Cambridgeshire Guided Busway Order 2005 (S.I. 2005/3523), art. 1, **Sch. 10 para. 2(8)** (with art. 52)
- C29** S. 85 applied (14.9.2006) by The Borough of Poole (Poole Harbour Opening Bridges) Order 2006 (S.I. 2006/2310), art. 1, **Sch. 8 para. 2(7)** (with art. 40, Sch. 7 para. 12)
- C30** S. 85 applied (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), art. 1, **Sch. 11 para. 2(8)** (with art. 43)
- C31** S. 85 applied (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 1, **Sch. 10 para. 10(5)(a)** (with arts. 34, 35(2), Sch. 10 para. 13)
- C32** S. 85 applied (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 1, **Sch. 9 para. 2(7)** (with arts. 34, 35(2))
- C33** S. 85 applied (13.12.2006) by The Luton Dunstable Translink Order 2006 (S.I. 2006/3118), art. 1, **Sch. 10 para. 2(7)**
- C34** S. 85 applied (13.12.2006) by The Network Rail (Thameslink 2000) Order 2006 (S.I. 2006/3117), art. 1, **Sch. 10 para. 21(8)(a)** (with arts. 34, 35(2), Sch. 10 para. 26)
- C35** S. 85 applied (23.8.2007) by The Docklands Light Railway (Capacity Enhancement and 2012 Games Preparation) Order 2007 (S.I. 2007/2297), art. 1, **Sch. 8 para. 2(8)** (with arts. 3(6), 12(3))
- C36** S. 85 applied (14.10.2008) by The Felixstowe Branch Line and Ipswich Yard Improvement Order 2008 (S.I. 2008/2512), art. 1, **Sch. 9 para. 2(7)(a)** (with art. 36(3))
- C37** S. 85 applied (9.6.2009) by The Nottingham Express Transit System Order 2009 (S.I. 2009/1300), art. 1, **Sch. 11 para. 2(8)(a)** (with Sch. 13 para. 14(2), Sch. 14 para. 19)
- C38** S. 85 applied (18.9.2009) by The London Underground (Victoria Station Upgrade) Order 2009 (S.I. 2009/2364), art. 1, **Sch. 8 para. 2(7)(a)**
- C39** S. 85 applied (20.7.2010) by The Network Rail (Nuneaton North Chord) Order 2010 (S.I. 2010/1721), art. 1, **Sch. 8 para. 2(7)(a)**
- C40** S. 85 applied (1.2.2011) by The River Mersey (Mersey Gateway Bridge) Order 2011 (S.I. 2011/41), art. 1, **Sch. 9 para. 2(7)(a)** (with art. 51, Sch. 10 paras. 68, 85)
- C41** S. 85 applied (21.4.2011) by The Network Rail (Hitchin (Cambridge Junction)) Order 2011 (S.I. 2011/1072), art. 1, **Sch. 11 para. 2(7)(a)**
- C42** S. 85 applied (13.11.2012) by The Chiltern Railways (Bicester to Oxford Improvements) Order 2012 (S.I. 2012/2679), art. 1, **Sch. 13 para. 2(7)(a)** (with art. 42(2))
- C43** S. 85 applied (28.3.2013) by The Network Rail (Seaham Level Crossing) Order 2013 (S.I. 2013/533), art. 1, **Sch. para. 2(7)(a)**
- C44** S. 85 applied (22.8.2013) by The Leeds Railway Station (Southern Entrance) Order 2013 (S.I. 2013/1933), art. 1, **Sch. 12 para. 2(7)(a)**
- C45** S. 85(1)(3): functions of a local authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by S.I. 1999/2106, art. 2, **Sch. 2 para. 4(c)**

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