



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART III

#### STREET WORKS IN ENGLAND AND WALES

##### *Introductory provisions*

#### **48 Streets, street works and undertakers.**

- (1) In this Part a “street” means the whole or any part of any of the following, irrespective of whether it is a thoroughfare—
- any highway, road, lane, footway, alley or passage,
  - any square or court, and
  - any land laid out as a way whether it is for the time being formed as a way or not.

Where a street passes over a bridge or through a tunnel, references in this Part to the street include that bridge or tunnel.

- (2) The provisions of this Part apply to a street which is not a maintainable highway subject to such exceptions and adaptations as may be prescribed.
- (3) In this Part “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—
- placing apparatus, or
  - 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).

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- (4) In this Part “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.
- (5) References in this Part to the undertaker in relation to apparatus in a street are to the person entitled, by virtue of a statutory right or a street works licence, to carry out in relation to the apparatus such works as are mentioned in subsection (3); and references to an undertaker having apparatus in the street, or to the undertaker to whom apparatus belongs, shall be construed accordingly.

#### **49 The street authority and other relevant authorities.**

- (1) In this Part “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.
- (2) In the case of a highway for which the Secretary of State is the highway authority but in relation to which a local highway authority acts as his agent under section 6 of the <sup>M1</sup>Highways Act 1980, the local highway authority shall be regarded as the street authority for the purposes of section 53 (the street works register) and sections 54 to 60 (advance notice and co-ordination of works).
- (3) Subsection (1)(b) has effect subject to section 87 as regards the application of this Part to prospectively maintainable highways.
- (4) In this Part 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.
- (5) The Secretary of State may by regulations make provision for exempting street managers from provisions of this Part which would otherwise apply to them as the street authority in relation to a street.
- (6) 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.

#### **Marginal Citations**

**M1** 1980 c. 66.

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## 50 Street works licences.

- (1) 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).
- (2) A street works licence authorises the licensee to execute the works permitted by the licence without obtaining any consent which would otherwise be required to be given—
  - (a) by any other relevant authority in its capacity as such, or
  - (b) by any person in his capacity as the owner of apparatus affected by the works;but without prejudice to the provisions of this Part as to the making of requirements by any such authority or person or as to the settlement of a plan and section and the execution of the works in accordance with them.
- (3) A street works licence does not dispense the licensee from obtaining any other consent, licence or permission which may be required; and it does not authorise the installation of apparatus for the use of which the licence of the Secretary of State is required, unless and until that licence has been granted.
- (4) The provisions of Schedule 3 have effect with respect to the grant of street works licences, the attachment of conditions and other matters.
- (5) A street works licence may be granted—
  - (a) to a person on terms permitting or prohibiting its assignment, or
  - (b) to the owner of land and his successors in title;and references in this Part to the licensee are to the person for the time being entitled by virtue of the licence to do anything permitted by it.
- (6) Any licence, consent, permission or other authority for the execution in a street of any such works as are mentioned in subsection (1) granted or given by the street authority before the commencement of this Part has effect after the commencement of this Part as a street works licence; but subsection (2) does not apply in relation to such a licence.

This applies in particular to licences granted under section 181 of the <sup>M2</sup>Highways Act 1980 or any corresponding earlier enactment.
- (7) The works referred to in subsection (1) above do not include works for road purposes.

### Modifications etc. (not altering text)

- C1** [S. 50](#): functions of local authority not to be responsibility of an executive of the authority (E.)  
(16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 1](#) Table B41

### Marginal Citations

- M2** [1980 c. 66](#).

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## 51 Prohibition of unauthorised street works.

- (1) It is an offence for a person other than the street authority—
  - (a) to place apparatus in a street, or
  - (b) to break up or open a street, or a sewer, drain or tunnel under it, or to tunnel or bore under a street, for the purpose of placing, inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, or of changing the position of apparatus or removing it,
 

otherwise than in pursuance of a statutory right or a street works licence.
- (2) A person committing an offence under this section is liable on summary conviction to a fine not exceeding [<sup>F1</sup>level 5] on the standard scale.
- (3) This section does not apply to works for road purposes or to emergency works of any description.
- (4) If a person commits an offence under this section, the street authority may—
  - (a) in the case of an offence under subsection (1)(a), direct him to remove the apparatus in respect of which the offence was committed, and
  - (b) in any case, direct him to take such steps as appear to them necessary to reinstate the street or any sewer, drain or tunnel under it.

If he fails to comply with the direction, the authority may remove the apparatus or, as the case may be, carry out the necessary works and recover from him the costs reasonably incurred by them in doing so.

### Textual Amendments

- F1** Words in s. 51(2) substituted (4.10.2004 for E.) by [Traffic Management Act 2004 \(c. 18\)](#), ss. 40(1)(2), 99(1), [Sch. 1](#); S.I. 2004/2380, art. 2(d)(i) (with art. 3)

## <sup>F2</sup>52 Emergency works.

- (1) In this Part “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.
- (2) Where works comprise items some of which fall within the preceding definition, the expression “emergency works” shall be taken to include such of the items as do not fall within that definition as cannot reasonably be severed from those that do.
- (3) Where in any civil or criminal proceedings brought by virtue of any provision of this Part the question arises whether works were emergency works, it is for the person alleging that they were to prove it.

### Textual Amendments

- F2** Definition in s. 52 extended (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#), ss. 78(5), 225(2) (with ss. 16(6), 179, 222(3), [Sch. 22 para. 1](#), [Sch. 23 para. 6](#))

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

**C2** S. 52 excluded (27.11.1992) by [S.I. 1992/2984](#), [art. 5](#)

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