

*Status: Point in time view as at 21/04/2014.*

*Changes to legislation: New Roads and Street Works Act 1991, SCHEDULE 3 is up to date with all changes known to be in force on or before 26 June 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 3

Section 50(4).

#### STREET WORKS LICENCES

##### *Grant of licence*

- 1 Before granting a street works licence the street authority shall give not less than 10 working days' notice to each of the following—
- (a) where the works are likely to affect a public sewer, to the sewer authority,
  - (b) where the works are to be executed in a part of a street which 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, to that authority,
  - (c) where in any other case the part of the street in which the works are to be executed is carried or crossed by a bridge, to the bridge authority,
  - (d) to any person who has given notice under section 54 (advance notice of certain works) of his intention to execute street works which are likely to be affected by the works to which the licence relates, and
  - (e) to any other person having apparatus in the street which is likely to be affected by the works;

but a failure to do so does not affect the validity of the licence.

- 2 The street authority may require the payment of—
- (a) a reasonable fee in respect of legal or other expenses incurred in connection with the grant of a street works licence, and
  - (b) an annual fee of a reasonable amount for administering the licence;
- and any such fee is recoverable from the licensee.

This shall not be construed as affecting any right of the authority where they own the land on which the street is situated to grant for such consideration as they think fit the right to place anything in, under or over the land.

*<sup>F1</sup>Electronic communications networks: determination of applications to install facilities*

#### Textual Amendments

- F1** Sch. 3 para. 2A and cross-heading inserted (26.5.2011) by [The Electronic Communications and Wireless Telegraphy Regulations 2011 \(S.I. 2011/1210\)](#), reg. 1(2), **Sch. 1 para. 2** (with Sch. 3 paras. 1, 2)

- 2A Regulation 3 of the Electronic Communications and Wireless Telegraphy Regulations 2011 makes provision about the time within which certain applications for the granting of rights to install facilities must be determined.]

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### *Conditions attached to licence*

- 3 A street authority may attach to a street works licence such conditions as they consider appropriate—
- (a) in the interests of safety,
  - (b) to minimise the inconvenience to persons using the street (having regard, in particular, to the needs of people with a disability), or
  - (c) to protect the structure of the street and the integrity of apparatus in it.
- 4 Where assignment of a street works licence is permitted, a condition may be attached requiring the consent of the street authority to any assignment.

### *Notice of change of ownership, &c.*

- 5 (1) Where the licensee under a street works licence proposes—
- (a) to cease using or abandon the apparatus, or
  - (b) to part with his interest in the apparatus,
- he shall give the street authority at least six weeks' notice before doing so.
- (2) Where the licensee under a street works licence granted to the owner of land and his successors in title proposes to part with his interest in the land, he shall before doing so give notice to the street authority stating to whom the benefit of the licence is to be transferred.
- (3) A person who fails to comply with an obligation under this paragraph commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F2</sup>level 4] on the standard scale.

#### **Textual Amendments**

- F2** Words in [Sch. 3 para. 5\(3\)](#) 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)

### *Withdrawal of licence*

- 6 (1) The street authority may by notice in writing served on the licensee withdraw a street works licence—
- (a) if the licensee fails to comply with any provision of this Part or any condition of the licence,
  - (b) if the authority become aware that the licensee—
    - (i) has ceased to use or has abandoned the apparatus, or intends to do so, or
    - (ii) has parted with or intends to part with his interest in the apparatus in a case where assignment of the licence is prohibited, or
  - (c) if the authority consider the withdrawal of the licence is necessary for the purpose of the exercise of their functions as street authority.
- (2) The withdrawal takes effect at the end of such period beginning with the date of service as may be specified in the notice.

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The period shall not be less than 7 working days in the case of a withdrawal under sub-paragraph (1)(a) or (b), and shall not be less than three months in the case of a withdrawal under sub-paragraph (1)(c).

#### *Removal of apparatus*

- 7
- (1) Where a street works licence expires or is withdrawn or surrendered, the street authority may remove the apparatus to which the licence relates or alter it in such manner as they think fit and reinstate the street, and may recover from the former licensee the expenses incurred by them in doing so.
  - (2) If they are satisfied that the former licensee can, within such reasonable time as they may specify, remove the apparatus or alter it in such manner as they may require and reinstate the street, they may authorise him to do so at his own expense.
  - (3) Before executing any works under this paragraph the street authority or the former licensee, as the case may be, shall give not less than 7 working days' notice to any person whose apparatus is likely to be affected and shall satisfy their requirements as to the method of executing the works and as to the supervision of the works by them.
  - (4) In this paragraph and paragraph 8 below "the former licensee" means the person who immediately before the expiry, withdrawal or surrender of a street works licence was the licensee or, if that person has died, his personal representatives.

#### *Obligation of licensee to indemnify street authority*

- 8
- (1) The licensee under a street works licence shall indemnify the street authority against any claim in respect of injury, damage or loss arising out of—
    - (a) the placing or presence in the street of apparatus to which the licence relates, or
    - (b) the execution by any person of any works authorised by the licence;and the former licensee shall indemnify the street authority against any claim in respect of injury, damage or loss arising out of the execution by the authority or the licensee of any works under paragraph 7.
  - (2) The liability of a licensee or former licensee under this paragraph arises—
    - (a) whether or not the damage or loss is attributable to negligence on their part or on the part of any person for whom they are responsible, and
    - (b) notwithstanding that they are acting in pursuance of a statutory duty.
  - (3) However, their liability does not extend to damage or loss which is attributable to misconduct or negligence on the part of—
    - (a) the street authority or a person for whom the authority are responsible, or
    - (b) a third party, that is, a person for whom neither the licensee or former licensee nor the authority are responsible.
  - (4) For the purposes of this paragraph the persons for whom a person is responsible are his contractors and any person in his employ or that of his contractors.

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*Appeal against decision of local highway authority*

- 9 (1) Where the apparatus in respect of which an application for a street works licence is made to a local highway authority is to be placed or retained on a line crossing the street, and not along the line of the street, a person aggrieved by—
- (a) the refusal of the authority to grant him a licence,
  - (b) their refusal to grant a licence except on terms prohibiting its assignment, or
  - (c) any terms or conditions of the licence granted to him,
- may appeal to the Secretary of State.
- (2) The procedure on an appeal shall be such as may be prescribed.
- (3) Where on an appeal the Secretary of State reverses or varies the decision of the local highway authority, it is the duty of that authority to give effect to his decision.

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