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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 3A

#### RESTRICTION ON WORKS FOLLOWING SUBSTANTIAL STREET WORKS

##### Textual Amendments

- F1** Sch. 3A inserted (29.6.2007 for E. for specified purposes, 26.11.2007 for W. for specified purposes) by Traffic Management Act 2004 (c. 18), ss. 52(2), 99(1), **Sch. 4**; S.I. 2007/1890, art. 2, Sch. (with art. 7); S.I. 2007/3174, art. 2, Sch. (with art. 8)

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

- C1** Sch. 3A excluded (11.2.2005) by The Merseytram (Liverpool City Centre to Kirkby) Order 2005 (S.I. 2005/120), arts. 1, **4(3)** (with arts. 65, 66)
- C2** Sch. 3A excluded (22.11.2006) by The Docklands Light Railway (Stratford International Extension) Order 2006 (S.I. 2006/2905), arts. 1, **3(3)** (with art. 43)

##### Introductory

- 1 (1) This Schedule applies where a street authority receive a notice under section 54 or 55 that an undertaker is proposing to execute substantial street works in a highway.
- (2) For the purposes of this Schedule, “substantial street works” means street works of such description as may be prescribed.

##### Notice by authority of proposed restriction

- 2 (1) The street authority may publish a notice—
- (a) specifying the nature and location of the proposed works and the date on which it is proposed to begin them;
  - (b) stating that the authority propose to issue a direction under paragraph 4 imposing a restriction on street works;
  - (c) stating the duration of the proposed restriction and the part of the highway to which it relates;
  - (d) requiring any other undertakers who propose to execute street works in that part of the highway, and who have not already done so, to notify the authority of their proposed works within the period specified in the notice (“the notice period”).
- (2) The notice period shall not be less than such period as may be prescribed.
- (3) A notice under this paragraph shall—
- (a) be published in the prescribed form and manner; and
  - (b) comply with such requirements as to its form and content as may be prescribed.

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- (4) A copy of a notice under this paragraph shall be given to each of the following—
- (a) where there is a public sewer in the part of the highway specified under sub-paragraph (1)(c), to the sewer authority;
  - (b) where that part of the highway is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held by or used for the purposes of a transport authority, to that authority;
  - (c) where in any other case that part of the highway is carried or crossed by a bridge, to the bridge authority;
  - (d) any person who has given notice under section 54 of his intention to execute street works in that part of the highway;
  - (e) any person who has apparatus in that part of the highway;
  - (f) any other person of a prescribed description.
- (5) Notification under sub-paragraph (1)(d) shall be in such form, contain such information, and be made in such manner as may be prescribed.
- (6) Section 55 does not apply in relation to works in the part of the highway specified under sub-paragraph (1)(c) that are begun between the end of the notice period and completion of the works referred to in paragraph 3(1)(a) to (c).

This sub-paragraph does not apply to cases prescribed under paragraph 3(5)(b).

#### *Completion of notified works*

- 3 (1) After the expiry of the notice period the street authority may issue directions to—
- (a) the undertaker proposing to execute the substantial street works,
  - (b) any undertakers who have given notice under paragraph 2 in respect of works they propose to execute, and
  - (c) any undertakers who have previously given notice of works they propose to execute in the part of the highway specified under paragraph 2(1)(c).
- (2) A direction to an undertaker under this paragraph is a direction as to the date on which he may begin to execute the works proposed by him.
- (3) Where—
- (a) a direction is given to an undertaker under this paragraph as respects the date on which he may begin to execute the works proposed by him, and
  - (b) he begins to execute those works before that date,
- he is guilty of an offence.
- (4) After the expiry of the notice period, any undertaker who, before completion of the works referred to in sub-paragraph (1)(a) to (c), executes any other street works in the part of the highway specified under paragraph 2(1)(c), commits an offence.
- (5) Sub-paragraph (4) does not apply—
- (a) where an undertaker executes emergency works; or
  - (b) in such other cases as may be prescribed.
- (6) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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#### *Direction restricting further works*

- 4
- (1) After the expiry of the notice period and before completion of the works referred to in paragraph 3(1)(a) to (c) the authority may give a direction under this paragraph.
  - (2) A direction under this paragraph is a direction restricting the execution of street works in the part of the highway specified under paragraph 2(1)(c) for such period following completion of the works referred to in paragraph 3(1)(a) to (c) as may be specified in the direction.
  - (3) The duration of the period specified under sub-paragraph (2) may not exceed the duration of the restriction proposed by the authority under paragraph 2(1)(c).
  - (4) The period specified in a direction under this paragraph may not in any case exceed such period as may be prescribed.
  - (5) A direction under this paragraph shall—
    - (a) be given in the prescribed manner;
    - (b) comply with such requirements as to its form and content as may be prescribed.
  - (6) The street authority must send a copy of any direction under this paragraph to the persons specified in paragraph 2(4).
  - (7) A direction under this paragraph shall cease to have effect if the works referred to in paragraph 3(1)(a) to (c) to which it relates are not completed within such period as may be prescribed.
  - (8) A direction under this paragraph may be revoked at any time by the authority which gave it.
  - (9) Where a direction under this paragraph ceases to have effect by virtue of sub-paragraph (7), or is revoked by virtue of sub-paragraph (8), the street authority must notify the persons specified in paragraph 2(4).
  - (10) If the street authority decides not to give a direction under this paragraph, it must notify the persons specified in paragraph 2(4) accordingly.

#### *Effect of direction imposing restriction*

- 5
- (1) Where a direction under paragraph 4 is in force, an undertaker may not during the period specified in the direction execute street works in the part of the highway to which the restriction relates.
  - (2) Sub-paragraph (1) does not apply—
    - (a) where an undertaker executes emergency works;
    - (b) where an undertaker executes works with the consent of the street authority;  
or
    - (c) in such other cases as may be prescribed.
  - (3) The consent of the street authority under sub-paragraph (2)(b) shall not be unreasonably withheld; and any question whether the withholding of consent is unreasonable shall be settled in such manner as may be prescribed.
  - (4) Regulations under sub-paragraph (3) may in particular make provision for the question referred to in that sub-paragraph to be settled—

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- (a) by arbitration;
  - (b) by a person specified by the Secretary of State on appeal by the undertaker.
- (5) An undertaker who contravenes sub-paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) An undertaker convicted of an offence under sub-paragraph (5) is liable to reimburse the street authority any costs reasonably incurred by them in reinstating the highway.

*Supplementary*

- 6 An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, his failure is attributable to a restriction imposed under this Schedule.]

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