

*Status: Point in time view as at 07/02/2024.*

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## SCHEDULES

### SCHEDULE 8

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### Extent Information

- E1** [Sch. 8](#) extends to England and Wales and to Scotland or Northern Ireland also if amended enactment so extends see [s. 169](#)

#### PART I

##### AMENDMENTS OF THE HIGHWAYS ACT 1980

- 1 In section 139 of the <sup>M1</sup>Highways Act 1980 (control of builders' skips), in subsection (11) (definition of "builder's skip" and "owner") for "and section 140" substitute " , section 140 and section 140A "

##### Marginal Citations

- M1** [1980 c. 66.](#)

- 2 After section 140 of the Highways Act 1980, insert—

**“140A “Builders” skips: charge for occupation of highway.**

- (1) The Minister may make provision by regulations requiring the owner of a builder's skip deposited on a highway maintainable at the public expense to pay a charge to the highway authority where—
- (a) the period for which the skip remains in the highway exceeds such period as may be prescribed, and
  - (b) the skip is not removed within a reasonable period.
- (2) For this purpose “a reasonable period” means such period as is agreed by the authority and the owner of the skip to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.

In default of agreement, the authority's view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

- (3) The regulations may provide that if a person applying to the highway authority for permission under section 139 above submits together with his application an estimate of the likely duration of the occupation of the highway, the period stated in the estimate shall be taken to be agreed by the

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authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(4) The regulations may also provide that if it appears to the owner of the skip that by reason of matters not previously foreseen or reasonably foreseeable the duration of the occupation of the highway—

- (a) is likely to exceed the prescribed period,
- (b) is likely to exceed the period stated in his previous estimate, or
- (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the period for which the highway is occupied by the skip and the extent of the occupation.

Different rates of charge may be prescribed according to the place and time of the occupation and such other factors as appear to the Minister to be relevant.

(6) The regulations may make provision as to the time and manner of making payment of any charge.

(7) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as they may decide or as may be prescribed, or generally.

(8) In this section “prescribed” means prescribed by the Minister by regulations.”.

3 In section 144 of the <sup>M2</sup>Highways Act 1980 (power to erect flagpoles, &c. on highways), in subsection (6), in the definition of “statutory undertakers” for the words from “any person entitled” to “section 181 below” substitute “ any licensee under a street works licence ”.

**Marginal Citations**

**M2** 1980 c. 66.

4 In section 169 of the Highways Act 1980 (control of scaffolding on highways), in the closing words of subsection (4) (which relate to the meaning of “statutory undertakers”) for the words from “any person entitled” to “section 181 below” substitute “ any licensee under a street works licence ”.

5 In section 170 of the <sup>M3</sup>Highways Act 1980 (control of mixing mortar, &c. on highways), in subsection (2)(e) for the words from “a person entitled” to “section 181 below” substitute “ any licensee under a street works licence ”.

**Marginal Citations**

**M3** 1980 c. 66.

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- 6 After section 171 of the Highways Act 1980 (control of deposit of building materials, &c.) insert—

**“171A Works under s. 169 or s. 171: charge for occupation of the highway.**

- (1) The Minister may make provision by regulations requiring a person carrying out any of the following works in a highway maintainable at the public expense—

- (a) erecting or retaining a relevant structure within the meaning of section 169(1) above, or
- (b) depositing building materials, rubbish or other things, or making a temporary excavation, as mentioned in section 171(1) above,

to pay a charge to the highway authority if the duration of the works exceeds such period as may be prescribed and the works are not completed within a reasonable period.

- (2) For this purpose “a reasonable period” means such period as is agreed by the authority and the person executing the works to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.

In default of agreement, the authority’s view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

- (3) The regulations may provide that if a person applying to the highway authority for a licence under section 169 or consent under section 171 submits together with his application an estimate of the likely duration of the works, the period stated in the estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

- (4) The regulations may also provide that if it appears to the person carrying out the works that by reason of matters not previously foreseen or reasonably foreseeable the duration of the works—

- (a) is likely to exceed the prescribed period,
- (b) is likely to exceed the period stated in his previous estimate, or
- (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

- (5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the time taken to complete the works and the extent to which the surface of the highway is affected by the works.

Different rates of charge may be prescribed according to the description of works, the place and time at which they are executed and such other factors as appear to the Minister to be relevant.

- (6) The regulations may make provision as to the time and manner of making payment of any charge.

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(7) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as they may decide or as may be prescribed, or generally.

(8) In this section “prescribed” means prescribed by the Minister by regulations.”.

7 In section 174 of the <sup>M4</sup>Highways Act 1980 (precautions to be taken by persons executing works in streets), in subsection (1) for the words from the beginning to “executing works in any street he” substitute— “ Where a person is executing works of any description in a street (other than street works within the meaning of Part III of the New Roads and Street Works Act 1991), he ”.

#### Marginal Citations

M4 1980 c. 66.

8 In section 179 of the Highways Act 1980 (control of construction of cellars, &c. under the street), in subsection (7) for the words from “code-regulated works” to the end substitute “ street works within the meaning of Part III of the New Roads and Street Works Act 1991 ”.

9 In section 184 of the Highways Act 1980 (vehicle crossings over footways and verges), omit—

- (a) in subsection (9), the words from “In relation to works” to the end, and
- (b) subsection (14); and in subsection (15) (supplementary provision as to costs recoverable by highway authority), for “the cost of any works which are required by the said Act of 1950 to be executed” substitute “ the cost of any measures needing to be taken in relation to undertaker’s apparatus, in accordance with section 84 of the New Roads and Street Works Act 1991, ”.

10 In section 285 of the Highways Act 1980 (power of Minister to execute certain road improvements), in subsection (6) (provisions for purposes of which Minister to be treated as acting as agent of local highway authority) for “the Public Utilities Street Works Act 1950” substitute “ Part III of the New Roads and Street Works Act 1991 ”.

11 In section 290 of the Highways Act 1980 (supplementary provisions as to entry for purposes of survey), for subsection (8) substitute—

“(8) Where in the exercise of a power conferred by section 289 above works authorised by subsection (3) of that section are to be executed in a street—

- (a) section 55 of the New Roads and Street Works Act 1991 (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works,
- (b) section 69 of that Act (requirements to be complied with where works likely to affect another person’s apparatus in the street), and
- (c) section 82 of that Act (liability for damage or loss caused),

have effect in relation to the works as if they were street works within the meaning of Part III of that Act.”.

12 In section 292 of the <sup>M5</sup>Highways Act 1980 (compensation for damage resulting from exercise of powers of entry, &c.), in subsection (2) (avoidance of double

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compensation) for “section 26 of the Public Utilities Street Works Act 1950” substitute “ section 82 of the New Roads and Street Works Act 1991 ”.

#### Marginal Citations

M5 1980 c. 66.

- 13 In section 314 of the Highways Act 1980 (offences by bodies corporate), in subsection (3) for “177 and 181” substitute “ and 177 ”.
- 14 In section 325 of the Highways Act 1980 (provisions as to regulations, schemes and orders), in subsection (2)(a) (regulations subject to annulment) after “section 257(4) above” insert “ or such regulations as are mentioned in subsection (2A) below ”; and after that subsection insert—
- “(2A) A statutory instrument containing—
- (a) the first regulations for the purposes of section 140A,
  - (b) the first regulations for the purposes of section 171A as it applies in relation to erecting or retaining a relevant structure within the meaning of section 169(1) above, or
  - (c) the first regulations for the purposes of section 171A as it applies in relation to depositing building materials, rubbish or other things, or making a temporary excavation, as mentioned in section 171(1) above, shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament.”.
- 15 (1) Section 329(1) of the Highways Act 1980 (interpretation) is amended as follows.
- (2) For the definition of “street” substitute—
- ““street” has the same meaning as in Part III of the New Roads and Street Works Act 1991;”.
- (3) At the appropriate place insert—
- ““street works licence” means a licence under section 50 of the New Roads and Street Works Act 1991, and “licensee” in relation to such a licence, has the meaning given by subsection (3) of that section;”.
- 16 (1) Section 334 of the Highways Act 1980 (savings for British Telecommunications) is amended as follows.
- (2) In subsection (6) for “authority’s works as defined in Part II of the Public Utilities Street Works Act 1950” substitute “ major highway works, major bridge works or major transport works within the meaning of Part III of the New Roads and Street Works Act 1991 ”.
- (3) In subsection (9) for the words from “the code” to “thereby affected)” substitute “ the provisions of Part III of the New Roads and Street Works Act 1991 relating to major highway works, major bridge works or major transport works ”.

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