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## SCHEDULES

### SCHEDULE 1

Section 5(2).

#### SUPPLEMENTARY PROVISIONS AS TO TERMINATION OF CONCESSION

##### *Introductory*

- 1 The provisions of this Schedule apply in relation to the transfer of property, rights and liabilities to the highway authority on the termination of a concession agreement (referred to below as “the ending of the concession”).

##### *Property to vest free from security rights*

- 2 (1) Property vesting in the highway authority shall do so free from any mortgage, charge, lien or other security to which it was subject immediately before the ending of the concession.
- (2) This does not affect the liability secured.

##### *Recovery of property taken in distress, &c.*

- 3 (1) Where before the ending of the concession possession of any property vesting in the highway authority has been taken in pursuance of any legal process or distress, the highway authority may recover it from any person in possession of it without being required to discharge the liability in respect of which the process or distress was issued or levied.
- (2) This does not affect the liability in respect of which the process or distress was issued or levied.

##### *Validity of previous discharge of liabilities*

- 4 Where a liability has been discharged before the ending of the concession which if it had subsisted immediately before the ending of the concession would have fallen to be transferred to the highway authority, nothing in the <sup>M1</sup>Insolvency Act 1986—
- (a) affects the validity of anything done by the concessionaire or any other person in discharging the liability,
  - (b) authorises a court to make an order affecting the property of, or imposing an obligation on, any person in consequence of or in connection with the receipt by him or by any other person of a payment made, property transferred or other benefit provided by the concessionaire or any other person in discharging that liability, or
  - (c) shall be treated as giving rise to a trust affecting money or property so transferred.

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#### Marginal Citations

**M1** 1986 c. 45.

#### *Property subject to covenants, conditions or restrictions*

- 5 Except as provided by paragraph 2, property vesting in the highway authority shall be held by the authority subject to all covenants, conditions and restrictions subject to which the property was held by the concessionaire.

#### *Transfer of agreements, &c.*

- 6 (1) Subject to the concession agreement and to paragraph 2, all agreements and other transactions entered into or effected by the concessionaire and subsisting immediately before the ending of the concession, in so far as they relate to property, rights or liabilities transferred to the highway authority shall have effect with the substitution of the authority for the concessionaire.
- (2) Accordingly—
- (a) such an agreement or transaction may be enforced by or against the highway authority, and
  - (b) references to the concessionaire in an agreement (whether or not in writing) and in a deed, bond or other instrument or document, so far as relating to the property, rights or liabilities mentioned above shall be taken after the ending of the concession as referring to the highway authority.

#### *Legal or other proceedings*

- 7 (1) Subject to the concession agreement, all legal or other proceedings begun before the ending of the concession and relating to property, rights or liabilities transferred to the highway authority, other than proceedings for enforcing a security from which the property is released by virtue of paragraph 2, may be carried on with the substitution of the highway authority for the concessionaire.
- (2) Such proceedings may be amended in such manner as may be necessary for that purpose.

#### *Transfer of employees*

- 8 For the purposes of the [<sup>F1</sup>Transfer of Undertakings (Protection of Employment) Regulations 2006], or any regulations replacing those regulations, the concessionaire shall be treated as transferring to the highway authority an undertaking which, if a new concessionaire is appointed, the authority shall be treated as then transferring to the new concessionaire.

#### Textual Amendments

**F1** Words in [Sch. 1 para. 8](#) substituted (6.4.2006 with application in accordance with reg. 21(1)) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 1\(b\)](#)

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## SCHEDULE 2

Section 6(3).

### PROCEDURE IN CONNECTION WITH TOLL ORDERS

#### *Publicity for proposals*

- 1 (1) Where the Secretary of State proposes to make a toll order, he shall prepare a draft of the order and shall publish in at least one local newspaper circulating in the area in which the proposed special road is to be situated, and in the London Gazette, a notice—
- (a) stating the general effect of the proposed order;
  - (b) naming a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Secretary of State object to the making of the order.
- (2) Where a toll order is submitted to the Secretary of State by a local highway authority, the authority shall publish in at least one local newspaper circulating in the area in which the proposed special road is to be situated, and in the London Gazette, a notice—
- (a) stating the general effect of the order as submitted to the Secretary of State;
  - (b) naming a place in that area where a copy of the order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Secretary of State object to the confirmation of the order.
- (3) Where the special road to which the toll order relates is to be subject to a concession, the Secretary of State or the local highway authority shall make available for inspection with the copy of the draft order or of the order, as the case may be, a statement containing such information as may be prescribed with respect to the concessionaire and the concession agreement.
- The notice under sub-paragraph (1) or (2) shall indicate that such a statement will be so available for inspection.
- (4) In sub-paragraph (3) “prescribed” means prescribed by the Secretary of State by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- 2 (1) The Secretary of State or the local highway authority, as the case may be, shall serve on every local authority in whose area any part of the route of the proposed special road is situated a copy of the notice published under paragraph 1(1) or (2) and of the draft order or of the order, as the case may be.
- (2) The copies must be served not later than the day on which the notice is published or, if it is published on two or more days, the day on which it is first published.
- (3) In sub-paragraph (1) “local authority” means a county, district or London borough council or the Common Council of the City of London [<sup>F2</sup>but, in relation to Wales, means a county council or county borough council].

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### Textual Amendments

**F2** Words in *Sch. 2 para. 2(3)* inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I para. 32(2)** (with ss. 54(5)(7), 55(5)); S.I. 1996/396 art. 3 Sch. 1

- 3 If it appears to the Secretary of State or, as the case may be, the local highway authority to be desirable to do so, he or they shall take such steps, in addition to those required by paragraphs 1 and 2, as will in his or their opinion secure that additional publicity is given in the area affected by the relevant special road scheme to the proposals contained in the order.
- 4 (1) Before or after the end of the period specified in the notice in pursuance of paragraph 1(1) or (2), the Secretary of State or the local highway authority, as the case may be, may by a further notice published in the same manner substitute a longer period for that specified in the first notice.
- (2) Paragraph 2 applies with respect to service of a copy of any such further notice as in relation to the first notice.

#### *Making of objections*

- 5 (1) A person who objects to the making or confirmation of a toll order shall include in the notice of objection a statement of the grounds of objection.
- (2) If that is not done, the Secretary of State may disregard the objection.

#### *Local inquiry*

- 6 (1) If an objection is received by the Secretary of State within the period specified for making objections, and is not withdrawn, then—
- (a) if the objection is from a local authority on whom a copy of the notice is required to be served under paragraph 2, the Secretary of State shall cause a local inquiry to be held;
- (b) if the objection is from any other person appearing to the Secretary of State to be affected, he shall cause a local inquiry to be held unless he is satisfied that in the circumstances of the case it is unnecessary.
- (2) The period specified for making objections means the period specified in the notice under paragraph 1(1) or (2) or any longer period substituted by a further notice under paragraph 1(3).

#### *Making or confirmation of order*

- 7 (1) The Secretary of State, after considering—
- (a) any objections which are not withdrawn, and
- (b) where a local inquiry is held, the report of the person who held the inquiry, may make or confirm the order either without modification or subject to such modifications as he thinks fit.
- (2) Where he proposes to make or confirm the order subject to modifications which will in his opinion make a substantial change in the order, he shall—
- (a) notify any person who appears to him to be likely to be affected by the proposed modifications,

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- (b) give that person an opportunity of making representations with respect to the modifications within such reasonable period as he may specify, and
- (c) consider any representations made to him within that period with respect to the proposed modifications.

*Notice of making or confirmation of order*

- 8 As soon as may be after a toll order has been made or confirmed by the Secretary of State, he shall publish in the London Gazette, and in such other manner as he thinks best adapted for informing persons affected, a notice stating that the order has been made or confirmed and naming a place where a copy of it may be inspected free of charge at all reasonable hours.

*Special parliamentary procedure where existing highway appropriated or transferred*

- 9 (1) A toll order shall be subject to special parliamentary procedure where—
- (a) the relevant special road scheme provides for the appropriation by or transfer to the special road authority of an existing highway comprised in the route prescribed by the scheme, and
  - (b) the toll order authorises the charging of tolls for the use of that existing highway or any part of it,
- unless the Secretary of State is satisfied as regards all classes of traffic entitled to use the existing highway that another reasonably convenient route free of toll is available, or will be provided before the date on which the appropriation or transfer takes effect, and certifies accordingly.
- (2) Where the Secretary of State proposes to give such a certificate, he shall—
- (a) give public notice of his intention to do so,
  - (b) afford an opportunity to all persons interested to make representations and objections, and
  - (c) cause a public local inquiry to be held if it appears to him to be expedient to do so, having regard to representations or objections made,
- and before deciding whether to give the certificate he shall consider any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry.
- (3) As soon as may be after giving a certificate, the Secretary of State shall publish in the London Gazette, and in such other manner as he thinks best for informing persons affected, a notice stating that the certificate has been given.

*Challenge to validity of order or certificate*

- 10 (1) If a person aggrieved by a toll order desires to question the validity of it, or of any provision contained in it, on the ground—
- (a) that it is not within the powers of this Act, or
  - (b) that any requirement of this Act has not been complied with,
- he may within six weeks after the publication (or first publication) of the notice required by paragraph 8 make an application for the purpose to the High Court.
- (2) The court may on such an application by interim order suspend the operation of the toll order, or any provision of it, either generally or so far as the interests of the applicant are affected, until the final determination of the proceedings.

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- (3) If on an application under this paragraph the court is satisfied—
- (a) that the order, or any provision of it, is not within the powers of this Act, or
  - (b) that the interests of the applicant have been substantially prejudiced by a failure to comply with any such requirement as aforesaid,
- the court may quash the order or any provision of it.
- (4) If the court quashes the order, the relevant special road scheme shall also cease to have effect.
- (5) Except as provided by this paragraph, the order shall not be questioned in any legal proceedings whatsoever, either before or after it is made or confirmed, and shall become operative on such date as is specified in the order.
- 11 (1) In relation to a toll order which is subject to special parliamentary procedure—
- (a) if the order is confirmed by Act of Parliament under section 6 of the <sup>M2</sup>Statutory Orders (Special Procedure) Act 1945, paragraph 10 above does not apply;
  - (b) in any other case, that paragraph has effect subject to the following modifications—
    - (i) the reference in sub-paragraph (1) to the date on which the notice required by paragraph 8 is published (or first published) shall be construed as a reference to the date on which the order becomes operative under the Act of 1945, and
    - (ii) in sub-paragraph (5) the words “and shall become operative” to the end shall be omitted.
- (2) The provisions of paragraph 10(1) to (3) and (5) above apply in relation to a certificate under paragraph 9 as in relation to a toll order, subject to the following modifications—
- (a) the reference in sub-paragraph (1) to the notice required by paragraph 8 shall be construed as a reference to the notice required by paragraph 9(3), and
  - (b) in sub-paragraph (5) for “made or confirmed” substitute “ given ” and omit the words from “and shall become operative” to the end.

**Marginal Citations**

**M2** 9 & 10 Geo. 6 c. 18.

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

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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.

#### *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>F3</sup>level 4] on the standard scale.

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### Textual Amendments

- F3** 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.

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—



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- (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.

*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.

[<sup>F4</sup>SCHEDULE 3A

RESTRICTION ON WORKS FOLLOWING SUBSTANTIAL STREET WORKS

**Textual Amendments**

- F4** Sch. 3A inserted (29.6.2007 for E. for specified purposes, 26.11.2007 for W. for specified purposes, 1.4.2008 for E. in so far as not already in force, 1.4.2008 for W. in so far as not already in force) 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)

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- 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)
- C3** Sch. 3A excluded (23.8.2007) by [The Docklands Light Railway \(Capacity Enhancement and 2012 Games Preparation\) Order 2007 \(S.I. 2007/2297\)](#), arts. 1, **3(2)** (with arts. 3(3)(6), 12(3))
- C4** Sch. 3A modified (E.) (1.4.2008) by [The Traffic Management Permit Scheme \(England\) Regulations 2007 \(S.I. 2007/3372\)](#), regs. 1(1), **37(9)** (with reg. 35) (as amended (3.4.2023) by [The Street and Road Works \(Miscellaneous Amendments\) \(England\) Regulations 2022 \(S.I. 2022/831\)](#), **reg. 3(7)**)
- C5** Sch. 3A excluded (16.5.2008) by [The London Gateway Port Harbour Empowerment Order 2008 \(S.I. 2008/1261\)](#), arts. 1, **6(2)** (with arts. 41(1), 45, 54(2), 55, 56, 57, 58(6))
- C6** Sch. 3A excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 14 para. 14(10)**
- C7** Sch. 3A modified (W.) (1.6.2009) by [The Traffic Management Permit Scheme \(Wales\) Regulations 2009 \(S.I. 2009/1267\)](#), regs. 1, **37(9)**
- C8** Sch. 3A excluded (9.6.2009) by [The Nottingham Express Transit System Order 2009 \(S.I. 2009/1300\)](#), arts. 1, **4(3)** (with [Sch. 13 para. 14\(2\)](#), [Sch. 14 para. 19](#), [Sch. 16](#))
- C9** Sch. 3A excluded (18.9.2009) by [The London Underground \(Victoria Station Upgrade\) Order 2009 \(S.I. 2009/2364\)](#), arts. 1, **3(3)**
- C10** Sch. 3A modified (25.1.2010) by [The Traffic Management \(Kent County Council\) Permit Scheme Order 2009 \(S.I. 2009/3188\)](#), art. 1, **Sch. para. 3.12**

### *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.
- (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 subparagraph (1)(c), to the sewer authority;

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- (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).

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

**C11** Sch. 3A para. 2(1)(d) restricted (22.7.2008) by Crossrail Act 2008 (c. 18), Sch. 14 para. 14(11)

*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.

*Status: Point in time view as at 20/07/2010.*

*Changes to legislation: New Roads and Street Works Act 1991 is up to date with all changes known to be in force on or before 20 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)*

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

- C12** Sch. 3A para. 3 restricted (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 14 para. 14(12)**
- C13** Sch. 3A para. 3(4) excluded (W.) (1.4.2008) by The Street Works (Registers, Notices, Directions and Designations) (Wales) Regulations 2008 (S.I. 2008/101), regs. 1, **12(8)** (with reg. 19)
- C14** Sch. 3A para. 3(4) excluded (E.) (1.4.2008) by The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951), regs. 1(1), **12(8)** (with reg. 19)
- C15** Sch. 3A para. 3(4) excluded (22.7.2008) by Crossrail Act 2008 (c. 18), **Sch. 14 para. 14(13)**

*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—

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- (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—
- (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.

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

- C16** Sch. 3A para. 5(1) excluded (W.) (1.4.2008) by [The Street Works \(Registers, Notices, Directions and Designations\) \(Wales\) Regulations 2008 \(S.I. 2008/101\)](#), regs. 1, **12(10)** (with reg. 19)
- C17** Sch. 3A para. 5(1) excluded (E.) (1.4.2008) by [The Street Works \(Registers, Notices, Directions and Designations\) \(England\) Regulations 2007 \(S.I. 2007/1951\)](#), regs. 1(1), **12(10)** (with reg. 19)
- C18** Sch. 3A para. 5(1) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 14 para. 14(14)**

*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.]

SCHEDULE 4

Section 63(1).

STREETS WITH SPECIAL ENGINEERING DIFFICULTIES

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

- C19** Sch. 4 modified (27.11.1992) by [S.I. 1992/2984](#), **art. 3(2)**

*Introductory*

- 1 In this Schedule a “street with special engineering difficulties” means a street for the time being designated under section 63 as having special engineering difficulties.

*Status: Point in time view as at 20/07/2010.*

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### *Requirement of plan and section*

- 2 (1) In a street with special engineering difficulties street works (other than emergency works) involving—
- (a) breaking up or opening the street, or any sewer, drain or tunnel under it, or
  - (b) tunnelling or boring under the street,
- shall not be executed until a plan and section of the works have been settled by agreement between the undertaker and each of the relevant authorities or by arbitration.
- (2) For that purpose an undertaker proposing to execute any such works shall submit a plan and section of them to each relevant authority.
- 3 Emergency works may be executed without a plan and section being so submitted or settled, but as soon as is reasonably practicable after the execution of the works the undertaker shall furnish a plan and section of the works to each relevant authority.
- 4 (1) In the case of a street which is not a maintainable highway and which the street managers have no liability to the public to maintain or repair, the undertaker may give the street managers a notice stating—
- (a) the general effect of the works proposed or, as the case may be, of the emergency works executed, and
  - (b) that it is a notice given for the purposes of this paragraph.
- (2) Where such a notice is given paragraphs 2 and 3 do not apply if the street managers do not, within 10 working days from the date on which the notice was given to them, give notice to the undertaker requiring the submission or furnishing of a plan and section to them.
- 5 (1) A relevant authority to whom a plan and section of works are required to be submitted or furnished may accept as, or in lieu of, a plan and section any description of the works, whether in diagram form or not, which appears to them to be sufficient.
- (2) References in this Schedule to a plan and section include any such description so submitted or furnished to the form of which the relevant authority have not objected within the time allowed under paragraph 7(2) below.
- 6 If an undertaker—
- (a) executes any works in contravention of paragraph 2, or
  - (b) fails to furnish a plan and section in accordance with paragraph 3,
- he commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F5</sup>level 5] on the standard scale.

#### **Textual Amendments**

- F5** Words in [Sch. 4 para. 6](#) 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)

### *Procedure on submission of plan and section*

- 7 (1) A relevant authority to whom there is submitted a plan and section of street works proposed to be executed in a street with special engineering difficulties shall give notice to the undertaker—



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- (a) approving the plan and section without modification, or
  - (b) objecting to them in form as being on too small a scale or giving insufficient particulars, or
  - (c) approving them subject to modifications specified in the notice, or
  - (d) disapproving them.
- (2) The notice shall be given without avoidable delay, and at the latest before the end of the period of—
- (a) 7 working days in the case of a plan and section of works relating only to—
    - (i) a service pipe or service line, or
    - (ii) overhead electric lines or [<sup>F6</sup>electronic communications apparatus], and
  - (b) one month in any other case;
- and as between the undertaker and a relevant authority who do not duly give notice before the end of that period, the plan and section as submitted shall be deemed to have been settled by agreement.
- (3) The reference in sub-paragraph (2)(a)(i) to a service pipe or service line is to—
- (a) a pipe or line through or by means of which a supply of gas, electricity or water is afforded or intended to be afforded to premises—
    - (i) directly from premises from which the supply originates, or
    - (ii) from a main, that is, a pipe or line for affording a general supply;
  - (b) a pipe through or by means of which sewerage services are afforded, or intended to be afforded, which is a private sewer or drain within the meaning of the [<sup>F7</sup>Water Industry Act 1991]; or
  - (c) underground [<sup>F6</sup>electronic communications apparatus] for the purpose of providing a service by means of [<sup>F8</sup>an electronic communications network] to or from particular premises (as opposed to apparatus for the general purposes of such [<sup>F8</sup>a network]).

But so much of any such pipe, line or apparatus as is placed, or intended to be placed, for a continuous length of 100 metres or more in a maintainable highway shall be treated as not being a service pipe or service line.

- (4) In this paragraph—
- “electric line” has the same meaning as in Part I of the <sup>M3</sup>Electricity Act 1989;
  - <sup>F9</sup> ...
  - <sup>F9</sup> ...

#### Textual Amendments

- F6** Words in [Sch. 4 para. 7](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 108\(1\)\(a\)\(2\)](#) (with [Sch. 18](#)); S.I. 2003/1900, arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)
- F7** Words in [Sch. 4 para. 7\(3\)](#) substituted (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), [Sch. 1 para. 57\(2\)](#).
- F8** Words in [Sch. 4 para. 7\(3\)\(c\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 108\(1\)\(a\)\(3\)](#) (with [Sch.](#)

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18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

- F9** Words in Sch. 4 para. 7(4) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), Sch. 19(1) Note 1 (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, art. 3(2) (with art. 11)

#### **Marginal Citations**

**M3** 1989 c. 29.

- 8 (1) Where a relevant authority give notice approving the plan and section subject to modifications, or disapproving the plan and section, they shall state their reasons for doing so.
- (2) If a relevant authority duly give notice—
- (a) objecting to the plan and section in form, or
  - (b) approving them subject to modifications to which the undertaker does not agree, or
  - (c) disapproving them,
- then, unless the notice is withdrawn, the undertaker may refer the matter to arbitration.
- (3) If the notice is withdrawn, the plan and section as submitted shall be deemed to have been settled by agreement between the relevant authority and the undertaker.
- 9 A sewer authority or bridge authority may not give notice—
- (a) approving a plan and section subject to modifications, or
  - (b) disapproving a plan and section,
- on grounds other than such as relate to the injurious effect of the proposed works on their sewer or, as the case may be, on the structure or stability of their bridge.

#### *Settlement of plan and section by arbitration*

- 10 (1) The duty of the arbitrator where a matter is referred to arbitration is to settle a plan and section of works of the kind proposed, as works to be executed in the street.
- (2) He may require the undertaker to submit to him a plan and section in such form, require the relevant authority to submit to him such observations on a plan and section submitted to him, and require the undertaker or the relevant authority to furnish him with such information and to take such other steps, as appear to him to be requisite.
- (3) He may treat compliance with any such requirement made of the undertaker as a condition of his proceeding with the settlement of a plan and section, and compliance with any such requirement made of the relevant authority as a condition of his settling a plan and section otherwise than as proposed by the undertaker.
- 11 (1) Where the reference relates to the placing, altering or changing the position of apparatus in a street which is carried or crossed by a bridge, then, if the arbitrator is satisfied—
- (a) that the execution of the works would be likely to affect injuriously the structure or stability of the bridge, and
  - (b) that it is not practicable to meet objection on that ground to the plan and section submitted,



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he shall so declare, and shall not settle any plan and section of those works on the reference.

- (2) This does not affect the right of the undertaker to submit another plan and section.

*Objection to works executed without plan and section being settled*

- 12 (1) This paragraph applies where street works have been executed in a street with special engineering difficulties without a plan and section having been settled with the street authority or another relevant authority, whether the works were executed in contravention of paragraph 2 above or were emergency works.
- (2) The authority in question may, by notice to the undertaker, object to any of the works; and after affording the undertaker an opportunity to enter into an agreement with them for meeting the objection, may refer the matter to arbitration.
- (3) The arbitrator may direct the alteration of the works to conform to a plan and section settled by him, or the removal of any apparatus placed in the execution of the works, and the undertaker shall comply with any such direction.
- (4) In settling the terms of any such direction the arbitrator shall satisfy himself that compliance with it will not involve any undue interruption or restriction of the supply or service for the purposes of which the works were executed.
- (5) If an undertaker fails to execute works in accordance with a direction under this paragraph, he commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F10</sup> level 5] on the standard scale.

**Textual Amendments**

- F10** Words in [Sch. 4 para. 12\(5\)](#) 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)

*Execution of works in accordance with plan and section*

- 13 (1) An undertaker executing street works in a street with special engineering difficulties shall, where a plan and section have been settled, execute the works in accordance with the plan and section as settled or, if each of the relevant authorities agrees to the modification of the plan or section, in accordance with them as so modified.
- (2) If an undertaker fails to comply with sub-paragraph (1) he commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F11</sup> level 5] on the standard scale.

**Textual Amendments**

- F11** Words in [Sch. 4 para. 13\(2\)](#) 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)

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## [<sup>F12</sup>SCHEDULE 4A

Section 95A

### FIXED PENALTY OFFENCES UNDER PART 3

#### Textual Amendments

**F12** Sch. 4A inserted (29.6.2007 for E. for specified purposes, 26.11.2007 for W. for specified purposes, 12.5.2008 for E.W. in so far as not already in force) by [Traffic Management Act 2004 \(c. 18\)](#), ss. 41(3), 99(1), [Sch. 2](#); S.I. 2007/1890, art. 2, [Sch.](#) (with art. 3); S.I. 2007/3174, art. 2, [Sch.](#) (with art. 3)

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

**C20** Sch. 4A excluded (E.) (12.5.2008) by [The Street Works \(Fixed Penalty\) \(England\) Regulations 2007 \(S.I. 2007/1952\)](#), regs. 1(1), 3

**C21** Sch. 4A excluded (W.) (12.5.2008) by [The Street Works \(Fixed Penalty\) \(Wales\) Regulations 2008 \(S.I. 2008/102\)](#), regs. 1, 3

<i>Offence</i>	<i>Brief description</i>
An offence under section 54(5)	Failure to comply with duties under s. 54 (advance notice of certain works, etc.)
An offence under section 55(5)	Beginning to execute works in contravention of s. 55 (notice of starting date)
An offence under section 55(9)	Failure to give notice in accordance with s. 55(8) (notice to be given on s. 55 notice ceasing to have effect)
An offence under section 57(4)	Failure to give notice in accordance with s. 57 (notice of emergency works)
An offence under section 70(6) consisting of a failure to comply with subsection (3) or (4A)	Failure to comply with requirements to give notice of completion of reinstatement
An offence created by regulations made under section 74(7B)	Failure to give a notice required by regulations under s. 74 (charge for occupation of the highway where works unreasonably delayed)
An offence created by regulations made under section 74A(11)	Failure to give a notice required by regulations under s. 74A (charge determined by reference to duration of works)]

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## [<sup>F13</sup>SCHEDULE 4B

Section 95A

### FIXED PENALTIES FOR CERTAIN OFFENCES UNDER PART 3

#### Textual Amendments

**F13** Sch. 4B inserted (29.6.2007 for E. for specified purposes, 26.11.2007 for W. for specified purposes, 12.5.2008 for E.W. in so far as not already in force) by [Traffic Management Act 2004 \(c. 18\), ss. 41\(3\), 99\(1\), Sch. 3; S.I. 2007/1890, art. 2, Sch. \(with art. 3\); S.I. 2007/3174, art. 2, Sch. \(with art. 3\)](#)

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

**C22** Sch. 4B: power to apply conferred (1.12.2007 for E., 31.3.2008 for W.) by [Traffic Management Act 2004 \(c. 18\), ss. 37\(6\), 99\(1\) \(with ss. 37\(14\), 38\); S.I. 2007/3174, art. 2, Sch.; S.I. 2007/3184, art. 2](#)

#### *Power to give fixed penalty notices*

- 1 (1) An authorised officer of a street authority may, if he has reason to believe that a person is committing or has committed a fixed penalty offence, give him a fixed penalty notice in relation to that offence.
- (2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.
- 2 A fixed penalty notice for an offence may not be given after such time relating to the offence as the Secretary of State may by regulations prescribe.

#### *Contents of fixed penalty notice*

- 3 (1) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.
- (2) A fixed penalty notice must also state—
  - (a) the amount of the penalty and the period within which it may be paid;
  - (b) the discounted amount and the period within which it may be paid;
  - (c) the person to whom and the address at which payment may be made;
  - (d) the method or methods by which payment may be made;
  - (e) the person to whom and the address at which any representations relating to the notice may be addressed;
  - (f) the consequences of not making a payment within the period for payment.
- (3) The person specified under sub-paragraph (2)(c) must be the street authority or a person acting on their behalf.

#### *The amount of the penalty and the period for payment*

- 4 (1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.
- (2) The period for payment of the penalty is the period of [<sup>F14</sup>36] days beginning with the day on which the notice is given.

*Status: Point in time view as at 20/07/2010.*

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- (3) The street authority may extend the period for paying the penalty in any particular case if they consider it appropriate to do so.

#### **Textual Amendments**

**F14** Word in Sch. 4B para. 4(2) substituted (E.) (12.5.2008) by [The Street Works \(Fixed Penalty\) \(England\) Regulations 2007 \(S.I. 2007/1952\)](#), regs. 1(1), **8(2)**; and word in Sch. 4B para. 4(2) substituted (W.) (12.5.2008) by [The Street Works \(Fixed Penalty\) \(Wales\) Regulations 2008 \(S.I. 2008/102\)](#), regs. 1, **8(2)**

#### *The discounted amount*

- 5 (1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of [<sup>F15</sup>29] days beginning with the day on which the notice is given.
- (2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.
- (3) If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.

#### **Textual Amendments**

**F15** Word in Sch. 4B para. 5(1) substituted (E.) (12.5.2008) by [The Street Works \(Fixed Penalty\) \(England\) Regulations 2007 \(S.I. 2007/1952\)](#), regs. 1(1), **8(3)**; and word in Sch. 4B para. 5(1) substituted (W.) (12.5.2008) by [The Street Works \(Fixed Penalty\) \(Wales\) Regulations 2008 \(S.I. 2008/102\)](#), regs. 1, **8(3)**

#### *Effect of notice and payment of penalty*

- 6 (1) This paragraph applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.
- (2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.
- (3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the street authority after that time.
- (4) Payment of the discounted amount only counts for the purposes of sub-paragraph (3) if it is made before the end of the period for payment of the discounted amount.
- (5) In proceedings for the offence a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the street authority; and
  - (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,
- is evidence of the facts stated.

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### *Power to withdraw notices*

- 7 (1) If the street authority consider that a fixed penalty notice which has been given ought not to have been given, they may give to the person to whom it was given a notice withdrawing the fixed penalty notice.
- (2) Where a notice under sub-paragraph (1) is given—
- (a) the authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice; and
  - (b) no proceedings shall be commenced or continued against that person for the offence in question.
- (3) The street authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

### *General and supplementary*

- 8 The Secretary of State may, with the consent of the Treasury, make regulations about—
- (a) the application by street authorities of fixed penalties paid under this Schedule;
  - (b) the keeping of accounts, and the preparation and publication of statements of account, relating to fixed penalties paid under this Schedule.
- 9 The Secretary of State may by regulations—
- (a) prescribe circumstances in which fixed penalty notices may not be given;
  - (b) modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there;
  - (c) prescribe the method or methods by which penalties may be paid.]

## SCHEDULE 5

Sections 101(4) and 102(6).

### PROCEDURE FOR MAKING CERTAIN ORDERS UNDER PART III

#### *Publication of proposals*

- 1 Where the Secretary of State proposes to make an order under section 101 (effect of Part III on certain existing special enactments or instruments), or an order under section 102 (effect of Part III on other existing enactments or instruments) relating to a special enactment or instrument, he shall publish in the London Gazette, and in at least one newspaper circulating in the area in relation to which the enactment or instrument in question has effect, a notice—
- (a) stating the general effect of the proposed order,
  - (b) specifying a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours or may be purchased by any person at a reasonable charge, and
  - (c) stating that any person may, by notice given to the Secretary of State within three months from the date of the publication of the notice, object to the proposed order.

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### *Notice to parties affected*

- 2 Not later than the day on which the notice is published or, if it is published on two or more days, the day on which it is first published, the Secretary of State shall furnish each of the parties specified below by reference to the nature of the order with a copy of the draft order.

Order under section 101(4)(a) relating to protection afforded by an enactment or instrument	The undertaker by whom the power is exercisable and each of the persons to whom the protection in question was afforded.
Order under section 101(4)(b) relating to requirement of consent	The person whose consent would be required and the undertaker who would be required to obtain the consent.
Order under section 101(4)(c) rendering condition valid	The person by whom the condition would be imposed and the undertaker who would be required to comply with it.
Order under section 101(4)(d) modifying enactment or instrument to remove uncertainty or obscurity	As indicated above, according to whether the order relates to the protection afforded by an enactment or instrument, a consent requirement or the validity of a condition.
Order under section 102 amending, repealing or preserving effect of enactment or instrument	Any person whose interests are specially affected by the proposed provision.

### *Local inquiry*

- 3 (1) The Secretary of State shall cause a local inquiry to be held if an objection to the proposed order is received by him—
- (a) from a person required to be furnished with a copy of the draft order within three months from the date of his being furnished therewith, or
  - (b) from any other person appearing to him to be affected within three months from the day on which the notice of the proposed order is published, or if it is published on two or more days from the later or latest of them,
- and the objection is not withdrawn.
- (2) In the case of an objection made otherwise than by a person required to be furnished with a copy of the draft order, the Secretary of State may dispense with such an inquiry if he is satisfied that it is unnecessary.
- 4 (1) The provisions of section 250(2) to (5) of the <sup>M4</sup>Local Government Act 1972 (which relate to the giving of evidence at, and the defraying of costs of, inquiries) apply in relation to a local inquiry held under paragraph 3.
- (2) Subsection (4) of that section (which requires the costs of the department holding the inquiry to be defrayed by the parties thereto) shall not apply in so far as the Secretary of State is of the opinion, having regard to the object and result of the inquiry, that his costs should be defrayed by him.

*Status:* Point in time view as at 20/07/2010.

*Changes to legislation:* New Roads and Street Works Act 1991 is up to date with all changes known to be in force on or before 20 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)

#### Marginal Citations

M4 1972 c. 70.

#### *Making of order*

- 5 After considering any objections to the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make the order either without modification or subject to such modifications as he thinks fit.

#### *Special parliamentary procedure*

- 6 If any objection is duly made by a person required to be furnished with a copy of the draft order and is not withdrawn, the order shall be subject to special parliamentary procedure.

### SCHEDULE 6

Section 122(1).

#### ROADS WITH SPECIAL ENGINEERING DIFFICULTIES

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

C23 Sch. 6 modified (28.11.1992) by S.I. 1992/2990, art. 3(2)

#### *Introductory*

- 1 In this Schedule a “road with special engineering difficulties” means a road for the time being designated under section 122 as having special engineering difficulties.

#### *Requirement of plan and section*

- 2 (1) In a road with special engineering difficulties road works (other than emergency works) involving—  
(a) breaking up or opening the road, or any sewer, drain or tunnel under it, or  
(b) tunnelling or boring under the road,  
shall not be executed until a plan and section of the works have been settled by agreement between the undertaker and each of the relevant authorities or <sup>[F16]</sup>in the prescribed manner].  
(2) For that purpose an undertaker proposing to execute any such works shall submit a plan and section of them to each relevant authority.

#### Textual Amendments

F16 Words in Sch. 6 para. 2(1) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(1)(2) (g), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1

*Status: Point in time view as at 20/07/2010.*

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- 3           Emergency works may be executed without a plan and section being so submitted or settled, but as soon as is reasonably practicable after the execution of the works the undertaker shall furnish a plan and section of the works to each relevant authority.
- 4           (1) In the case of a road which is not a public road and which the road managers have no liability to the public to maintain or repair, the undertaker may give the road managers a notice stating—
- (a) the general effect of the works proposed or, as the case may be, of the emergency works executed, and
- (b) that it is a notice given for the purposes of this paragraph.
- (2) Where such a notice is given paragraphs 2 and 3 do not apply if the road managers do not, within 10 working days from the date on which the notice was given to them, give notice to the undertaker requiring the submission or furnishing of a plan and section to them.
- 5           (1) A relevant authority to whom a plan and section of works are required to be submitted or furnished may accept as, or in lieu of, a plan and section any description of the works, whether in diagram form or not, which appears to them to be sufficient.
- (2) References in this Schedule to a plan and section include any such description so submitted or furnished to the form of which the relevant authority have not objected within the time allowed under paragraph 7(2) below.
- 6           If an undertaker—
- (a) executes any works in contravention of paragraph 2, or
- (b) fails to furnish a plan and section in accordance with paragraph 3,
- he commits an offence and is liable on summary conviction to a fine not exceeding [F17]level 5] on the standard scale.

#### **Textual Amendments**

**F17** Words in [Sch. 6 para. 6](#) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 3](#); [S.S.I. 2008/15, art. 2\(2\), sch. 1](#)

#### *Procedure on submission of plan and section*

- 7           (1) A relevant authority to whom there is submitted a plan and section of road works proposed to be executed in a road with special engineering difficulties shall give notice to the undertaker—
- (a) approving the plan and section without modification, or
- (b) objecting to them in form as being on too small a scale or giving insufficient particulars, or
- (c) approving them subject to modifications specified in the notice, or
- (d) disapproving them.
- (2) The notice shall be given without avoidable delay, and at the latest before the end of the period of—
- (a) 7 working days in the case of a plan and section of works relating only to—
- (i) a service pipe or service line, or
- (ii) overhead electric lines or [F18]electronic communications apparatus],
- and



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(b) one month in any other case;

and as between the undertaker and a relevant authority who do not duly give notice before the end of that period, the plan and section as submitted shall be deemed to have been settled by agreement.

(3) The reference in sub-paragraph (2)(a)(i) to a service pipe or service line is to—

(a) a pipe or line through or by means of which a supply of gas, electricity or water is afforded or intended to be afforded to premises—

(i) directly from premises from which the supply originates, or

(ii) from a main, that is, a pipe or line for affording a general supply;

(b) a pipe through or by means of which sewerage services are afforded, or intended to be afforded, which is not <sup>F19</sup>a public sewer]; or

(c) underground [<sup>F18</sup>electronic communications apparatus] for the purpose of providing a service by means of [<sup>F20</sup>an electronic communications network] to or from particular premises (as opposed to apparatus for the general purposes of such [<sup>F20</sup>a network]).

But so much of any such pipe, line or apparatus as is placed, or intended to be placed, for a continuous length of 100 metres or more in a public road shall be treated as not being a service pipe or service line.

(4) In this paragraph—

“electric line” has the same meaning as in Part I of the <sup>M5</sup>Electricity Act 1989;

<sup>F21</sup>  
...

<sup>F21</sup>  
...

#### Textual Amendments

**F18** Words in [Sch. 6 para. 7](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 108\(1\)\(b\)\(2\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

**F19** Words in [Sch. 6 para. 7\(3\)\(b\)](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 21\(8\)\(a\)](#) (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)

**F20** Words in [Sch. 6 para. 7\(3\)\(c\)](#) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 17 para. 108\(1\)\(b\)\(3\)](#) (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

**F21** Words in [Sch. 6 para. 7\(4\)](#) repealed (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); [S.I. 2003/1900](#), arts. 1(2), 2(1), [Sch. 1](#) (with art. 3) (as amended by [S.I. 2003/3142](#), art. 1(3)); [S.I. 2003/3142](#), art. 3(2) (with art. 11)

#### Marginal Citations

**M5** 1989 c. 29.

8 (1) Where a relevant authority give notice approving the plan and section subject to modifications, or disapproving the plan and section, they shall state their reasons for doing so.

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- (2) If a relevant authority duly give notice—
- (a) objecting to the plan and section in form, or
  - (b) approving them subject to modifications to which the undertaker does not agree, or
  - (c) disapproving them,
- then, unless the notice is withdrawn, the undertaker may refer the matter to arbitration.
- (3) If the notice is withdrawn, the plan and section as submitted be deemed to have been settled by agreement between them and the undertaker.
- 9 [F22Scottish Water] or a bridge authority may not give notice—
- (a) approving a plan and section subject to modifications, or
  - (b) disapproving a plan and section,
- on grounds other than such as relate to the injurious effect of the proposed works on [F23a public sewer] or, as the case may be, on the structure or stability of their bridge.

#### Textual Amendments

**F22** Words in [Sch. 6 para. 9](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 21\(8\)\(b\)\(i\)](#), (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)

**F23** Words in [Sch. 6 para. 9](#) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), s. 71, [Sch. 7 para. 21\(8\)\(b\)\(ii\)](#), (with s. 67); [S.S.I. 2002/118](#), [art. 2](#)

#### *Settlement of plan and section by arbitration*

- 10 (1) The duty of the [F24person to whom it falls, by virtue of regulations made under paragraph 2(1), to settle a dispute under that paragraph] is to settle a plan and section of works of the kind proposed, as works to be executed in the road.
- (2) He may require the undertaker to submit to him a plan and section in such form, require the relevant authority to submit to him such observations on a plan and section submitted to him, and require the undertaker or the relevant authority to furnish him with such information and to take such other steps, as appear to him to be requisite.
- (3) He may treat compliance with any such requirement made of the undertaker as a condition of his proceeding with the settlement of a plan and section, and compliance with any such requirement made of the relevant authority as a condition of his settling a plan and section otherwise than as proposed by the undertaker.

#### Textual Amendments

**F24** Words in [Sch. 6 para. 10\(1\)](#) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), [ss. 36\(5\)\(a\)](#), [54\(2\)](#); [S.S.I. 2008/15](#), [art. 2\(2\)](#), [sch. 1](#)

- 11 (1) Where the reference relates to the placing, altering or changing the position of apparatus in a road which is carried by or goes under a bridge, then, if the arbiter is satisfied—
- (a) that the execution of the works would be likely to affect injuriously the structure or stability of the bridge, and

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(b) that it is not practicable to meet objection on that ground to the plan and section submitted,

he shall so declare, and shall not settle any plan and section of those works on the reference.

(2) This does not affect the right of the undertaker to submit another plan and section.

*Objection to works executed without plan and section being settled*

12 (1) This paragraph applies where road works have been executed in a road with special engineering difficulties without a plan and section having been settled with the road works authority or another relevant authority, whether the works were executed in contravention of paragraph 2 above or were emergency works.

(2) The authority in question may, by notice to the undertaker, object to any of the works; and after affording the undertaker an opportunity to enter into an agreement with them for meeting the objection, may refer the matter to <sup>[F25]</sup>be settled in the prescribed manner].

(3) The <sup>[F26]</sup>person to whom it falls to settle the matter] may direct the alteration of the works to conform to a plan and section settled by him, or the removal of any apparatus placed in the execution of the works, and the undertaker shall comply with any such direction.

(4) In settling the terms of any such direction <sup>[F27]</sup>that person] shall satisfy himself that compliance with it will not involve any undue interruption or restriction of the supply or service for the purposes of which the works were executed.

(5) If an undertaker fails to execute works in accordance with a direction under this paragraph, he commits an offence and is liable on summary conviction to a fine not exceeding <sup>[F28]</sup>level 5] on the standard scale.

**Textual Amendments**

**F25** Words in Sch. 6 para. 12(2) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(5)(b)(i), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1

**F26** Words in Sch. 6 para. 12(3) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(5)(b)(ii), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1

**F27** Words in Sch. 6 para. 12(4) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), ss. 36(5)(b)(iii), 54(2); S.S.I. 2008/15, art. 2(2), sch. 1

**F28** Words in Sch. 6 para. 12(5) substituted (1.4.2008) by Transport (Scotland) Act 2005 (asp 12), s. 54(2), sch. 3; S.S.I. 2008/15, art. 2(2), sch. 1

*Execution of works in accordance with plan and section*

13 (1) An undertaker executing road works in a road with special engineering difficulties shall, where a plan and section have been settled, execute the works in accordance with the plan and section as settled, or, if each of the relevant authorities agrees to the modification of the plan or section, in accordance with them as so modified.

(2) If an undertaker fails to comply with sub-paragraph (1) he commits an offence and is liable on summary conviction to a fine not exceeding <sup>[F29]</sup>level 5] on the standard scale.

*Status: Point in time view as at 20/07/2010.*

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#### Textual Amendments

**F29** Words in Sch. 6 para. 13(2) substituted (1.4.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 3](#); S.S.I. 2008/15, art. 2(2), sch. 1

### [<sup>F30</sup>SCHEDULE 6A

#### FIXED PENALTY OFFENCES UNDER PART 4

#### Textual Amendments

**F30** Sch. 6A inserted (S.) (1.10.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 4](#); S.S.I. 2008/15, art. 2(3), sch. 2

<i>Offence</i>	<i>Brief description</i>
An offence under section 113(5)	Failure to comply with duties under section 113 (advance notice of certain works, etc.)
An offence under section 114(5)	Beginning to execute works in contravention of section 114 (notice of starting date)
An offence under section 116(4)	Failure to give notice in accordance with section 116 (notice of emergency works)
An offence under section 129(6) consisting of a failure to comply with subsection (3) or (4)	Failure to comply with requirements to give notice of completion of reinstatement.]

### [<sup>F31</sup>SCHEDULE 6B

#### FIXED PENALTIES FOR CERTAIN OFFENCES UNDER PART 4

#### Textual Amendments

**F31** Sch. 6B inserted (S.) (1.10.2008) by [Transport \(Scotland\) Act 2005 \(asp 12\), s. 54\(2\), sch. 5](#); S.S.I. 2008/15, art. 2(3), sch. 2

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

**C24** Sch. 6B restricted (1.10.2008) by [The Road Works \(Fixed Penalty\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/244\), regs. 1, 3](#)

*Status: Point in time view as at 20/07/2010.*

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### *Power to give fixed penalty notices*

- 1 (1) An authorised officer of a road works authority may, if having reason to believe that a person is committing or has committed a fixed penalty offence, give that person a fixed penalty notice in relation to that offence.
- (2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.
- 2 A fixed penalty notice for an offence may not be given after such time relating to the offence as may be prescribed.

### *Contents of fixed penalty notice*

- 3 (1) A fixed penalty notice shall identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.
- (2) A fixed penalty notice shall also state—
  - (a) the amount of the penalty and the period within which it may be paid,
  - (b) the discounted amount and the period within which it may be paid,
  - (c) the person to whom and the address at which payment may be made,
  - (d) the method or methods by which payment may be made,
  - (e) the person to whom and the address at which any representations relating to the notice may be made,
  - (f) the consequences of not making a payment within the period for payment.
- (3) The person specified under sub-paragraph (2)(c) must be the road works authority or a person acting on their behalf.

### *The amount of the penalty and the period for payment*

- 4 (1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.
- (2) The period for payment of the penalty is the period of [<sup>F32</sup>36] days beginning with the day on which the notice is given.
- (3) The road works authority may extend the period for paying the penalty in any particular case if they consider it appropriate to do so.

#### **Textual Amendments**

**F32** Word in Sch. 6B para. 4(2) substituted (1.10.2008) by [The Road Works \(Fixed Penalty\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/244\)](#), regs. 1, **8(a)**

### *The discounted amount*

- 5 (1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of [<sup>F33</sup>29] days beginning with the day on which the notice is given.
- (2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.

*Status: Point in time view as at 20/07/2010.*

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- (3) If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.

#### Textual Amendments

**F33** Word in Sch. 6B para. 5(1) substituted (1.10.2008) by [The Road Works \(Fixed Penalty\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/244\)](#), regs. 1, **8(b)**

#### *Effect of notice and payment of penalty*

- 6 (1) This paragraph applies where a person is served with a fixed penalty notice in respect of a fixed penalty offence.
- (2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.
- (3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the road works authority after that time.
- (4) Payment of the discounted amount counts for the purposes of sub-paragraph (3) only if it is made before the end of the period for payment of the discounted amount.
- (5) In proceedings for the offence a certificate which—
- (a) purports to be signed by or on behalf of a person having responsibility for the financial affairs of the road works authority, and
  - (b) states that payment of an amount specified in the certificate was or was not received by a date so specified,
- is sufficient evidence of the facts stated.

#### *Request for hearing*

- 7 (1) A person to whom a fixed penalty notice has been given may, before the expiry of the period for payment of the penalty, give notice requesting a hearing in respect of the offence to which the fixed penalty notice relates.
- (2) A notice requesting a hearing under sub-paragraph (1) shall be in writing and shall be sent by post or delivered to the person specified under paragraph 3(2)(c) in the fixed penalty notice at the address so specified.
- (3) For the purposes of this paragraph and unless the contrary is proved, the sending of a notice by post is deemed to have been effected at the time at which the notice would be delivered in the ordinary course of post.
- (4) Where a person has requested a hearing in accordance with this section—
- (a) the road works authority shall hold the hearing,
  - (b) a person authorised for the purpose by the road works authority in whose area the offence was committed shall notify the procurator fiscal of the request, and
  - (c) the period for payment of the fixed penalty shall be calculated so that the period beginning with the giving of the notice under this paragraph and

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ending with the receipt by the person who gave that notice of the decision reached at the hearing is left out of account.

*Power to withdraw notices*

- 8 (1) If the road works authority consider (whether after holding a hearing under paragraph 7 or not) that a fixed penalty notice which has been given ought not to have been given, they may give to the person to whom it was given a notice withdrawing the fixed penalty notice.
- (2) Where a notice under sub-paragraph (1) is given—
- (a) the road works authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice, and
  - (b) no proceedings shall be commenced or continued against that person for the offence in question.
- (3) The road works authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

*Effect of prosecution on notice*

- 9 Where proceedings for an offence in respect of which a fixed penalty notice has been given are commenced, the notice is to be treated as withdrawn.

*Recovery of unpaid fixed penalties*

- 10 Subject to paragraphs 8 and 9, where a fixed penalty remains unpaid after the expiry of the period for payment of the penalty it shall be enforceable in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff for any sheriffdom.

*Judicial determination of enforcement of fixed penalty*

- 11 (1) A person against whom a fixed penalty bears to be enforceable under paragraph 10 may apply to the sheriff by summary application for a declaration that the fixed penalty is not enforceable on the ground that—
- (a) the fixed penalty was paid before the expiry of the period for paying, or
  - (b) the person has made a request for a hearing in accordance with paragraph 7 and no hearing has been held within a reasonable time after the request.
- (2) On an application under sub-paragraph (1), the sheriff may declare—
- (a) that the person has or, as the case may be, has not paid the fixed penalty within the period for payment of the penalty,
  - (b) that the person has or, as the case may be, has not requested a hearing in accordance with paragraph 7,
  - (c) that, where such a request has been made, a hearing has or, as the case may be, has not been held within a reasonable time after the request, and
- accordingly, that the fixed penalty is or, as the case may be, is not enforceable.

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*General and supplementary*

- 12 (1) The road works authority shall, subject to sub-paragraph (2), remit the money received by them by way of fixed penalties under this Schedule to the Scottish Ministers.
- (2) The Scottish Ministers may, by regulations, provide that the road works authority may retain as much of that money as is sufficient to meet such of their expenditure as is described in the regulations.
- (3) The Scottish Ministers may make regulations about the keeping of accounts, and the preparation and publication of statements of account, relating to fixed penalties under this Schedule.
- 13 (1) Fixed penalty notices may not be given in such circumstances as may be prescribed.
- (2) The method or methods by which fixed penalties may be paid may be prescribed.
- (3) The Scottish Ministers may by regulations modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there.
- 14 The Scottish Ministers may issue or approve for the purposes of this Schedule a code of practice giving guidance to road works authorities and their authorised officers as to the performance of their functions under this Schedule; and in performing those functions those authorities and officers shall have regard to that code of practice.]

SCHEDULE 7

Sections 160(4) and 161(6).

PROCEDURE FOR MAKING CERTAIN ORDERS UNDER PART IV

*Publication of proposals*

- 1 Where the Secretary of State proposes to make an order under section 160 (effect of Part IV on certain existing special enactments or instruments), or an order under section 161 (effect of Part IV on other existing enactments or instruments) relating to a special enactment or instrument, he shall publish in the Edinburgh Gazette, and in at least one newspaper circulating in the area in relation to which the enactment or instrument in question has effect, a notice—
- (a) stating the general effect of the proposed order,
- (b) specifying a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours or may be purchased by any person at a reasonable charge, and
- (c) stating that any person may, by notice given to the Secretary of State within three months from the date of the publication of the notice, object to the proposed order.

*Notice to parties affected*

- 2 Not later than the day on which the notice is published or, if it is published on two or more days, the day on which it is first published, the Secretary of State shall furnish each of the parties specified below by reference to the nature of the order with a copy of the draft order.



*Status: Point in time view as at 20/07/2010.*

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Order under section 160(4)(a) relating to protection afforded by an enactment or instrument	The undertaker by whom the power is exercisable and each of the persons to whom the protection in question was afforded.
Order under section 160(4)(b) relating to requirement of consent	The person whose consent would be required and the undertaker who would be required to obtain the consent.
Order under section 160(4)(c) rendering condition valid	The person by whom the condition would be imposed and the undertakers who would be required to comply with it.
Order under section 160(4)(d) modifying enactment or instrument to remove uncertainty or obscurity	As indicated above, according to whether the order relates to the protection afforded by an enactment or instrument, a consent requirement or the validity of a condition.
Order under section 161 amending, repealing or preserving effect of enactment or instrument	Any person whose interests are specially affected by the proposed provision.

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#### *Local inquiry*

- 3 (1) The Secretary of State shall cause a local inquiry to be held if an objection to the proposed order is received by him—
- (a) from a person required to be furnished with a copy of the draft order within three months from the date of his being furnished therewith, or
  - (b) from any other person appearing to him to be affected within three months from the day on which the notice of the proposed order is published, or if it is published on two or more days from the later or latest of them,
- and the objection is not withdrawn.
- (2) In the case of an objection made otherwise than by a person required to be furnished with a copy of the draft order, the Secretary of State may dispense with such an inquiry if he is satisfied that it is unnecessary.
- 4 (1) If the Secretary of State so directs, an inquiry under paragraph 3 shall be held by Commissioners under the <sup>M6</sup>Private Legislation Procedure (Scotland) Act 1936.
- (2) A direction under this paragraph is deemed to have been given under section 2 of the <sup>M7</sup>Statutory Orders (Special Procedure) Act 1945, as read with section 10 of that Act, and the provisions of that Act with regard to the publication of notices in the Edinburgh Gazette shall, notwithstanding anything contained in that Act, not apply to any order under section 160 which is subject to special parliamentary procedure.
- (3) If the Secretary of State does not give a direction under this paragraph, the provisions of section 210(2) to (8) of the <sup>M8</sup>Local Government (Scotland) Act 1973 (which relate to the giving of evidence at, and the defraying of costs of, inquiries) apply in relation to a local inquiry held under paragraph 3.

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#### Marginal Citations

- M6** [1936 c. 52.](#)  
**M7** [9 & 10 Geo. 6 c. 18.](#)  
**M8** [1973 c. 65.](#)

#### *Making of order*

- 5 After considering any objections to the order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make the order either without modification or subject to such modifications as he thinks fit.

#### *Special parliamentary procedure*

- 6 If any objection is duly made by a person required to be furnished with a copy of the draft order and is not withdrawn, the order shall be subject to special parliamentary procedure.

### SCHEDULE 8

Section 168(1).

#### 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>M9</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

- M9** [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—

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- (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 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>M10</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 ”.

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**Marginal Citations**

**M10** 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>M11</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**

**M11** 1980 c. 66.

- 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

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(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.

(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>M12</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

M12 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 ”.

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- 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>M13</sup>Highways Act 1980 (compensation for damage resulting from exercise of powers of entry, &c.), in subsection (2) (avoidance of double 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**

**M13** 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;”.

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- 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”.

## PART II

### AMENDMENTS OF THE ROAD TRAFFIC REGULATION ACT 1984

#### *Traffic regulation orders outside Greater London*

- 17 (1) Section 1 of the <sup>M14</sup>Road Traffic Regulation Act 1984 is amended as follows.
- (2) In subsection (1) for the words from the beginning to “London” substitute “The traffic authority for a road outside Greater London may make an order under this section (referred to in this Act as a “traffic regulation order”) in respect of the road”
- (3) Omit subsection (2) (authorities having power to make orders).
- (4) For subsection (3) substitute—
- “(3) A traffic regulation order made by a local traffic authority may, with the consent of the Secretary of State, extend to a road in relation to which he is the traffic authority if the order forms part of a scheme of general traffic control relating to roads of which at least one has a junction with the length of road in question.”.
- (5) Omit subsections (4) and (5) (which provide that the power is not exercisable in relation to a special road).

#### **Commencement Information**

**II** Sch. 8 para. 17 wholly in force; Sch. 8 para. 17 in force (S.) at 1.11.1991 see s. 170(1) and S.I. 1991/2286, art. 2(2), Sch. 2; Sch. 8 para. 17 in force (E.W.) at 1.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

#### **Marginal Citations**

**M14** 1984 c. 27.

- 18 (1) Section 2 of the Road Traffic Regulation Act 1984 (what a traffic regulation order may provide) is amended as follows.
- (2) In subsection (1) for the words from the beginning to “of this Act)” substitute “A traffic regulation order may make”.
- (3) In subsection (2) for the words from the beginning to “that subsection” substitute “The provision that may be made by a traffic regulation order”.

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- (4) In subsection (4) for the words from the beginning to “may include” substitute “ A local traffic authority may include ”.

**Commencement Information**

- I2** Sch. 8 para. 18 wholly in force; Sch. 8 para. 18 in force (S.) at 1.11.1991 see s. 170(1) and S.I. 1991/2286, art. 2(2), Sch. 2; in force (E.W.) at 1.11.1991 see s. 170(1) and S.I. 1991/2288 art. 3, Sch.

- 19 In section 3(1) of the Road Traffic Regulation Act 1984 (restrictions on traffic regulation orders) omit the words from the beginning to “of this Act”.

**Commencement Information**

- I3** Sch. 8 para. 19 wholly in force; Sch. 8 para. 19 in force (S.) at 1.11.1991 see s. 170(1) and S.I. 1991/2286, art. 2(2), Sch. 2; Sch. 8 para. 19 in force (E.W.) at 1.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 20 In section 5 of the Road Traffic Regulation Act 1984 (contravention of traffic regulation order), omit subsection (2).

**Commencement Information**

- I4** Sch. 8 para. 20 wholly in force; Sch. 8 para. 20 in force (S.) at 1.11.1991 see s. 170(1) and S.I. 1991/2286, art. 2(2), Sch. 2; Sch. 8 para. 20 in force (E.W.) at 1.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

*Orders as to traffic regulation in Greater London*

- 21 (1) Section 6 of the Road Traffic Regulation Act 1984 (orders as to traffic regulation in Greater London) is amended as follows.
- (2) In subsection (1) for the words from the beginning to “foregoing words)” substitute — “ The traffic authority for a road in Greater London may make an order under this section for controlling or regulating vehicular and other traffic (including pedestrians). Provision may, in particular, be made— ”.
- (3) For subsection (2) substitute—
- “(2) In the case of a road for which the Secretary of State is the traffic authority, the power to make an order under this section is also exercisable, with his consent, by the local traffic authority.”.
- (4) Omit subsection (4) (which provides that the power is not exercisable in relation to a special road).
- (5) In subsection (6) omit the words from “and in subsection (4)” to the end.

**Commencement Information**

- I5** Sch. 8 para. 21 wholly in force; Sch. 8 para. 21 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2) Sch. 2; Sch. 8 para. 21 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288 art. 3 Sch

- 22 In section 8 of the <sup>M15</sup>Road Traffic Regulation Act 1984 (contravention of order under s.6), omit subsection (2).



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#### Commencement Information

**I6** Sch. 8 para. 22 wholly in force; Sch. 8 para. 22 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2) Sch. 2; Sch. 8 para. 22 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288 art. 3 Sch.

#### Marginal Citations

**M15** 1984 c. 27.

### *Experimental traffic schemes*

23 (1) Section 9 of the Road Traffic Regulation Act 1984 (experimental traffic orders) is amended as follows.

(2) For subsection (1) substitute—

“(1) The traffic authority for a road may, for the purposes of carrying out an experimental scheme of traffic control, make an order under this section (referred to in this Act as an “experimental traffic order”) making any such provision—

- (a) as respects a road outside Greater London, as may be made by a traffic regulation order;
- (b) as respects a road in Greater London, as may be made by an order under section 6, 45, 46, 49, 83(2) or 84 of this Act.”.

(3) For subsection (2) substitute—

“(2) An experimental traffic order made by a local traffic authority outside Greater London may, with the consent of the Secretary of State, extend to a road in relation to which he is the traffic authority if the order forms part of a scheme of general traffic control relating to roads of which at least one has a junction with the length of road in question.

(2A) In the case of a road in Greater London for which the Secretary of State is the traffic authority, the power to make an order under this section is also exercisable, with his consent, by the local traffic authority.”.

(4) After subsection (5) insert—

“(5A) So much of section 4(1) or 7(1) of this Act as provides for a presumption that a traffic sign is lawfully placed shall apply for the purposes of an order under this section making any such provision as is referred to in that subsection.”.

#### Commencement Information

**I7** Sch. 8 para. 23 wholly in force; Sch. 8 para. 23 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2) Sch. 2; Sch. 8 para. 23 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288 art. 3 Sch.

24 (1) Section 10 of the Road Traffic Regulation Act 1984 (supplementary provisions as to experimental traffic orders) is amended as follows.

(2) For subsection (2) substitute—

“(2) An experimental traffic order may include provision empowering a specified officer of the authority who made the order, or a person authorised by such

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a specified officer, to modify or suspend the operation of the order or any provision of it if it appears to him essential—

- (a) in the interests of the expeditious, convenient and safe movement of traffic,
- (b) in the interests of providing suitable and adequate on-street parking facilities, or
- (c) for preserving or improving the amenities of the area through which any road affected by the order runs.

The power conferred by such a provision shall be exercised only after consulting the appropriate chief officer of police and giving such public notice as the Secretary of State may direct.”.

(3) For subsection (3) substitute—

“(3) Any such power to modify an experimental traffic order as is mentioned in subsection (2) above does not extend to making additions to the order or to designating additional on-street parking places for which charges are made; but subject to that the modifications may be of any description.”.

#### Commencement Information

**I8** Sch. 8 para. 24 wholly in force; Sch. 8 para. 24 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2) Sch. 2; Sch. 8 para. 24 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288 art. 3 Sch.

25 In section 12 of the <sup>M16</sup>Road Traffic Regulation Act 1984 (experimental traffic schemes in Greater London), for subsection (2) substitute—

“(1A) The local authority shall not give their consent to any such scheme affecting a road for which the Secretary of State is the traffic authority except with his agreement.

(2) The Secretary of State may in the case of any scheme, after consultation with the local authority, direct them to consent to the scheme within a specified period or to withhold their consent.”.

#### Commencement Information

**I9** Sch. 8 para. 25 wholly in force; Sch. 8 para. 25 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2) Sch. 2; Sch. 8 para. 25 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288 art. 3 Sch.

#### Marginal Citations

**M16** 1984 c. 27.

### *Temporary prohibition or restriction of traffic*

F34<sup>26</sup> .....

#### Textual Amendments

**F34** Sch. 8 para. 26 repealed (1.7.1992) by 1991 c. 26, s. 2(2), Sch. 2; S.I. 1992/1218, art. 2

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- 27 In section 16 of the <sup>M17</sup>Road Traffic Regulation Act 1984 (supplementary provisions as to orders and notices under s.14), omit subsections (3) and (4).

**Commencement Information**

**I10** Sch. 8 para. 27 wholly in force; Sch. 8 para. 27 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 27 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

**Marginal Citations**

**M17** 1984 c. 27.

*Traffic regulation on special roads*

- 28 (1) Section 17 of the Road Traffic Regulation Act 1984 (traffic regulation on special roads) is amended as follows.

- (2) For subsection (1) (traffic authorised to use special road) substitute—

“(1) A special road shall not be used except by traffic of a class authorised to do so—

- (a) in England and Wales, by a scheme made, or having effect as if made, under section 16 of the Highways Act 1980 or by virtue of paragraph 3 of Schedule 23 to that Act, or  
(b) in Scotland, by a scheme made, or having effect as if made, under section 7 of the Roads (Scotland) Act 1984.”.

- (3) In subsection (2) (regulations as to use of special roads), for the words from “and such regulations” to the end of paragraph (a) substitute—

“Such regulations may, in particular—

- (a) regulate the manner in which and the conditions subject to which special roads may be used by traffic authorised to do so;”.

- (4) For subsection (5) (provisions as to date of opening of special road) substitute—

“(5) The provisions of this section and of any regulations under subsection (2) above do not apply in relation to a road, or part of a road, until the date declared by the traffic authority, by notice published in the prescribed manner, to be the date on which the road or part is open for use as a special road.

This does not prevent the making of regulations under subsection (2) above before that date, so as to come into force in relation to that road or part on that date.”.

- (5) In subsection (6) omit the words from “and “the date of opening”” to the end.

**Commencement Information**

**I11** Sch. 8 para. 28 wholly in force; Sch. 8 para. 28 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 28 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 29 After section 17 of the Road Traffic Regulation Act 1984 insert—

*Status: Point in time view as at 20/07/2010.*

*Changes to legislation: New Roads and Street Works Act 1991 is up to date with all changes known to be in force on or before 20 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)*

### “17A Further provisions as to special roads.

- (1) On the date declared by the traffic authority, by notice published in the prescribed manner, to be the date on which a special road, or a part of a special road, is open for use as a special road, any existing order under section 1, 6, 9 or 84 of this Act relating to that road or part shall cease to have effect.
- (2) This is without prejudice to any power to make orders under those provisions in relation to the road or part as a special road; and any such power may be exercised before the date referred to above, so as to take effect on that date.
- (3) The procedure for making an order applies in such a case with such modifications as may be prescribed.”.

#### Commencement Information

**I12** Sch. 8 para. 29 wholly in force; Sch. 8 para. 29 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 29 in force (E. W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

#### *Traffic regulation in other special cases*

- 30 In section 18 of the <sup>M18</sup>Road Traffic Regulation Act 1984 (one-way traffic on trunk roads), in subsection (1) for the words from “an order” to “directing” substitute “an order under section 10 of the Highways Act 1980 or section 5 of the Roads (Scotland) Act 1984 directing”.

#### Commencement Information

**I13** Sch. 8 para. 30 wholly in force; Sch. 8 para. 30 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 30 in force (E. W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

#### Marginal Citations

**M18** 1984 c. 27.

- 31 (1) Section 19 of the Road Traffic Regulation Act 1984 (regulation of use of highways by public service vehicles) is amended as follows.
- (2) In subsection (1) (making of orders by local authority), for the words from the beginning to the end of paragraph (b) substitute—
- “(1) A local traffic authority outside Greater London may make orders—
- (a) for determining the highways or, in Scotland, roads in their area which may or may not be used by public service vehicles;
  - (b) for fixing stands for public service vehicles on such highways or roads;”.
- (3) Omit subsection (3).

*Status: Point in time view as at 20/07/2010.*

*Changes to legislation: New Roads and Street Works Act 1991 is up to date with all changes known to be in force on or before 20 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)*

#### Commencement Information

**I14** Sch. 8 para. 31 wholly in force; Sch. 8 para. 31 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 31 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

32 In section 20 of the Road Traffic Regulation Act 1984 (prohibition or restriction on use of vehicles on roads of certain classes), for subsection (3) (exclusion of provisions in relation to special roads) substitute—

“(3) No order under this section shall be made or apply in relation to a special road on or after the date declared by the traffic authority, by notice published in the prescribed manner, to be the date on which the special road, or the relevant part of the special road, is open for use as a special road.”.

#### Commencement Information

**I15** Sch. 8 para. 32 wholly in force; Sch. 8 para. 32 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 32 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

33 In section 21 of the Road Traffic Regulation Act 1984 (permit for trailer to carry excess weight), for subsection (3) (definition of “appropriate authority”) substitute—

“(3) The appropriate authority for the purposes of this section is—

- (a) in relation to a bridge for the maintenance of which a bridge authority is responsible, or a road passing over such a bridge, the bridge authority;
- (b) in relation to any other road, the traffic authority and any other person responsible for the maintenance of the road.”.

#### Commencement Information

**I16** Sch. 8 para. 33 wholly in force; Sch. 8 para. 33 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 33 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

34 (1) Section 22 of the Road Traffic Regulation Act 1984 (traffic regulation for special areas in the countryside) is amended as follows.

(2) For subsections (3) and (4) (powers of Secretary of State as to making of orders) substitute—

“(3) The Countryside Commission, the Countryside Council for Wales and the Countryside Commission for Scotland may each make submissions to the Secretary of State as to the desirability of a traffic regulation order being made in relation to a road to which this section applies, whether or not it is a road for which he is the traffic authority.

(4) Where such a submission is made as respects a road for which he is not the traffic authority, and the traffic authority for the road notify him that they do not intend to make an order, the Secretary of State may by order under this subsection make any such provision as he might have made by a traffic regulation order if he had been the traffic authority.

*Status: Point in time view as at 20/07/2010.*

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This Act applies to such an order as to an order made by him in relation to a road for which he is the traffic authority.”.

- (3) On the coming into force of Part I of the <sup>M19</sup>Natural Heritage (Scotland) Act 1991, for the reference in subsection (3) as amended by this paragraph to the Countryside Commission for Scotland there shall be substituted a reference to Scottish Natural Heritage.

**Commencement Information**

**I17** Sch. 8 para. 34 wholly in force; Sch. 8 para. 34 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 34 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

**Marginal Citations**

**M19** 1991 c. 28.

*Pedestrian crossings*

- 35 (1) Section 23 of the <sup>M20</sup>Road Traffic Regulation Act 1984 is amended as follows.
- (2) For subsection (1) (power to establish pedestrian crossings) substitute—
- “(1) A local traffic authority may establish crossings for pedestrians on roads for which they are the traffic authority, and may alter or remove any such crossings.
- The crossings shall be indicated in the manner prescribed by regulations under section 25 of this Act.”.
- (3) In subsections (2) and (3) for “local authority” substitute “ local traffic authority ”.
- (4) Omit subsection (5).

**Commencement Information**

**I18** Sch. 8 para. 35 wholly in force; Sch. 8 para. 35 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 35 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

**Marginal Citations**

**M20** 1984 c. 27.

- 36 In section 24 of the Road Traffic Regulation Act 1984 (pedestrian crossings on trunk roads), for the words from the beginning to “such crossings” substitute “ The Secretary of State shall establish on roads for which he is the traffic authority such crossings ”, and for “and to execute” substitute “ and execute ”.

**Commencement Information**

**I19** Sch. 8 para. 36 wholly in force; Sch. 8 para. 36 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 36 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

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### *Street playgrounds*

- 37 For sections 29 and 30 of the Road Traffic Regulation Act 1984 (street playgrounds) substitute—

#### **“29 Power to prohibit traffic on roads to be used as playgrounds.**

- (1) For the purpose of enabling a road for which they are the traffic authority to be used as a playground for children, a local traffic authority may make an order prohibiting or restricting the use of the road by vehicles, or by vehicles of any specified class, either generally or on particular days or during particular hours.

The prohibition or restriction may be subject to such exceptions and conditions as to occasional use or otherwise as may be specified in the order.

- (2) An order under this section shall make provision for permitting reasonable access to premises situated on or adjacent to the road.
- (3) A person who uses a vehicle or causes or permits a vehicle to be used, in contravention of an order in force under this section shall be guilty of an offence.”.

#### **Commencement Information**

- I20** Sch. 8 para. 37 wholly in force; Sch. 8 para. 37 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 37 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 38 In section 31 of the Road Traffic Regulation Act 1984 (byelaws with respect to roads used as playgrounds), in subsection (1), for the words from “by a local authority” to “have power to” substitute “ under section 29 of this Act, the local traffic authority may ”.

#### **Commencement Information**

- I21** Sch. 8 para. 38 wholly in force; Sch. 8 para. 38 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 38 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

### *Parking places*

- 39 In section 32 of the Road Traffic Regulation Act 1984 (power of local authorities to provide parking places), in subsection (4)(a) (meaning of “local authority”) for “the local roads authority” substitute “ a regional or islands council ”.

#### **Commencement Information**

- I22** Sch. 8 para. 39 wholly in force; Sch. 8 para. 39 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 39 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 40 In section 34 of the <sup>M21</sup>Road Traffic Regulation Act 1984 (provision of access to premises through off-street parking place), in subsection (1)—

- (a) in the opening words omit the words “in England or Wales”, and



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(b) for paragraph (a) substitute—

“(a) that it would relieve or prevent congestion of traffic on a highway or, in Scotland, a road if use were made of the parking place to provide a means of access from the highway or road to premises adjoining, or abutting on, the parking place, and”.

**Commencement Information**

**I23** Sch. 8 para. 40 wholly in force; Sch. 8 para. 40 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 40 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

**Marginal Citations**

**M21** 1984 c. 27.

41 (1) Section 37 of the Road Traffic Regulation Act 1984 (extension of powers for purposes of general scheme of traffic control) is amended as follows.

(2) For subsection (1) substitute—

“(1) This section applies to an order made under both section 1 and section 32 of this Act by—

- (a) the council of a county or metropolitan district in England and Wales, or
- (b) by a regional or islands council in Scotland,

where the order is, and is stated to be, made by virtue of this section and for the purposes of a general scheme of traffic control in a stated area.”.

(3) In subsection (3) for “a trunk road” substitute “ a road for which the Secretary of State is the traffic authority ”.

**Commencement Information**

**I24** Sch. 8 para. 41 wholly in force; Sch. 8 para. 41 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 41 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

42 In section 38 of the Road Traffic Regulation Act 1984 (parking place to be used as bus or coach station), in subsection (3) for “street” substitute “ road ”.

**Commencement Information**

**I25** Sch. 8 para. 42 wholly in force; Sch. 8 para. 42 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 42 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

43 In section 43 of the Road Traffic Regulation Act 1984 (control of off-street parking in Greater London) in subsection (14), in the definition of “public off-street parking place”, for “parking space for motor vehicles off the highway” substitute “ off-street parking accommodation ” and for “space” substitute “ accommodation ”.

44 (1) Section 45 of the Road Traffic Regulation Act 1984 (designation of paying parking places on highways) is amended as follows.

(2) For subsection (1) (power to make orders) substitute—



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“(1) A local authority may by order designate parking places on highways or, in Scotland, roads in their area for vehicles or vehicles of any class specified in the order; and the authority may make charges (of such amount as may be prescribed under section 46 below) for vehicles left in a parking place so designated.

The exercise of this power by a local authority outside Greater London in relation to a highway or road for which they are not the traffic authority is subject to obtaining the consent of the traffic authority.”.

- (3) In subsection (3)(c) (matters to be taken into account in making orders), for the words from “parking accommodation” to “highways” or, in Scotland, “roads” substitute “off-street parking accommodation, whether in the open or under cover, ”.
- (4) In subsection (7) (meaning of “local authority”), in paragraph (c) for “local roads authority” substitute “ regional or islands council ”.

#### Commencement Information

**I26** Sch. 8 para. 44 wholly in force; Sch. 8 para. 44 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 44 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 45 In section 53(1) of the Road Traffic Regulation Act 1984, for “highways” or, in Scotland, “roads” substitute “ highways or, in Scotland, roads ”.

#### Commencement Information

**I27** Sch. 8 para. 45 wholly in force; Sch. 8 para. 45 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 45 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 46 (1) Section 55 of the <sup>M22</sup>Road Traffic Regulation Act 1984 (financial provisions relating to designation orders) is amended as follows.
- (2) In subsection (4)(b) and (c) for the words from “parking accommodation” to the end substitute “ off-street parking accommodation, whether in the open or under cover; ”.
- (3) For subsection (4)(d) substitute—
- “(d) if it appears to the local authority that the provision in their area of further off-street parking accommodation is unnecessary or undesirable, the following purposes—
- (i) meeting costs incurred, whether by the local authority or by some other person, in the provision or operation of, or of facilities for, public passenger transport services, and
- (ii) the purposes of a highway or road improvement project in the local authority’s area.”.
- (4) After subsection (4) insert—
- “(4A) For the purposes of subsection (4)(d)(ii)—
- (a) a highway improvement project means a project connected with the carrying out by the appropriate highway authority (whether the local authority or not) of any operation which constitutes the

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- improvement (within the meaning of the Highways Act 1980) of a highway in the area of a local authority in England or Wales; and
- (b) a road improvement project means a project connected with the carrying out by the appropriate roads authority (whether the local authority or not) of any operation which constitutes the improvement (within the meaning of the Roads (Scotland) Act 1984) of a road in the area of a local authority in Scotland.”.

(5) Omit subsection (5).

**Commencement Information**

**I28** Sch. 8 para. 46 wholly in force; Sch. 8 para. 46 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 46 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

**Marginal Citations**

**M22** 1984 c. 27.

*Traffic signs*

- 47 In section 64 of the Road Traffic Regulation Act 1984 (general provisions as to traffic signs), in subsection (4)(c)(i) and (ii) for “highway” substitute “ road ”.

**Commencement Information**

**I29** Sch. 8 para. 47 wholly in force; Sch. 8 para. 47 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 47 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 48 (1) Section 65 of the Road Traffic Regulation Act 1984 (powers and duties of highway authorities as to placing of traffic signs) is amended as follows.

(2) For subsection (1) (power to cause or permit placing of traffic signs) substitute—

“(1) The traffic authority may cause or permit traffic signs to be placed on or near a road, subject to and in conformity with such general directions as may be given by the Ministers acting jointly or such other directions as may be given by the Secretary of State.”.

(2) In subsection (2) (direction by Secretary of State), for the opening words substitute—

“(2) The Secretary of State may give directions to a local traffic authority—”.

**Commencement Information**

**I30** Sch. 8 para. 48 wholly in force; Sch. 8 para. 48 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 48 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 49 In section 66(1) of the Road Traffic Regulation Act 1984 (traffic signs for giving effect to local traffic regulations), for “highway” (twice) substitute “ road ”.

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#### Commencement Information

**I31** Sch. 8 para. 49 wholly in force; Sch. 8 para. 49 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 49 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 50 In section 67 of the Road Traffic Regulation Act 1984 (emergencies and temporary obstructions), in subsection (1) for “highway” (twice) substitute “ road ”.

#### Commencement Information

**I32** Sch. 8 para. 50 wholly in force; Sch. 8 para. 50 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 50 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 51 (1) Section 68 of the <sup>M23</sup>Road Traffic Regulation Act 1984 (placing of traffic signs in connection with exercise of other powers) is amended as follows.
- (2) In subsection (1)(a), omit the reference to section 30.
- (3) In subsections (2) and (3), for “highway authority” or, in Scotland, “roads authority”, wherever occurring, substitute “ traffic authority ”.

#### Commencement Information

**I33** Sch. 8 para. 51 wholly in force; Sch. 8 para. 51 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 51 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

#### Marginal Citations

**M23** 1984 c. 27.

- 52 (1) Section 69 of the Road Traffic Regulation Act 1984 (placing of traffic signs in connection with exercise of other powers) is amended as follows.
- (2) In subsection (1)—
- (a) for “highway authority” or, in Scotland, “roads authority” substitute “ traffic authority ”; and
- (b) for “the roads” or, in Scotland, “a road” substitute “ the road ”.
- (3) In subsection (2) for “highway authority” or, in Scotland, “roads authority” substitute “ traffic authority ”.
- (4) In subsection (3) for “highway authority” or, in Scotland, “local roads authority” substitute “ local traffic authority ”.

#### Commencement Information

**I34** Sch. 8 para. 52 wholly in force; Sch. 8 para. 52 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 52 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 53 In section 70 of the Road Traffic Regulation Act 1984 (default powers of Secretary of State), in subsection (1) for “highway authority” or, in Scotland, “local roads authority” substitute “ local traffic authority ”.

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**Commencement Information**

**I35** Sch. 8 para. 53 wholly in force; Sch. 8 para. 53 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 53 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 54 In section 71 of the Road Traffic Regulation Act 1984 (power to enter land in connection with traffic signs), in subsection (1) for “highway authority” or, in Scotland, “local roads authority” substitute “ local traffic authority ”.

**Commencement Information**

**I36** Sch. 8 para. 54 wholly in force; Sch. 8 para. 54 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 54 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 55 In section 73 of the Road Traffic Regulation Act 1984 (powers of local traffic authorities in London), in subsection (1) for “which is not a trunk road” substitute “ for which they are the traffic authority ”.

**Commencement Information**

**I37** Sch. 8 para. 55 wholly in force; Sch. 8 para. 55 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 55 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 56 In section 77 of the Road Traffic Regulation Act 1984 (modifications as respects trunk roads), for the opening words substitute “ In relation to a road for which the Secretary of State is the traffic authority ”.

**Commencement Information**

**I38** Sch. 8 para. 56 wholly in force; Sch. 8 para. 56 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 56 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 57 In section 79 of the Road Traffic Regulation Act 1984 (advances by Secretary of State towards expenses of traffic signs), in subsection (5) for “highway authority” or, in Scotland, “local roads authority” substitute “ local traffic authority ”.

**Commencement Information**

**I39** Sch. 8 para. 57 wholly in force; Sch. 8 para. 57 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 57 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 58 In section 80 of the Road Traffic Regulation Act 1984 (exercise of traffic sign functions by person other than traffic authority), in subsection (1), for “highway authority” or, in Scotland, “roads authority” in both places where those expressions occur substitute “ traffic authority ”.

**Commencement Information**

**I40** Sch. 8 para. 58 wholly in force; Sch. 8 para. 58 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 58 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

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59 (1) Section 82 of the Road Traffic Regulation Act 1984 (what roads are restricted roads) is amended as follows.

(2) In subsection (1) for the words from “if” to the end substitute—

“if—

- (a) in England and Wales, there is provided on it a system of street lighting furnished by means of lamps placed not more than 200 yards apart;
- (b) in Scotland, there is provided on it a system of carriageway lighting furnished by means of lamps placed not more than 185 metres apart and the road is of a classification or type specified for the purposes of this subsection in regulations made by the Secretary of State.”

(3) In subsection (2) for “A direction may be given” substitute “The traffic authority for a road may direct”, and in paragraphs (a) and (b) for “a specified road” substitute “the road”.

(4) For subsection (3) substitute—

“(3) A special road is not a restricted road for the purposes of section 81 on or after the date declared by the traffic authority, by notice published in the prescribed manner, to be the date on which the special road, or the relevant part of the special road, is open for use as a special road.”

#### Commencement Information

**I41** Sch. 8 para. 59 wholly in force; Sch. 8 para. 59 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 59 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

60 (1) Section 83 of the <sup>M24</sup>Road Traffic Regulation Act 1984 (provisions as to directions under section 82) is amended as follows.

(2) In subsection (1), for the words from the beginning to “shall be given” substitute “A direction under section 82(2) by the Secretary of State shall be given”.

(3) For subsection (2) substitute—

“(2) A direction under section 82(2) by a local traffic authority shall be given by means of an order made by the authority.”

#### Commencement Information

**I42** Sch. 8 para. 60 wholly in force; Sch. 8 para. 60 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 60 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

#### Marginal Citations

**M24** 1984 c. 27.

61 In section 84 of the Road Traffic Regulation Act 1984 (speed limits on roads other than restricted roads), for subsection (2) (authority having power to make order) substitute—

*Status: Point in time view as at 20/07/2010.*

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“(2) The power to make an order under subsection (1) is exercisable by the traffic authority, who shall before exercising it in any case give public notice of their intention to do so.”.

**Commencement Information**

**I43** Sch. 8 para. 61 wholly in force; Sch. 8 para. 61 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 61 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 62 (1) Section 85 of the Road Traffic Regulation Act 1984 (traffic signs for indicating speed restrictions) is amended as follows.
- (2) In subsection (1) (duty of Secretary of State), for the words from “in the case of” to “to” substitute “ in the case of a road for which he is the traffic authority, to ”.
- (3) In subsection (2) (duties of local traffic authorities), for the opening words substitute — “ In the case of any other road, it is the duty of the local traffic authority— ”.
- (4) In subsection (3) for “local authority” substitute “ local traffic authority ”.
- (5) In subsection (4), for the words from the beginning to “on a road” substitute “ Where no such system of street or carriageway lighting as is mentioned in section 82(1) is provided on a road, ”.
- (6) In subsection (5) for the words from “such a system” to “subsection (4) above” substitute “ such a system of street or carriageway lighting ”.

**Commencement Information**

**I44** Sch. 8 para. 62 wholly in force; Sch. 8 para. 62 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 62 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 63 In section 86 of the Road Traffic Regulation Act 1984 (speed limits for particular classes of vehicles), omit subsection (4) (which relates to special roads).

**Commencement Information**

**I45** Sch. 8 para. 63 wholly in force; Sch. 8 para. 63 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 63 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 64 Omit section 91 (definition of “local authority” for the purposes of Part VI).

**Commencement Information**

**I46** Sch. 8 para. 64 wholly in force; Sch. 8 para. 64 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 64 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 65 (1) Section 92 of the <sup>M25</sup>Road Traffic Regulation Act 1984 (bollards and other obstructions outside Greater London) is amended as follows.
- (2) In subsection (1) for “the highway authority or, in Scotland, the local roads authority” substitute “ the traffic authority ”.

*Status: Point in time view as at 20/07/2010.*

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(3) For subsection (4) substitute—

“(4) The bollards or other obstructions authorised by an order under subsection (1) shall be placed on the road by the traffic authority, except as mentioned in section 93 below.”.

#### Commencement Information

**I47** Sch. 8 para. 65 wholly in force; Sch. 8 para. 65 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 65 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

#### Marginal Citations

**M25** 1984 c. 27.

66 (1) Section 93 of the Road Traffic Regulation Act 1984 (powers of Secretary of State in relation to functions under section 92) is amended as follows.

(2) For subsection (1) substitute—

“(1) Where by virtue of an order under section 92(1) the Secretary of State has power to place bollards or other obstructions at a point on a road, he may authorise or require the traffic authority for any other road leading into or crossing that road at that point to place the bollards or other obstructions on that other road.”.

(3) In subsection (2) for “any authority” and in subsection (3) for “an authority” substitute “a local traffic authority”.

#### Commencement Information

**I48** Sch. 8 para. 66 wholly in force; Sch. 8 para. 66 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 66 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

67 (1) Section 94 of the Road Traffic Regulation Act 1984 (bollards and other obstructions in Greater London) is amended as follows.

(2) In subsection (1) (powers of Secretary of State), for “which is not a trunk road” substitute “for which he is not the traffic authority”.

(3) In subsection (2) (powers of London borough council), for “which is not a trunk road and for which they are not the highway authority” substitute “for which neither they nor the Secretary of State are the traffic authority”.

(4) In subsection (4)—

(a) in paragraph (a) for “any trunk road” substitute “any road for which he is the traffic authority”; and

(b) in paragraph (b) for “which is not a trunk road and for which they are the highway authority” substitute “for which they are the traffic authority” and for “highway authority”, in the second place where it occurs, substitute “traffic authority”.



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**Commencement Information**

**I49** Sch. 8 para. 67 wholly in force; Sch. 8 para. 67 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 67 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 68 In section 100(5) of the Road Traffic Regulation Act 1984 (definition of “local authority” for purposes of provisions about removal of abandoned vehicles, &c.), for paragraph (c) substitute—  
 “(c) in relation to Scotland, means a regional or islands council.”

**Commencement Information**

**I50** Sch. 8 para. 68 wholly in force; Sch. 8 para. 68 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 68 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 69 In section 106 of the Road Traffic Regulation Act 1984 (initial experimental period for immobilisation of vehicles)—  
 (a) in subsection (7) (consent required for initial order), for “the authority responsible for traffic regulation in that area” substitute “ the local traffic authority ”; and  
 (b) omit subsection (8).

**Commencement Information**

**I51** Sch. 8 para. 69 wholly in force; Sch. 8 para. 69 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 69 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 70 In the <sup>M26</sup>Road Traffic Regulation Act 1984, at the beginning of Part X (general and supplementary provisions) insert—

**Traffic authorities.**

- “121A) The Secretary of State is the traffic authority—  
 (a) for every highway in England and Wales for which he is the highway authority within the meaning of the Highways Act 1980, and  
 (b) for every road in Scotland for which he is the roads authority within the meaning of the Roads (Scotland) Act 1984.
- (2) In Greater London, the council of the London borough or the Common Council of the City of London are the traffic authority for all roads in the borough or, as the case may be, in the City for which the Secretary of State is not the traffic authority.
- (3) In England and Wales outside Greater London, the council of the county or metropolitan district are the traffic authority for all roads in the county or, as the case may be, the district for which the Secretary of State is not the traffic authority.
- (4) In Scotland, the regional or islands council are the traffic authority in relation to all roads within their area for which the Secretary of State is not the traffic authority.



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(5) In this Act “local traffic authority” means a traffic authority other than the Secretary of State.”.

**Commencement Information**

**I52** Sch. 8 para. 70 wholly in force; Sch. 8 para. 70 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 70 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

**Marginal Citations**

**M26** 1984 c. 27.

71 In section 122 of the Road Traffic Regulation Act 1984 (exercise of functions by local authorities), in subsection (1) for “the highway” or, in Scotland, “the road” substitute “ the highway or, in Scotland, the road ”.

**Commencement Information**

**I53** Sch. 8 para. 71 wholly in force; Sch. 8 para. 71 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 71 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

72 In section 124(2) of the Road Traffic Regulation Act 1984 (orders exercisable by statutory instrument), omit the reference to section 30.

**Commencement Information**

**I54** Sch. 8 para. 72 wholly in force; Sch. 8 para. 72 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 72 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

73 In section 125(3) of the Road Traffic Regulation Act 1984 (exercise of powers in relation to boundary roads), omit the reference to section 30(1).

**Commencement Information**

**I55** Sch. 8 para. 73 wholly in force; Sch. 8 para. 73 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 73 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

74 In section 130 of the Road Traffic Regulation Act 1984 (application of Act to Crown), in subsection (2)(a) for “76 to 91” substitute “ 76 to 90 ”.

**Commencement Information**

**I56** Sch. 8 para. 74 wholly in force; Sch. 8 para. 74 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 74 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

75 (1) Section 131 of the Road Traffic Regulation Act 1984 (application of road traffic enactments to Crown roads) is amended as follows.

(2) In subsection (2)(a) (twice), and in subsection (2)(b), for “highway authority” or, in Scotland, “roads authority” substitute “ local traffic authority ”.

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- (3) In subsection (7)(b) for “a highway” or, in Scotland, “a public road” substitute “ a highway or, in Scotland, a public road ”.

**Commencement Information**

**I57** Sch. 8 para. 75 wholly in force; Sch. 8 para. 75 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 75 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 76 (1) Section 132 of the Road Traffic Regulation Act 1984 (special provisions as to certain Crown roads) is amended as follows.

- (2) In subsection (5)—

- (a) for “the local authority concerned” substitute “ the traffic authority ”;
- (b) for “the local authority may” substitute “ the traffic authority may ”; and
- (c) for the words from “and any other power” to “as respects the Crown road” substitute “ and any other power conferred by section 65 to give directions to a local traffic authority includes power to give the like directions to them as respects the Crown road ”.

- (3) Omit subsection (6) (definition of “local authority concerned”).

**Commencement Information**

**I58** Sch. 8 para. 76 wholly in force; Sch. 8 para. 76 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 76 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

- 77 In section 134(2) of the <sup>M27</sup>Road Traffic Regulation Act 1984 (regulations excepted from obligation to consult), for “82(1),” substitute “ 82(1)(b), ”.

**Commencement Information**

**I59** Sch. 8 para. 77 wholly in force; Sch. 8 para. 77 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 77 in force (E.W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

**Marginal Citations**

**M27** 1984 c. 27.

- 78 (1) Section 142(1) of the Road Traffic Regulation Act 1984 (general interpretation provisions) is amended as follows.

- (2) Omit the definitions of “highway authority”, “local highway authority”, “local roads authority” and “roads authority”.

- (3) At the appropriate place insert—

““off-street parking accommodation” means parking accommodation for motor vehicles off the highway or, in Scotland, off the road;”.

- (4) For the definition of “road” substitute—

““road”—

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- (a) in England and Wales, means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes, and
- (b) in Scotland, has the same meaning as in the Roads (Scotland) Act 1984;”.

(5) For the definition of “special road” substitute—

““special road”, in England and Wales, has the same meaning as in the Highways Act 1980, and in Scotland has the same meaning as in the Roads (Scotland) Act 1984;”.

(6) At the appropriate place insert—

““traffic authority” and “local traffic authority” have the meaning given by section 121A of this Act;”.

#### Commencement Information

**I60** Sch. 8 para. 78 wholly in force; Sch. 8 para. 78 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 78 in force (E. W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

F3579

- 80 (1) Schedule 9 to the Road Traffic Regulation Act 1984 (special provisions as to certain orders) is amended as follows.
- (2) In paragraph 13(1) (orders requiring consent of Secretary of State), in paragraph (b) for “a trunk road” substitute “ a road for which the Secretary of State is the traffic authority ”.
  - (3) In paragraph 20(1) (consultation before orders are made), omit the reference to section 30.
  - (4) In paragraphs 21 and 23(1)(a) (procedure regulations), omit the words “other than section 30 of this Act”.
  - (5) In paragraph 24(b) (procedure regulations for certain orders) for “trunk roads” substitute “ roads for which he is the traffic authority ”.
  - (6) In paragraph 25 (power to make different provision in each case and as to posting notices)—
    - (a) for the word “highway authority” or, in Scotland, “roads authority” substitute “ traffic authority ”, and
    - (b) for the word “highway” in the two other places where it appears substitute the word “ road ”
  - (7) In paragraph 27(1) (variation or revocation of orders), omit the reference to section 30.

#### Commencement Information

**I61** Sch. 8 para. 80 wholly in force; Sch. 8 para. 80 in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 80 in force (E. W.) at 01.11.1991 see s. 170(1) and S.I. 1991/2288, art. 3, Sch.

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### PART III

#### AMENDMENTS OF THE ROADS (SCOTLAND) ACT 1984

- 81 In section 35(2)(a) of the <sup>M28</sup>Roads (Scotland) Act 1984 (provision of lighting by roads authorities) for the words “Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”.

#### Marginal Citations

**M28** 1984 c. 54.

- 82 In section 39(4) of the Roads (Scotland) Act 1984 (status of road humps)—
- (a) for the words from “Part II” to “those roads” substitute “ section 117 of the New Roads and Street Works Act 1991 (restricting road works following substantial works for roads purposes) ”,
  - (b) for the words “section 21(1)(a) of that Act” substitute “ subsection (3) of that section ”, and
  - (c) for the word “Part” substitute “ section ”.
- 83 In section 56(3) of the Roads (Scotland) Act 1984 (control of works and excavations) for the words from “street works code” to “applies” substitute “ provisions of Part IV of the New Roads and Street Works Act 1991 apply ”.
- 84 In section 57(5) of the Roads (Scotland) Act 1984 (dangerous works) for the words from “street works code” to “applies” substitute “ provisions of Part IV of the New Roads and Street Works Act 1991 apply ”.
- 85 In section 59(6) of the Roads (Scotland) Act 1984 (control of obstructions in roads) for the words from “street works code” to “applies” substitute “ provisions of Part IV of the New Roads and Street Works Act 1991 apply ”.
- 86 In section 60 of the Roads (Scotland) Act 1984 (fencing and lighting of obstructions and excavations)—
- (a) in subsection (1), omit the words from “section 8” to “or to”;
  - (b) after subsection (5) insert the following subsection—
 

“(6) This section shall not apply to an undertaker executing road works, within the meaning of Part IV of the New Roads and Street Works Act 1991.”
- 87 In section 61 of the Roads (Scotland) Act 1984 (granting of permission to place and maintain etc. apparatus under a road)—
- (a) at the end of subsection (1) insert “ ; and such permission shall be in writing ”,
  - (b) in subsection (4) for the words from “undertakers” to the end substitute “ road works within the meaning of section 107 of the New Roads and Street Works Act 1991 ”, and
  - (c) at the end of subsection (5) insert “ nor does it apply to apparatus in respect of which permission has been granted under section 109 of the New Roads and Street Works Act 1991 to execute road works ”.
- 88 After section 61 of the <sup>M29</sup>Roads (Scotland) Act 1984 there shall be inserted the following section—

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#### **“61A Charge for occupation of road.**

- (1) The Secretary of State may make provision by regulations requiring a person who occupies a public road by doing anything to which this section applies to pay a charge to the roads authority if the duration of the occupation exceeds the longer of the following periods—
  - (a) such period as may be prescribed; or
  - (b) such period as is agreed by the authority and the person to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.
- (2) This section applies to the occupation of a public road by doing anything which would require the consent or permission of a roads authority under any of the following provisions of this Act—
  - section 56 (works executed in or excavations under a public road);
  - section 58 (occupation of road for deposit of building materials and erection of scaffolding);
  - section 59 (placing or depositing anything in a road);
  - section 61 (placing, leaving, retaining, maintaining, repairing and reinstating apparatus in or under a public road); or
  - section 85 (depositing a builder’s skip).
- (3) For the purposes of paragraph (b) of subsection (1) above, in default of agreement, the roads authority’s view as to what is a reasonable period shall be acted upon pending the decision of the arbiter.
- (4) The regulations may provide that if a person applying to the roads authority for consent or permission under any of the provisions of this Act specified in subsection (2) above submits together with his application an estimate of the likely duration of the occupation, 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.
- (5) The regulations may provide that if it appears to the person occupying the road that by reason of matters not previously foreseen or reasonably foreseeable the duration of the occupation—
  - (a) is likely to exceed the prescribed period,
  - (b) is likely to exceed the period stated in the 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 roads authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.
- (6) The amount of the charge shall be determined in such manner as may be prescribed by reference to the duration and extent of the occupation and different rates of charge may be prescribed according to the purpose of the

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occupation and such other factors as appear to the Secretary of State to be relevant.

- (7) The regulations may make provision as to the time and manner of making payment of any charge.
- (8) The regulations shall provide that a roads 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.
- (9) In this section “prescribed” means prescribed by the Secretary of State by regulations.”.

**Marginal Citations**

**M29** 1984 c. 54.

- 89 In section 85 of the <sup>M30</sup>Roads (Scotland) Act 1984 (control of builders’ skips on road), in paragraph (a) of subsection (1) after the word “the” where it first occurs insert “ written ”.

**Marginal Citations**

**M30** 1984 c. 54.

- 90 In section 121(2) of the Roads (Scotland) Act 1984 (power to obtain road-making materials) for the words “Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”.
- 91 In section 132(3) of the Roads (Scotland) Act 1984 (saving for operators of telecommunications code systems) for the words from “Part II” to the end of that subsection substitute “ Part IV of the New Roads and Street Works Act 1991 ”.
- 92 In section 135(1) of the Roads (Scotland) Act 1984 (restriction of power of local authority in whom a sewer is vested) for the words “Sections 133 and 134” substitute “ Section 134 ”.
- 93 In subsection (2) of section 143 of the Roads (Scotland) Act 1984 (provisions as to regulations and orders)—
- (a) in sub-paragraph (ii) of paragraph (a) (orders subject to negative resolution) after the word “section” insert “ 8 or ”,
  - (b) in sub-paragraph (i) of paragraph (b) (orders subject to affirmative resolution) after the word “Act” insert “ or regulations made for the first time under section 61A of this Act ”, and
  - (c) in sub-paragraph (ii) of paragraph (b), omit the words “8 or”.

**Commencement Information**

**I62** Sch. 8 para. 93 wholly in force: Sch. 8 para. 93(a)(c) in force at 21.10.1991 see s. 170(1) and S.I. 1991/2286, art. 2(1), **Sch. 1**; Sch. 8 para. 93 wholly in force at 1.1.1993 by S.I. 1992/2990, art. 2(2), **Sch. 2**

- 94 In section 151(1) of the Roads (Scotland) Act 1984 (interpretation)—

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- (a) in the definition of “proposed public road” for the words “Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”, and
- (b) in the definition of “road” after the words “whatever means” insert “ and whether subject to a toll or not ”.

#### Commencement Information

**I63** Sch. 8 para. 94 wholly in force: Sch. 8 para. 94(b) in force at 21.10.1991 see s. 170(1) and S.I. 1991/2286, art. 2(1), Sch. 1; Sch. 8 para. 94 wholly in force at 1.1.1993 by S.I. 1992/2990, art. 2(2), Sch. 2

- 95 In section 155(d) of the Roads (Scotland) Act 1984 (general adaptation of subordinate legislation) for the words from “Schedule 2” to the end of that paragraph substitute “ section 146 of the New Roads and Street Works Act 1991 ”.
- 96 (1) In Schedule 1 to the Roads (Scotland) Act 1984 (procedures for making or confirming certain orders or schemes), after paragraph 14 there shall be inserted the following Part—

### “PART IIA

#### TOLL ORDERS UNDER SECTION 27 OF THE NEW ROADS AND STREET WORKS ACT 1991

- 14A (1) Where the Secretary of State proposes to make a toll order under section 27 of the New Roads and Street Works Act 1991, he shall prepare a draft of the order and shall publish in at least one newspaper circulating in the area in which the proposed special road is to be situated, and in the Edinburgh Gazette, a notice—
- (a) stating the general effect of the proposed order;
  - (b) naming a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Secretary of State object to the making of the order.
- (2) Where a toll order is submitted to the Secretary of State by a local roads authority, the authority shall publish in at least one newspaper circulating in the area in which the proposed special road is to be situated, and in the Edinburgh Gazette, a notice—
- (a) stating the general effect of the order as submitted to the Secretary of State;
  - (b) naming a place in that area where a copy of the order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than six weeks from the date of the publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Secretary of State object to the confirmation of the order.
- (3) Where it is intended that the proposed toll order shall authorise the special road authority to assign their rights to charge and collect tolls,

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the Secretary of State or, as the case may be, the local roads authority shall make a statement containing such information as may be prescribed with respect to that assignment and the person to whom the rights are intended to be assigned and—

- (a) the statement shall be made available for inspection with the copy of the order to which the notice under subparagraph (1) or (2) relates; and
- (b) the notice shall state that such a statement will be so available.

- (4) In sub-paragraph (3) “prescribed” means prescribed by the Secretary of State by regulations made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

14B. The Secretary of State may, if he is satisfied that in the circumstances of the case the holding of an inquiry is unnecessary, dispense with such an inquiry.

- 14C (1) Subject to paragraph 19 below, after considering objections (if any) to the proposed order which are not withdrawn and, where a local inquiry is held, the report of the person who held the inquiry, the Secretary of State may make or confirm the order either without modification or subject to such modifications as he thinks fit.

- (2) The power under this paragraph to make or confirm the order includes power to make or confirm it so far as relating to part of the proposals contained in it (either without modification or subject to such modifications as the Secretary of State thinks fit) while deferring consideration of the remaining part.

- 14D (1) A toll order shall be subject to special parliamentary procedure where—
- (a) the relevant special road scheme provides for the appropriation by or transfer to the special road authority of an existing public road comprised in the route prescribed by the scheme, and
  - (b) the toll order authorises the charging of tolls for the use of that existing road or any part of it,

unless the Secretary of State is satisfied as regards all classes of traffic entitled to use the existing road that another reasonably convenient route free of toll is available, or will be provided before the date on which the appropriation or transfer takes effect, and certifies accordingly.

- (2) Where the Secretary of State proposes to give such a certificate, he shall—
- (a) give public notice of his intention to do so,
  - (b) afford an opportunity to all persons interested to make representations and objections, and
  - (c) cause a public local inquiry to be held if it appears to him to be expedient to do so, having regard to representations or objections made,

and before deciding whether to give the certificate he shall consider any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry.

- (3) As soon as may be after giving a certificate, the Secretary of State shall publish in the Edinburgh Gazette, and in such other manner as he thinks



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best for informing persons affected, a notice stating that the certificate has been given.

14E. In this Part of this Schedule “proposed order” includes an order made by a local roads authority and submitted to the Secretary of State.”.

(2) In paragraph 18 of that Schedule, for the words “5 or 11” there shall be substituted the words “5, 11 or 14B”.

<sup>F36</sup>(3) .....

**Textual Amendments**

**F36** Sch. 8 para. 96(3) repealed (28.12.2007) by Transport and Works (Scotland) Act 2007 (asp 8), s. 30(4), sch. 3; S.S.I. 2007/516, art. 2

**Commencement Information**

**I64** Sch. 8 para. 96 wholly in force; Sch. 8 para. 96 in force at 21.10.1991, see s. 170(1) and S.I. 1991/2286, art. 2(1), Sch. 1

<sup>F37</sup>97 .....

**Textual Amendments**

**F37** Sch. 8 para. 97 repealed (28.12.2007) by Transport and Works (Scotland) Act 2007 (asp 8), s. 30(4), sch. 3; S.S.I. 2007/516, art. 2

**PART IV**

AMENDMENTS OF OTHER ENACTMENTS

*Roads Act 1920 (c.72)*

<sup>F38</sup>98 .....

**Textual Amendments**

**F38** Sch. 8 para. 98 repealed (5.11.1993) by 1993 c. 50, s. 1(1), Sch. 1 Pt. XV Group 3

*Fire Services Act 1947 (c.41)*

99 <sup>F39</sup>(1) The Fire Services Act 1947 is amended as follows.

(2) In section 3(2) (supplementary powers of fire authorities; provisions as to exercise of power to place fire alarms in public places), for the words from the beginning to “maintaining the road;” or, in Scotland, “of the roads authority;” substitute—

“(2) Before exercising the powers conferred by subsection (1)(c) above in relation to a highway for which they are not the highway authority or, in Scotland, a public road for which they are not the roads authority, a fire authority shall obtain the consent of the highway or roads authority;”.

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(3) In section 38(1) (interpretation)—

(a) at the appropriate place insert—

““highway authority” has the same meaning as in the Highways Act 1980;”;

(b) in the definition of “road” for the words “Public Utilities Street Works Act 1950” substitute “Part IV of the New Roads and Street Works Act 1991”.]

#### Textual Amendments

**F39** Sch. 8 para. 99 repealed (S.) (2.8.2005) by [Fire \(Scotland\) Act 2005 \(asp 5\)](#), s. 90, [sch. 4](#) (with s. 77); [S.S.I. 2005/392](#), art. 2(k)

#### Commencement Information

**I65** Sch. 8 para. 99 wholly in force: Sch. 8 para. 99(1)(2) in force (S.) at 01.11.1991 see [s. 170\(1\)](#) and [S.I. 1991/2286](#), art. 2(2), [Sch. 2](#); Sch. 8 para. 99(1)(2) in force (E.W.) and Sch. 8 para. 99(3)(a) wholly in force at 01.11.1991 by [S.I. 1991/2288](#), art. 3, [Sch.](#); Sch. 8 para. 99 wholly in force at 1.1.1993 (E.W.) by [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#) and (S.) by [S.I. 1992/2990](#), art. 2(2), [Sch. 2](#)

#### *Land Powers (Defence) Act 1958 (c.30)*

100 In the Land Powers (Defence) Act 1958, after section 18 insert—

#### “18A Modification of street works or road works provisions.

- (1) In relation to works in exercise of the powers under a wayleave order, or the powers conferred by section 12 of the Requisitioned Land and War Works Act 1948, the provisions of Part III or IV of the New Roads and Street Works Act 1991 (street works in England and Wales or road works in Scotland) have effect subject to the provisions of this section.
- (2) The provisions of Schedule 4 or 6 of that Act (settlement of plan and section for works in streets or roads with special engineering difficulties) have effect subject as follows—
  - (a) an objection to a plan and section in form shall be disregarded if a Minister certifies that in his opinion it would be against the national interest to submit a plan and section on a larger scale or giving further particulars;
  - (b) no modification of a plan and section shall be made which would involve an unacceptable diversion or change; and
  - (c) a plan and section shall not be disapproved on the ground that there should be such a diversion or change.
- (3) An arbitrator or arbiter appointed in pursuance of—
  - (a) paragraph 8(3) of Schedule 4 or 6 of that Act (settlement of plan and section in case of works in street or road with special engineering difficulties), or
  - (b) section 84(3) or 143(3) of that Act (settlement of necessary measures in case of apparatus affected by certain major works),
 shall not provide for an unacceptable diversion or change.

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- (4) In subsections (2) and (3) above an “unacceptable diversion or change” means—
- (a) a lateral diversion of a government oil pipe-line to which the Minister on whose behalf the works are to be executed does not consent, or
  - (b) a change of the site of accessory works which would necessitate such a diversion.”.

#### Commencement Information

**I66** Sch. 8 para. 100 partly in force: Sch. 8 para. 100 in force at 1.1.1993 by s. 170(1) and (E.W.) by S.I. 1992/2984, art. 2(2), **Sch. 2**; (S.) by S.I. 1992/2990, art. 2(2), **Sch. 2**

#### *Pipelines Act 1962 (c.58)*

<sup>x1</sup>101 (1) The Pipelines Act 1962 is amended as follows.

- (2) In section 15 (power to place pipe-lines in streets), in subsections (1) to (9)—
- (a) for “street” or, in Scotland, “road” substitute “ street or, in Scotland, road ”, and
  - (b) for “protected street” or, in Scotland, “protected road”, wherever occurring, substitute “ main road ”.

<sup>x1</sup>(3) For section 15(10) substitute—

“(10) In this section—

“appropriate authority” means—

- (a) in England and Wales, the street authority within the meaning of Part III of the New Roads and Street Works Act 1991, and
- (b) in Scotland, the road works authority within the meaning of Part IV of that Act;

“carriageway” has the same meaning—

- (a) in England and Wales, as in the Highways Act 1980, and
- (b) in Scotland, as in the Roads (Scotland) Act 1984;

“main road” means a special road, trunk road or a road classified as a principal road within the meaning of the Highways Act 1980 or the Roads (Scotland) Act 1984;

“road”, in Scotland, has the same meaning as in Part IV of the New Roads and Street Works Act 1991; and

“street”, in England, has the same meaning as in Part III of that Act.”.

<sup>x1</sup>(3) For sections 16 and 17 substitute—

#### “16 Modification of street works or road works provisions.

- (1) In relation to undertakers’ works in exercise of a power conferred by section 15(1) of this Act, the provisions of Part III or IV of the New Roads and Street Works Act 1991 (street works in England and Wales or road works in Scotland) have effect subject to the provisions of this section.

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- (2) The provisions of Schedule 4 or 6 of that Act (settlement of plan and section for works in streets or roads with special engineering difficulties) have effect subject as follows—
- (a) the period under paragraph 7(2)(b) (period for responding to plan and section as submitted) shall be two months instead of one month;
  - (b) no modification of a plan and section shall be made which would involve an unacceptable diversion; and
  - (c) a plan and section shall not be disapproved on the ground that there should be such a diversion.
- (3) An arbitrator or arbiter appointed in pursuance of—
- (a) paragraph 8(2) of Schedule 4 or 6 of that Act (settlement of plan and section in case of works in street or road with special engineering difficulties), or
  - (b) section 84(3) or 143(3) of that Act (settlement of necessary measures in case of apparatus affected by certain major works),
- shall not provide for an unacceptable diversion.
- (4) In subsections (2) and (3) above an “unacceptable diversion” means a lateral diversion of a pipe-line beyond the limits of lateral diversion permissible in relation to it.
- (5) No person shall be entitled to payment under section 85 or 144 of the New Roads and Street Works Act 1991 (sharing of costs in case of apparatus affected by certain major works) in respect of measures of his taken in connection with a pipe-line.”.
- (4) In section 31(1) (power of Minister to remove materials deposited above pipe-line), for “code-regulated works within the meaning of the Public Utilities Street Works Act 1950” substitute “ street works within the meaning of Part III of the New Roads and Street Works Act 1991 or, in Scotland, road works within the meaning of Part IV of that Act ”.
- (5) In section 66(1) (general interpretation provisions), for the definition of “emergency works” substitute—
- ““emergency works” has the same meaning as in Part III of the New Roads and Street Works Act 1991 or, in Scotland, as in Part IV of that Act;”.

#### **Editorial Information**

**X1** This paragraph is numbered in accordance with the authorised published version which contains two sub-paragraphs numbered "(3)".

#### **Commencement Information**

**I67** [Sch. 8 para. 101](#) wholly in force at 1.1.1993 by s. 170(1) and (E.W.) by [S.I. 1992/2984, art. 2\(2\)](#), [Sch. 2](#) and (S.) by [S.I. 1992/2990, art. 2\(2\)](#), [Sch. 2](#)

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*New Towns (Scotland) Act 1968 (c. 16)*

- 102 In section 8 of the New Towns (Scotland) Act 1968 (acquisition of land for roads in connection with new towns), in subsection (2) for “a trunk road” substitute “ a road for which he is the roads authority ”.

*Sewerage (Scotland) Act 1968 (c.47)*

- 103 (1) The Sewerage (Scotland) Act 1968 is amended as follows.
- (2) In section 41 (breaking open of roads) for the words “Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”.
- (3) In section 59(1) (interpretation) in the definition of “road” for the words “the Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”.

*Town and Country Planning (Scotland) Act 1972 (c.52)*

<sup>F40</sup>104 .....

**Textual Amendments**

**F40** Sch. 8 para. 104 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. I (with s. 5, Sch. 3)

*Control of Pollution Act 1974 (c.40)*

- 105 In section 105(1) of the Control of Pollution Act 1974 (interpretation) in the definition of “road” for the words “Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”.

**Commencement Information**

**I68** Sch. 8 para. 105 wholly in force at 1.1.1993 by s. 170(1) and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

*Local Government (Miscellaneous Provisions) Act 1976 (c.57)*

- 106 In section 15 of the Local Government (Miscellaneous Provisions) Act 1976 (power of local authorities to survey land), for subsection (4) substitute—

“(4) Where it is proposed to search or bore in pursuance of this section in a street within the meaning of Part III of the New Roads and Street Works Act 1991—

- (a) section 55 of that Act (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 searching or boring as if they were street works within the meaning of that Part.”.

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*Development of Rural Wales Act 1976 (c.75)*

F41 107 .....

**Textual Amendments**

**F41** Sch. 8 para. 107 repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV**; S.I. 1998/2244, **art. 4**

*Water (Scotland) Act 1980 (c.45)*

- 108 (1) The Water (Scotland) Act 1980 is amended as follows.
- (2) In subsection (5) of section 10 (compensation for damage)—
- (a) in paragraph (c), for the words from “or managers” to the end of that paragraph substitute “ as defined in section 147 of the New Roads and Street Works Act 1991; ”, and
  - (b) for paragraph (d) substitute the following—
 

“(d) road works authority as defined in section 108 of the New Roads and Street Works Act 1991;”.
- (3) In section 13(5) (bulk supplies of water), for the words “the street works code in the Public Utilities Street Works Act 1950” substitute “ the provisions of Part IV of the New Roads and Street Works Act 1991 ”.
- (4) In section 23 (power to lay mains), at end insert—
- “(4) In the case of works in respect of which notice is required to be given under section 114 of the New Roads and Street Works Act 1991 (notice of starting date of road works), notice duly given to a person in accordance with that section and section 156 of that Act (service of notice) shall be treated as reasonable notice for the purposes of subsection (1) above.”.
- (5) In section 103 (requirement for all notices to be in writing), after “shall” insert “ , subject to section 23(4) of and paragraph 4(1) of Schedule 3 to this Act, ”
- (6) In section 109(1) (interpretation), in the definition of “road”, for the words “Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”.
- (7) In Schedule 3 (provisions as to breaking open streets and laying communication and supply pipes)—
- (a) in paragraph 2(2), for the words “section 6 of the Public Utilities Street Works Act 1950” substitute “ section 114 of the New Roads and Street Works Act 1991 ”;
  - (b) in paragraph 4(1) for the words “not less than 72 hours” substitute the word “ such ” and at the end of that sub-paragraph add the words “ as would require to be given by an undertaker under section 114 of the New Roads and Street Works Act 1991 (notice of starting date of works) in accordance with that section and with section 156 of that Act (service of notice) ”.
- (8) In Schedule 4 (provisions in orders relating to water undertakings)—
- (a) in paragraph 5(2), for the words from “or in controlled land” to the end substitute “ for the purposes of major road works, major bridge works or

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major transport works within the meaning of Part IV of the New Roads and Street Works Act 1991 ”; and

- (b) in paragraph 36(b), for the words from “the code” to the end of that paragraph, substitute “ Part IV of the New Roads and Street Works Act 1991 ”.

*Local Government, Planning and Land Act 1980 (c.65)*

109 In section 167 of the Local Government, Planning and Land Act 1980 (power to survey land), for subsection (7) substitute—

“(7) Where it is proposed to search or bore in pursuance of this section in a street within the meaning of Part III of the New Roads and Street Works Act 1991 or, in Scotland, a road within the meaning of Part IV of that Act—

- (a) section 55 or 114 of that Act (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street or road which is likely to be affected by the works,  
(b) section 69 or 128 of that Act (requirements to be complied with where works likely to affect another person’s apparatus in the street or road), and  
(c) section 82 or 141 of that Act (liability for damage or loss caused),

have effect in relation to the searching or boring as if they were street works within the meaning of the said Part III or, in Scotland, road works within the meaning of the said Part IV.”.

**Commencement Information**

**I69** Sch. 8 para. 109 wholly in force at 1.1.1993 by s. 170 and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

*Water Act 1981 (c.12)*

<sup>F42</sup>110 .....

**Textual Amendments**

**F42** Sch. 8 para. 110 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), Sch. 3 Pt. I (with Sch. 2 paras. 10, 14(1), 15)

*British Telecommunications Act 1981 (c.38)*

111 In Schedule 3 to the British Telecommunications Act 1981, in paragraph 74(2) for “177 and 181(7)” substitute “ and 177 ”.

**Commencement Information**

**I70** Sch. 8 para. 111 partly in force at 1.1.1993 by s. 170 and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2



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*New Towns Act 1981 (c.64)*

- 112 In section 11 of the New Towns Act 1981 (acquisition of land for highways), in subsection (2)(a) (powers of Secretary of State) for “a trunk road” substitute “ a road for which he is the highway authority ”.

*Telecommunications Act 1984 (c.12)*

- 113 (1) In Schedule 2 to the Telecommunications Act 1984 (the telecommunications code), paragraph 1 (interpretation) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) in the definition of “maintainable highway”, in paragraph (a), for the words from the beginning to “1950” substitute “ in England and Wales, means a maintainable highway within the meaning of Part III of the New Roads and Street Works Act 1991 ”;
  - (b) in the definition of “public road”, for “the Public Utilities Street Works Act 1950” substitute “ Part IV of the New Roads and Street Works Act 1991 ”;
  - (c) in the definition of “road”, for “the meaning given by section 1(3) of the said Act of 1950” substitute “ the same meaning as in Part IV of the New Roads and Street Works Act 1991 ”;
  - (d) in the definition of “street” for “the meaning given by section 1(3) of the said Act of 1950” substitute “ the same meaning as in Part III of the New Roads and Street Works Act 1991 ”.
- (3) Omit sub-paragraph (4) (which relates to the meaning of the expression “street”).
- (4) In sub-paragraph (5), for “the Public Utilities Street Works Act 1950” substitute “ Part III of the New Roads and Street Works Act 1991 ”.

**Commencement Information**

**I71** Sch. 8 para. 113 partly in force at 1.1.1993 by s. 170 and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

- 114 In the same Schedule, in paragraph 2(8)(a) (construction of references to occupier of land)—
- (a) for “street” or, in Scotland, “road” in each place where it occurs substitute “ street or, in Scotland, road ”;
  - (b) in sub-paragraph (ii), for the words from “as references” to the end substitute—
 

“as references—

in England and Wales or Northern Ireland, to the street managers within the meaning of Part III of the New Roads and Street Works Act 1991 (which for this purpose shall be deemed to extend to Northern Ireland), and

in Scotland, to the road managers within the meaning of Part IV of that Act; and”.



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#### Commencement Information

**I72** Sch. 8 para. 114 partly in force at 1.1.1993 by s. 170 and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

- 115 (1) In the same Schedule, paragraph 9 (street works) is amended as follows.
- (2) In sub-paragraph (1), after “over,” insert “ in, on, ”, and for “a street” or, in Scotland, “a road” substitute “ a street or, in Scotland, a road ”.
- (3) In sub-paragraph (2), for “in a street which is not a maintainable highway” or, in Scotland, “in a road which is not a public road” substitute “ in a street which is not a maintainable highway or, in Scotland, a road which is not a public road ”.
- <sup>F43</sup>(4) .....

#### Textual Amendments

**F43** Sch. 8 para. 115(4) repealed (18.11.2001) by S.I. 1995/3210 (N.I. 19) art. 60(2), Sch. 4; S.R. 2001/388, art. 2, Sch.

#### Commencement Information

**I73** Sch. 8 para. 115 partly in force at 1.1.1993 by s. 170 and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

#### *Local Government Act 1985 (c.51)*

- 116 (1) In Schedule 5 to the Local Government Act 1985, paragraph 6 (guidance as to exercise of traffic powers in London and metropolitan counties) is amended as follows.
- (2) In sub-paragraph (1) for “other than trunk roads” substitute “ other than those for which he is the traffic authority ”.
- (3) In sub-paragraph (3)—
- (a) in paragraph (b)(i) for “trunk road” substitute “ road for which the Secretary of State is the traffic authority ”, and
- (b) in paragraph (c) for the words “trunk road” substitute the words “ road for which he is the traffic authority ”.

#### *Transport Act 1985 (c.67)*

- 117 (1) The Transport Act 1985 is amended as follows.
- (2) In section 7(12) (application of traffic regulation conditions to local bus services; requirement of consent of Secretary of State) for “a trunk road” substitute “ a road for which the Secretary of State is the highway or roads authority ”.
- (3) In section 137(1) (interpretation), omit the definition of “trunk road”.

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#### **Commencement Information**

**I74** Sch. 8 para. 117 wholly in force at 1.11.1991 by s. 170(1) and (S.) by S.I. 1991/2286, art. 2(2), Sch. 2; (E.W.) by S.I. 1991/2288, art. 3, Sch.

#### *Airports Act 1986 (c.31)*

- 118 (1) Section 62 of the Airports Act 1986 (provisions as to telecommunications apparatus) is amended as follows.
- (2) In subsection (2) (cases in which highway authority or owner of subsoil may require alteration of apparatus), for paragraph (b) substitute—
- “(b) for the improvement of the highway where the Secretary of State is not the highway authority.”.
- (3) In subsection (4) (limit on effect of subsection (2)(b), 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 or, in Scotland, major works for roads purposes, major bridge works or major transport works within the meaning of Part IV of that Act”.

#### **Commencement Information**

**I75** Sch. 8 para. 118 wholly in force; Sch. 8 para. 118(1)(2) in force at 1.11.1991 by s. 170 and (S.) by S.I. 1991/2286, art. 2(2), Sch. 2; (E.W.) by S.I. 1991/2288, art. 3, Sch.; Sch. 8 para. 118 wholly in force at 1.1.1993 (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

#### *Gas Act 1986 (c.44)*

- 119 (1) Schedule 4 to the Gas Act 1986 (power of public gas suppliers to break up streets, &c.) is amended as follows.
- (2) In paragraphs 1(1), (2) (three times) and 4(1) and (2) for “street or bridge” substitute “street”.
- (3) In paragraph 2(1) for “highway authority” substitute “street authority”.
- (4) In paragraph 3(2) for “for the purpose of” substitute “only for the purpose of”.
- (5) Omit paragraph 5(1).
- (6) In paragraph 6, omit the definition of “highway authority” and for the definition of “street” substitute—
- ““street” and “street authority” have the same meaning as in Part III of the New Roads and Street Works Act 1991.”.
- (7) In paragraph 7 (adaptations for Scotland)—
- (a) for sub-paragraph (b) substitute—
- “(b) in paragraph 2(1) for the words “street authority” there shall be substituted the words “road works authority”;
- (b) omit sub-paragraph (e); and

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- (c) for sub-paragraph (f) substitute—
- “(f) in paragraph 6, for “street” and “street authority” substitute “road” and “road works authority” and for “Part III” substitute “Part IV”.”.

#### Commencement Information

**I76** Sch. 8 para. 119 wholly in force at 1.1.1993 by s. 170 and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

F44 120 .....

#### Textual Amendments

**F44** Sch. 8 para. 120 repealed (1.3.1996) by 1995 c. 45, s. 17(5), Sch. 6; S.I. 1996/218, art. 2

#### Road Traffic Act 1988 (c.52)

- 121 (1) The Road Traffic Act 1988 is amended as follows.
- (2) In section 22A(3)(c)(i), omit the words “section 8 of the Public Utilities Street Works Act 1950”.
- (3) In section 39 (provisions with respect to road safety)—
- (a) in subsection (3)(a) (duty of local authority as to study of road accidents), for “trunk roads” substitute “roads for which the Secretary of State is the highway authority (in Scotland, roads authority) ”;
- (b) in subsection (3)(b) (duties as to taking of measures in light of studies), for “roads for which they are the highway authority (in Scotland, local roads authority)” substitute “roads for the maintenance of which they are responsible ”.
- (4) In section 192(1) (general interpretation), for the definition of “highway authority” substitute—
- ““highway authority”, in England and Wales, means—
- (a) in relation to a road for which he is the highway authority within the meaning of the Highways Act 1980, the Secretary of State, and
- (b) in relation to any other road, the council of the county, metropolitan district or London borough, or the Common Council of the City of London, as the case may be;”.

#### Commencement Information

**I77** Sch. 8 para. 121 wholly in force: Sch. 8 para. 121(1)(3) in force (S.) at 01.11.1991 see s. 170(1) and S.I. 1991/2286 art. 2(2), Sch. 2; Sch. 8 para. 121(1)(3) in force (E.W.) and Sch. 8 para. 121(4) wholly in force at 01.11.1991 by S.I. 1991/2288, art. 3, Sch.; Sch. 8 para. 121 wholly in force at 1.1.1993 (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2 and (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

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*Water Act 1989 (c.15)*

F45 122 .....

**Textual Amendments**

**F45** Sch. 8 para. 122 repealed (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

*Electricity Act 1989 (c.29)*

- 123 (1) In Schedule 4 to the Electricity Act 1989 (powers of licence-holders), paragraph 1 (street works in England and Wales) is amended as follows.
- (2) In sub-paragraph (2) (consent required for placing of certain structures in the street), for the words from “exercisable only” to the end substitute “exercisable only with the consent of the street authority; but such consent shall not be unreasonably withheld”.
- (3) In sub-paragraph (4) (consent required in certain cases for breaking up or opening street)—
- (a) for “a street falling within paragraph (b) or (c) of sub-paragraph (2) above” substitute “a street which is not a maintainable highway”, and
- (b) for “the person mentioned in that paragraph” substitute “the street authority”.
- (4) For sub-paragraph (8) (savings) substitute—
- “(8) Nothing in sub-paragraph (1) above shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949.”.
- (5) For sub-paragraph (9) (interpretation) substitute—
- “(9) In this paragraph “maintainable highway”, “street” and “street authority” have the same meaning as in Part III of the New Roads and Street Works Act 1991.”.
- 124 (1) In the same Schedule, paragraph 2 (road works in Scotland) is amended as follows.
- (2) In sub-paragraph (2) (consent required for placing of certain structures in the road), for the words from “exercisable only” to the end substitute “exercisable only with the consent of the road works authority; but such consent shall not be unreasonably withheld”.
- (3) In sub-paragraph (4) (consent required in certain cases for breaking up or opening road)—
- (a) for “a road or bridge falling within paragraph (b) or (c) of sub-paragraph (2) above” substitute “a road which is not a public road”, and
- (b) for “the person mentioned in that paragraph” substitute “the road works authority”.
- (4) For sub-paragraph (8) (savings) substitute—
- “(8) Nothing in sub-paragraph (1) above shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949.”.
- (5) For sub-paragraph (9) (interpretation) substitute—

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“(9) In this paragraph “public road”, “road” and “road works authority” have the same meaning as in Part IV of the New Roads and Street Works Act 1991.”.

**Commencement Information**

**I78** Sch. 8 para. 124 wholly in force at 1.1.1993, see s. 170 and S.I. 1992/2990, art. 2(2), Sch. 2

125 In the same Schedule, in paragraph 12 (interpretation), omit the definitions of “navigation authority” and “railway authority”.

**Commencement Information**

**I79** Sch. 8 para. 125 wholly in force at 1.1.1993 by s. 170 and (E.W.) by S.I. 1992/2984, art. 2(2), Sch. 2; (S.) by S.I. 1992/2990, art. 2(2), Sch. 2

*Town and Country Planning Act 1990 (c.8)*

- 126 (1) Section 256 of the Town and Country Planning Act 1990 (provisions as to telecommunications apparatus) is amended as follows.
- (2) In subsection (3) (power of local highway authority to require alteration of apparatus) for “highway, other than a trunk road” substitute “ highway for which the Secretary of State is not the highway authority ”.
- (3) In subsection (4) (limitation of power under subsection (3)) 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 ”.

**Commencement Information**

**I80** Sch. 8 para. 126 wholly in force: Sch. 8 para. 126(1)(2) in force at 1.11.1991, see s. 170 and S.I. 1991/2288, art. 3, Sch.; Sch. 8 para. 126 wholly in force at 1.1.1993 by S.I. 1992/2984, art. 2(2), Sch. 2

*Natural Heritage (Scotland) Act 1991 (c.28.)*

127 In paragraph 5(4) of Schedule 7 to the Natural Heritage (Scotland) Act 1991 (works under drought orders), for “section 39(1) of the Public Utilities Street Works Act 1950” substitute “ section 111 of the New Roads and Street Works Act 1991 ”.

SCHEDULE 9

Section 168(2).

REPEALS

**Extent Information**

**E2** Sch. 9 extends to England and Wales and to Scotland or Northern Ireland also if amended enactment so extends see s. 169.

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#### Commencement Information

**181** Sch. 9 partly in force: Sch. 9 partly in force at 21.10.1991 see s. 170(1) and S.I. 1991/2286, art. 2(1), Sch. 1; Sch. 9 partly in force (S.) at 01.11.1991 by S.I. 1991/2286, art. 2(2), Sch. 2 and wholly in force (S.) at 1.1.1993 by S.I. 1992/2990, art. 2(2), Sch. 2; Sch. 9 partly in force (E.W.) at 01.11.1991 by S.I. 1991/2288, art. 3, Sch. and wholly in force (E.W.) at 1.1.1993 by S.I. 1992/2984, art. 2(2), Sch. 2

Chapter	Short title	Extent of repeal
1950 c. 39.	Public Utilities Street Works Act 1950.	The whole Act.
1958 c. 30.	Land Powers (Defence) Act 1958.	Section 16(5).
1963 c. 33.	London Government Act 1963.	Section 19. In Part III of Schedule 9, in paragraph 1(4), the words “or by or by virtue of the Public Utilities Street Works Act 1950”.
1968 c. 73.	Transport Act 1968.	In section 118(12), the words from “or as authorising” to the end.
1972 c. 70.	Local Government Act 1972.	In Schedule 21, paragraph 98.
1973 c. 65.	Local Government (Scotland) Act 1973.	In Schedule 14, paragraph 51.
1978 c. 47.	Civil Liability (Contribution) Act 1978.	In Schedule 1, paragraph 2.
1980 c. 66.	Highways Act 1980.	Section 20. In section 21, the words “without prejudice to section 20 above,”. Section 58(4). Section 60. Section 64(5). Section 90E(4). Section 156. Section 160. Sections 181 to 183. In section 184—(a) in subsection (9), the words from “In relation to works” to the end; (b) subsection (14). In section 325(1)(d), the word “20,”. In section 326(2), the word “20,”. Section 330(3). In section 334(1), the words from “but this subsection” to the end. Section 340(2)(e). In Schedule 23, paragraph 21. In Schedule 24, paragraph 5.
1981 c. 38.	British Telecommunications Act 1981.	In Schedule 3, in paragraph 10(5), the words “and 181(9)” and “20(9)”.

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1982 c. 30.	Local Government (Miscellaneous Provisions) Act 1982.	Section 21(1).
1984 c. 12.	Telecommunications Act 1984.	In section 11(1), the words from the beginning to “; but”. In Schedule 2—(a) paragraph 1(4); and (b) in paragraph 9(1), the words from “and accordingly” to the end. In Schedule 4—(a) in paragraph 3(1) (i), the words “20(9),” and “181(9)”; (b) paragraph 29; (c) paragraph 76(6) and (12); (d) in paragraph 88(1)(b), the words “(except sections 156, 157 and 159)”.
1984 c. 27.	Road Traffic Regulation Act 1984.	Section 1(2), (4) and (5). In section 3(1), the words from the beginning to “of this Act”. Section 5(2). In section 6—(a) subsection (4); (b) in subsection (6), the words from “and in subsection (4)” to the end. Section 8(2). Section 16(3) and (4). In section 17(6), the words from “and “the date of opening”” to the end. Section 19(3). Section 23(5). In section 34(1), in the opening words, the words “in England and Wales”. Section 55(5). In section 68(1)(a), the reference to section 30. Section 86(4). Section 91. Section 106(8). In section 124(2), the reference to section 30. In section 125(3), the reference to section 30(1). Section 132(6). Section 132A. In Schedule 9—(a) in paragraph 20(1), the reference to section 30; (b) in paragraphs 21 and 23(1)(a), the words “other than section 30 of this Act”; (c) in paragraph 27(1), the reference to section 30.
1984 c. 54.	Roads (Scotland) Act 1984.	Section 127. Section 133. In section 134(1), the words “Without prejudice to

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		section 133 of this Act.”.In section 143(2)(b)(ii), the words “8 or”.In Schedule 7, paragraphs 2, 3(a) and (b) and 4.In Schedule 9—(a) paragraph 39;(b) paragraph 55(2)(a) and (d) and (3); (c) paragraph 92(4)(c), (e) and (g) to (i);(d) paragraph 93(2) to (22), (23)(a), (24) to (38), (40), (42), (44)(a), (b),(d) and (e) and (45)(b).In Schedule 10, paragraph 6.
1985 c. 51.	Local Government Act 1985.	In Schedule 4—(a) paragraph 6,(b) in paragraph 25, the words “156(2)(i)”, and(c) paragraph 28.In Schedule 5, paragraph 4(2), (3)(a), (6)(b), (8), (9), (11), (12), (15), (19) (a), (29), (33) and (37).
1985 c. 67.	Transport Act 1985.	In section 137(1), the definition of “trunk road”.
1986 c. 44.	Gas Act 1986.	In Schedule 4, paragraphs 5(1) and 7(e).In Schedule 7, paragraph 2(5).
1988 c. 52.	Road Traffic Act 1988.	In section 22A(3)(c)(i), the words “section 8 of the Public Utilities Street Works Act 1950”.
1988 c. 53.	Road Traffic Offenders Act 1988.	In Part I of Schedule 2, the entry relating to section 30(5) of the Road Traffic Regulation Act 1984.In Schedule 3—(a) in the entry relating to section 29(3) of the Road Traffic Regulation Act 1984, the words “outside Greater London”;(b) the entry relating to section 30(5) of that Act.
1989 c. 15.	Water Act 1989.	Section 189(5).In Schedule 19, paragraph 2(6) and (8).In Schedule 25—(a) in paragraph 1(8), the words from “and the Authority” to the end;(b) paragraph 14.
1989 c. 22.	Road Traffic (Driver Licensing and Information Systems) Act 1989.	In section 12(2), the words from “and accordingly” to the



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		end. In Schedule 4, paragraph 3(2), (6) and (11).
1989 c. 29.	Electricity Act 1989.	In Schedule 4, in paragraph 12, the definitions of “navigation authority” and “railway authority”. In Schedule 16—(a) in paragraph 2(6), the words from “and an undertaker” to the end; (b) paragraph 7; (c) paragraph 27.
1990 c. 43	Environmental Protection Act 1990.	In Schedule 8, in paragraph 7, the words from “and in subsection (4)” to the end.

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