



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART III

#### STREET WORKS IN ENGLAND AND WALES

##### *Duties and liabilities of undertakers with respect to apparatus*

#### **79 Records of location of apparatus.**

- (1) An undertaker shall, except in such cases as may be prescribed, record the location of every item of apparatus belonging to him as soon as reasonably practicable after—
  - (a) placing it in the street or altering its position,
  - (b) locating it in the street in the course of executing any other works, or
  - (c) being informed of its location under section 80 below,stating the nature of the apparatus and (if known) whether it is for the time being in use.
- (2) The records shall be kept up to date and shall be kept in such form and manner as may be prescribed.
- (3) An undertaker shall make his records available for inspection, at all reasonable hours and free of charge, by any person having authority to execute works of any description in the street or otherwise appearing to the undertaker to have a sufficient interest.
- (4) If an undertaker fails to comply with his duties under this section—
  - (a) he commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F1</sup>level 5] on the standard scale; and
  - (b) he is liable to compensate any person in respect of damage or loss incurred by him in consequence of the failure.
- (5) In criminal or civil proceedings arising out of any such failure it is a defence for the undertaker to show that all reasonable care was taken by him, and by his contractors and by persons in his employ or that of his contractors, to secure that no such failure occurred.

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- (6) An order under section 102 (power to make consequential amendments, repeals, &c.) relating to an enactment or instrument containing provision for the keeping of records of apparatus which appears to the Secretary of State to be superseded by or otherwise inconsistent with the provisions of this section—
- (a) shall not be subject to the procedure provided for in Schedule 5, and
  - (b) may make such transitional and other provision as appears to the Secretary of State appropriate for applying in relation to records compiled under that enactment or instrument the provisions of subsections (2) to (5) above and section 80 below.

### Textual Amendments

- F1** Words in s. 79(4) 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)

### Modifications etc. (not altering text)

- C1** Pt. 3 applied (with modifications) (9.4.2013) by [The Hinkley Point C \(Nuclear Generating Station\) Order 2013](#) (S.I. 2013/648), arts. 1, **9** (with arts. 48, 68, 79)
- C2** Pt. 3 restricted (6.8.2014) by [The Rampion Offshore Wind Farm Order 2014](#) (S.I. 2014/1873), art. 1, **Sch. 12 Pt. 2 para. 3** (with arts. 12, 13, Sch. 12 Pt. 1 paras. 6(3), 19, Pt. 2 paras. 3, 6, 13, Pt. 3 para. 5, Pt. 4 para. 4, Pt. 5 para. 4)
- C3** Pt. 3 modified (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014](#) (S.I. 2014/2384), arts. 1, **10(5)**, 11(4)
- C4** Ss. 54-106 applied (28.2.2013) by [The Rookery South \(Resource Recovery Facility\) Order 2011 2013](#) (S.I. 2013/680), **art. 10(3)**
- C5** Ss. 54-106 applied (9.4.2013) by [The Lancashire County Council \(Torrisholme to the M6 Link \(A683 Completion of Heysham to M6 Link Road\)\) Order 2013](#) (S.I. 2013/675), arts. 1, **9(2)**
- C6** Ss. 54-106 applied (15.6.2013) by [The Galloper Wind Farm Order 2013](#) (S.I. 2013/1203), arts. 1, **13(3)** (with arts. 11, 12)
- C7** Ss. 54-106 applied (15.8.2013) by [The North Blyth Biomass Power Station Order 2013](#) (S.I. 2013/1873), arts. 1, **9(3)** (with art. 30)
- C8** Ss. 54-106 applied (7.7.2014) by [The East Anglia ONE Offshore Wind Farm Order 2014](#) (S.I. 2014/1599), arts. 1, **8(3)** (with arts. 37, 38, Sch. 9 para. 19)
- C9** Ss. 54-106 applied (6.8.2014) by [The Rampion Offshore Wind Farm Order 2014](#) (S.I. 2014/1873), arts. 1, **15(3)** (with arts. 7(6), 12, 13, Sch. 12 Pt. 1 para. 19, Sch. 12 Pt. 2 para. 6, sch. 12 Pt. 3 para. 5, Sch. 12 Pt. 4 para. 4, Sch. 12 Pt. 5 para. 4)
- C10** Ss. 54-106 applied (24.9.2014) by [The Thames Water Utilities Limited \(Thames Tideway Tunnel\) Order 2014](#) (S.I. 2014/2384), arts. 1, **10(4)**, 11(5) (with arts. 55, 56)
- C11** Ss. 54-106 applied (2.10.2014) by [The North Killingholme \(Generating Station\) Order 2014](#) (S.I. 2014/2434), arts. 1, **9(3)** (with arts. 6, 9(4), 13, Sch. 8 Pt. 1 para. 6, Sch. 8 Pt. 3 paras. 4(3), 6, 17, Sch. 8 Pt. 5 para. 9)
- C12** Ss. 54-106 applied (29.10.2014) by [The Able Marine Energy Park Development Consent Order 2014](#) (S.I. 2014/2935), **art. 15(3)** (with arts. 30(4), 53)
- C13** Ss. 54-106 applied (28.11.2014) by [The Walney Extension Offshore Wind Farm Order 2014](#) (S.I. 2014/2950), arts. 1, **10(3)** (with arts. 38, 39)
- C14** Ss. 54-106 applied (7.1.2015) by [The Willington C Gas Pipeline Order 2014](#) (S.I. 2014/3328), arts. 1, **10(3)**
- C15** Ss. 54-106 applied (2.2.2015) by [The Northumberland County Council \(A1 – South East Northumberland Link Road \(Morpeth Northern Bypass\)\) Development Consent Order 2015](#) (S.I. 2015/23), arts. 1, **9(2)**

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- C16** Ss. 54-106 applied (26.2.2015) by The Cornwall Council (A30 Temple to Higher Carblake Improvement) Order 2015 (S.I. 2015/147), arts. 1, **9(3)**
- C17** Ss. 54-106 applied (11.3.2015) by The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 (S.I. 2015/318), arts. 1, **13(3)** (with arts. 8(5), 35, 40, 41, **Sch. 12 Pt. 1 paras. 4, 9(2), 10, Pt. 2 paras. 4(2)(3), 19, Pt. 4 paras. 3, 4, 16**)
- C18** Ss. 54-106 applied (1.4.2015) by The Knottingley Power Plant Order 2015 (S.I. 2015/680), arts. 1, **10(3)** (with art. 7(6), **Sch. 8 para. 10**)
- C19** Ss. 54-106 applied (23.6.2015) by The Norfolk County Council (Norwich Northern Distributor Road (A1067 to A47(T))) Order 2015 (S.I. 2015/1347), arts. 1, **9(2)**
- C20** Ss. 54-106 applied (30.6.2015) by The Swansea Bay Tidal Generating Station Order 2015 (S.I. 2015/1386), arts. 1, **9(3)** (with arts. 51, 53)
- C21** Ss. 54-106 applied (7.8.2015) by The Preesall Underground Gas Storage Facility Order 2015 (S.I. 2015/1561), arts. 1, **9(3)** (with art. 44)
- C22** Ss. 54-106 applied (14.8.2015) by The Progress Power (Gas Fired Power Station) Order 2015 (S.I. 2015/1570), arts. 1, **10(3)**
- C23** S. 79(1) excluded (E.) (1.5.2003) by The Street Works (Records) (England) Regulations 2002 (S.I. 2002/3217), regs. 1(1), **5**
- C24** S. 79(1) restricted (W.) (1.12.2005) by Street Works (Records) (Wales) Regulations 2005 (S.I. 2005/1812), regs. 1(1), **5**

#### Commencement Information

- I1** S. 79 partly in force; s. 79 not in force at Royal Assent, see s. 170  
S. 79(1)(a)(b)(2)-(6) in force for E. at 1.5.2003 by S.I. 2002/3267, **art. 2**
- I2** S. 79(1)(a)(b)(2)-(6) in force for W. at 23.7.2004 by S.I. 2004/1780, **art. 2**

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