



Traffic Management Act 2004

2004 CHAPTER 18

PART 5

HIGHWAYS AND ROADS

Skips, scaffolding, building materials and excavations: charges for occupation of highway etc.

68 Scaffolding, building materials and excavations: charge for occupation of highway for unreasonable period

For section 171A of the 1980 Act there is substituted—

“171A Scaffolding, building materials and excavations: charge for occupation of highway for unreasonable period

- (1) The Secretary of State may make provision by regulations requiring a person who—
 - (a) erects a relevant structure on or over a highway maintainable at the public expense,
 - (b) deposits building materials, rubbish or other things in such a highway, or
 - (c) makes a temporary excavation in such a highway,to pay a charge to the highway authority in the circumstances set out in subsection (3).
- (2) The reference in subsection (1)(a) to the erection of a relevant structure is a reference to the erection, in connection with any building or demolition work or the alteration, repair, maintenance or cleaning of any building, of any scaffolding or other structure that obstructs the highway.
- (3) The circumstances are that the period (in this section, the “relevant period”) for which—

Status: This is the original version (as it was originally enacted).

- (a) a relevant structure is on or over the highway,
 - (b) things are deposited in the highway, or (as the case may be)
 - (c) there is an excavation in the highway,
- exceeds both the prescribed period and a reasonable period.
- (4) For this purpose “a reasonable period” means 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.
- (5) 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.
- (6) The regulations may prescribe exemptions from the requirement to pay charges.
- (7) The regulations may provide—
- (a) that in prescribed circumstances (including in particular where an application is made for a licence under section 169 or consent under section 171) a person who intends to do or who does an activity mentioned in subsection (1)(a) to (c) shall give to the authority, in such manner and within such period as may be prescribed, notice containing an estimate of the likely duration of the relevant period, and
 - (b) that the period stated in the notice shall be taken to be agreed by the authority to be reasonable unless the authority give notice, in such manner and within such period as may be prescribed, objecting to the estimate.
- (8) The regulations may also provide—
- (a) that in prescribed circumstances a person who has given a notice of a type mentioned in subsection (7) shall give to the authority, in such manner and within such period as may be prescribed, notice containing a revised estimate of the likely duration of the relevant period, and
 - (b) that upon the notice being given any previous agreement to or determination of a reasonable period ceases to have effect, and the period stated in the notice shall be taken to be agreed by the authority to be reasonable unless the authority give notice, in such manner and within such period as may be prescribed, objecting to the revised estimate.
- (9) The amount of the charge shall be determined in such manner as may be prescribed by reference to the relevant period.
- (10) The regulations may prescribe different rates of charge according to—
- (a) the extent to which the highway is affected by the structure, things deposited or excavation;
 - (b) the place and time at which the highway is so affected;
 - (c) such other factors as appear to the Secretary of State to be relevant.
- (11) The regulations may provide—
- (a) that the authority are to set the rate of charge, up to a prescribed maximum, and
 - (b) that different rates of charge may be set according to such factors as the authority consider relevant.

- (12) The regulations may make provision for the determination of the duration of the relevant period for the purposes of the regulations.
- (13) And they may, in particular, make provision for the relevant period to be treated as beginning or ending on the giving of, or as stated in, a notice given by the person mentioned in subsection (1) to the authority, in the prescribed manner, in accordance with a requirement imposed by the regulations.
- (14) The regulations may make provision requiring a person who does an activity mentioned in subsection (1)(a) to (c) to provide the authority, in such manner and within such period as may be prescribed, with such information as the authority may specify in a notice to that person, being information required for the purposes of—
 - (a) determining whether a charge is payable by him;
 - (b) calculating the amount of any charge payable by him.
- (15) The regulations may make provision as to the time and manner of making payment of charges.
- (16) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge—
 - (a) in any particular case,
 - (b) in such classes of case as they may decide or as may be prescribed, or
 - (c) in all cases or in all cases other than a particular case or such class of case as they may decide or as may be prescribed.
- (17) The regulations may make provision as to—
 - (a) the application by local highway authorities of sums paid by way of charges, and
 - (b) the keeping of accounts, and the preparation and publication of statements of account, relating to sums paid by way of charges.
- (18) The regulations may create in respect of any failure to give a notice, or to provide information, required by the regulations a criminal offence triable summarily and punishable with a fine not exceeding level 4 on the standard scale.
- (19) The regulations may make provision about their application to a series of deposits of things.
- (20) And they may, in particular, provide that a series of deposits of things is to be treated as a single deposit of things—
 - (a) beginning at the time the first in the series was deposited, and
 - (b) ending at the time the last in the series was removed.
- (21) The regulations may make provision corresponding to that mentioned in subsections (19) and (20) in relation to the erection of relevant structures and the making of excavations.
- (22) In this section “prescribed” means prescribed by the Secretary of State by regulations, which may make different provision for different cases.”