

2001 No. 4060

HIGHWAYS, ENGLAND

The Street Works (Charges for Occupation of the Highway) (England) Regulations 2001

Made - - - - - *20th December 2001*

Coming into force - - - *21st December 2001*

The Secretary of State for Transport, Local Government and the Regions, in exercise of his powers under sections 74A and 104(3) of the New Roads and Street Works Act 1991(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Street Works (Charges for Occupation of the Highway) (England) Regulations 2001 and shall come into force on the day after the day on which they are made.

(2) These Regulations extend to England only.

Interpretation:

2. In these Regulations:

“the Act” means the New Roads and Street Works Act 1991;

“approved authority” means a local highway authority approved by an order made by the Secretary of State pursuant to section 74A(2) of the Act;

“bridleway” has the meaning given by section 329(1) of the Highways Act 1980(b);

“the Co-ordination Code” means the Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters dated April 2001 and approved by the Secretary of State on 16th February 2001 as revised and re-issued from time to time;

“day” means a working day;

“diversionary works” means measures needing to be taken in relation to an undertaker’s apparatus in consequence of major highway works, major bridge works or major transport works or in order to facilitate their execution;

(a) 1991 c. 22; section 74A was inserted by the Transport Act 2000 (c. 38), section 255. The functions of the Secretary of State under section 74 A and 104 are transferred, so far as exercisable in relation to Wales, to National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2(a). See also section 255(2) of the Transport Act 2000,

(b) 1980 c. 66.

“footpath” has the meaning given by section 329(1) of the Highways Act 1980;

“minor works” means street works (not being emergency works or urgent works) whether in the footway, verge or carriageway which are of a planned duration of not more than 3 days, and which do not exceed that planned duration, do not form part of a rolling programme of works and do not involve at one time more than 30 metres of works or leave less than 3 metres width of carriageway available for traffic or less than 2.5 metres where the traffic is expected to consist only of motor cars and light locomotives within the meaning of section 185(1) of the Road Traffic Act 1988(a);

“the National Street Gazetteer” means the national computer database of streets which is provided by the concessionaire for the time being appointed by the Local Government Information House Limited;

“order” means an order made by the Secretary of State pursuant to section 74A(2) of the Act;

“pedestrian planning order” means an order made under section 249(2) or (2A) of the Town and Country Planning Act 1990(b);

“traffic order” means an order made under section 1, 6 or 9 of the Road Traffic Regulation Act 1984(c).

Application of Regulations

3.—(1) These Regulations apply to every maintainable highway other than a footpath, a bridleway, a highway in relation to which a pedestrian planning order is in force, and a highway whose use by vehicular traffic is prohibited by a traffic order unless that prohibition is only at particular times, where the highway authority is an approved authority.

(2) These Regulations do not apply to diversionary works.

Notices

4.—(1) An undertaker executing street works (other than minor works) in a highway to which these Regulations apply shall give the approved authority notice in writing of the beginning of those works specifying by reference to the National Street Gazetteer the street or streets in which the works are to be carried out (“actual start of works notice”) not later than the end of the day following the day on which the works begin.

(2) An undertaker executing minor works in a highway to which these Regulations apply shall give the approved authority a daily notice in writing of those works in the form of the daily whereabouts for minor works notice in Appendix D or Appendix E to the Co-ordination Code specifying by reference to the National Street Gazetteer the street or streets in which the works are being carried out (“daily whereabouts notice”), the first such notice to be given not later than the end of the day before the day on which the works begin.

(3) When an undertaker has completed interim reinstatement of a highway and has removed all remaining spoil and unused materials together with all signing, lighting and guarding, and has returned the highway fully to public use he shall give the approved authority notice thereof in writing (“works clear notice”) not later than the end of the day following the day on which the highway was returned fully to public use.

(4) When an undertaker has completed permanent reinstatement of a highway and has removed all remaining spoil and unused materials together with all signing, lighting and guarding, and has returned the highway fully to public use he shall give the approved authority notice thereof in writing (“works closed notice”) not later than the end of the day following the day on which the highway was returned fully to public use.

(a) 1988 c. 52.

(b) 1990 c. 8; section 249(2) was amended and section 249(2A) was inserted by the Greater London Authority Act 1999 (c. 29), Schedule 22, paragraph 5.

(c) 1984 c. 27; section 1 was amended by the New Roads and Street Works Act 1991, Schedule 8, paragraph 17 and by the Environment Act 1995 (c. 25), section 120 and Schedule 22; section 6 was amended by the Local Government Act 1985 (c. 51), section 8 and Schedule 5, by the New Roads and Street Works Act 1991, Schedule 8, paragraph 21 and by the Environment Act 1995, section 120 and Schedule 22; and section 9 was amended by the Local Government Act 1985, section 8 and Schedule 5, by the New Roads and Street Works Act 1991, Schedule 8, paragraph 23 and by the Road Traffic Act 1991 (c. 27), section 48 and Schedule 4, paragraph 24.

Prescribed charges

5.—(1) An approved authority may, subject to paragraph (8), require an undertaker to pay the prescribed charge for the whole of the duration of street works carried out by the undertaker in a maintainable highway to which these Regulations apply.

(2) Paragraph (1) does not apply to the following works—

- (a) works which do not require breaking up the street,
- (b) repairing, resetting or replacing manhole or chamber covers or frames,
- (c) replacing poles, lamps, columns or signs in the same location, and
- (d) pole testing.

(3) The duration of street works includes any period during which an undertaker is carrying out remedial works required by an approved authority pursuant to section 72(3) of the Act.

(4) The charge shall, in respect of any set of street works notified in a single notice in any street specified by reference to the National Street Gazetteer, be of an amount determined by the approved authority in accordance with the formula cxd , where—

- c is such amount, not exceeding £1,000, as the authority decides is appropriate;
- d is the duration of the works.

(5) Where street works are carried out by an undertaker at the junction of two or more streets, and different rates of prescribed charge apply to those streets, the works shall be charged at whichever of those rates appears appropriate to the authority.

(6) Works shall be treated as beginning, for the purposes of paragraph (4), on the date given in the actual start of works notice or the first daily whereabouts notice, as the case may be.

(7) Works shall be deemed to continue for the purposes of paragraph (3) until a works clear notice or a works closed notice (as the case may be) has been given in respect of those works.

(8) An approved 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 in all cases other than a particular case or such class of case as they may decide.

(9) Charges may only be made in respect of works for which notification is required to be given by notice pursuant to the Act relating to such works that they are to be executed in a street or streets identified as that street or those streets are identified in the National Street Gazetteer.

(10) Charges are only payable in respect of street works where the approved authority have given the undertaker, not later than six months after receipt of a works clear notice or a works closed notice (whichever is the earlier), an account in writing setting out the charge payable.

Application of charges and keeping of accounts

6.—(1) An approved authority may deduct from prescribed charges received from an undertaker the reasonable costs of operating the scheme under which they are paid and shall apply the net proceeds for the purpose of developing policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within their area.

(2) An approved authority shall keep accounts of sums paid by way of charges pursuant to these Regulations and the application thereof.

Offences

7. An undertaker who without reasonable cause fails to give any notice required by these Regulations commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Prescribed manner of service of notices

8. Any notice given under these Regulations shall be given by delivering it to the person to whom it is addressed or leaving it at his proper address, or by sending it to such address by post, telefacsimile or electronic means, or by any other means agreed between the person giving it and the person to whom it is sent.

Transitional provision

9. These Regulations do not apply to street works in respect of which an undertaker has given a notice under section 54, 55 or 57 of the Act before an order comes into force.

Signed by authority of the Secretary of State
for Transport, Local Government and the Regions

20th December 2001

Sally Keeble
Parliamentary Under Secretary of State,
Department for Transport, Local Government and the Regions

EXPLANATORY NOTE

(This Note is not part of the Regulations)

Section 74A of the New Roads and Street Works Act 1991 (inserted by the Transport Act 2000) enables regulations to be made requiring an undertaker executing street works in a maintainable highway to pay a charge. These Regulations provide for the charges to be payable to such local highway authorities as may be so approved. Under the regulations the charge is determined by reference to the duration of the works subject to a maximum of £1,000 a day for each set of notified works in a street. The Regulations also make provision for the giving of notices relating to works to which they apply, create an offence or failing without reasonable cause to give a prescribed notice and make provision for the application by approved local authorities of charges received and the keeping of accounts

The code of practice entitled “Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters” (ISBN 0-11-552310-3) is published by The Stationery Office and may be obtained from their bookshops or by mail, fax or telephone from PO Box 29, Norwich NR3 1GN (tel. 0870 6005522/fax 0870 6005533) or by e-mail from book.orders@theso-co.uk.

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A regulatory impact assessment has been prepared in respect of this order. A copy of it has been placed in the library of each House of Parliament. Further copies can be obtained from the Traffic Management 2 Division of the Department for Transport, Local Government and the Regions, Zone 3/17, Great Minister House, 76 Marsham Street, London SW1P 4DR. A copy has been published on the Department’s website at www.roads.dtlr.gsi.gov.uk.

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