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STATUTORY INSTRUMENTS

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**2012 No. 785**

**HIGHWAYS, ENGLAND**

**The Traffic Management (St Helens Borough Council) Permit Scheme Order 2012**

*Made* - - - - 7th March 2012  
*Coming into force* - - 10th April 2012

The Secretary of State for Transport having approved the St Helens Borough Council Permit Scheme under section 34(2) of the Traffic Management Act 2004<sup>(1)</sup> makes this Order in exercise of the powers conferred by sections 34(4) and (5) and 39(2) of that Act.

**Citation and commencement**

1. This Order may be cited as the Traffic Management (St Helens Borough Council) Permit Scheme Order 2012 and comes into force on 10th April 2012.

**Interpretation**

2. In this Order—

“the St Helens Borough Council Permit Scheme ” means the permit scheme set out in the Schedule to this Order in terms commonly known as the “Merseyside Authorities Permit Scheme” which was prepared and submitted to the Secretary of State by St Helens Borough Council and has been approved by the Secretary of State; and

“specified streets” has the meaning given by regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007<sup>(2)</sup>.

**Commencement of Permit Scheme**

3. The St Helens Borough Council Permit Scheme comes into effect on 10th April 2012.

**Application of Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007**

4. Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 shall apply to the specified streets within the St Helens Borough Council Permit Scheme.

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(1) 2004, c.18.  
(2) [S.I. 2007/3372](#).

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Signed by authority of the Secretary of State for Transport

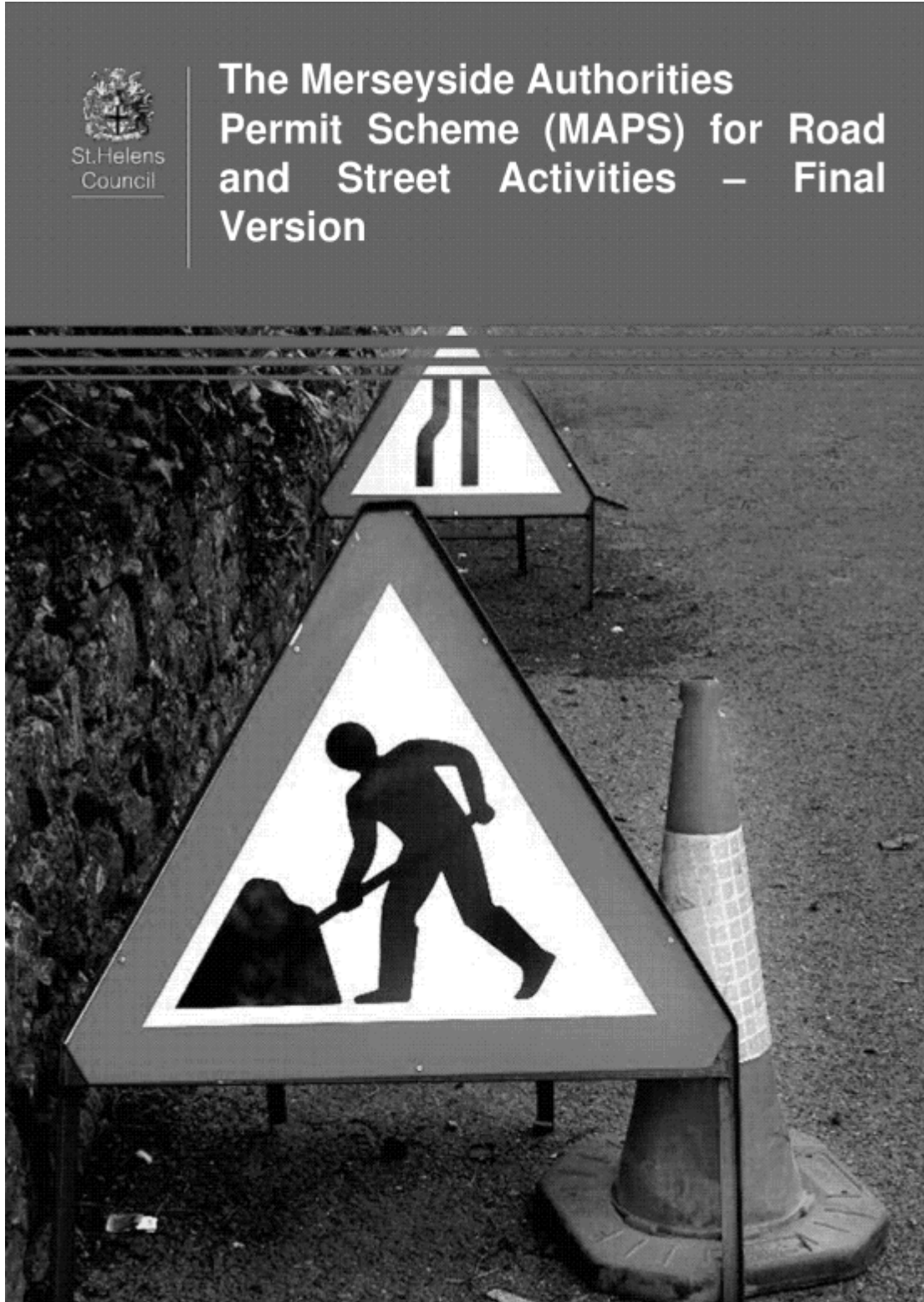
7th March 2012

*Norman Baker*  
Parliamentary Under Secretary of State  
Department for Transport

SCHEDULE

Article 2

THE ST HELENS PERMIT SCHEME



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**The Merseyside Authorities Permit Scheme (MAPS)  
for Road and Street Activities**

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## **The Merseyside Authorities Permit Scheme (MAPS) for Road and Street Activities**

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### **1 Introduction**

#### **1.1 Background**

Part 3 of the Traffic Management Act (TMA) 2004 introduced permit schemes as a new way in which activities in the public highway could be managed and to improve authorities' ability to minimise disruption from road and street works.

#### **1.2 Relationship to NRSWA**

Permit schemes provide an alternative to the notification system of the New Roads and Street Works Act (NRSWA) 1991, whereby instead of informing a street authority about its intention to carry out works in its area, a statutory undertaker has to book time on the highway by obtaining a permit from the permit authority. Under a permit scheme, the highway authority's activities undertaken by itself, its partners or agents are also treated in exactly the same way as a statutory undertaker. A street authority may choose to implement a permit scheme on all or some of the roads under its control.

#### **1.3 The Permit Scheme**

This Permit Scheme, to be known as the Merseyside Authorities Permit Scheme (MAPS), and hereafter referred to as the Permit Scheme, is based on Part 3 of the TMA and the Traffic Management Permit Schemes (England) Regulations 2007, (the Regulations) and has been prepared with regard to the Statutory Guidance issued by the Secretary of State to assist street authorities wishing to become permit authorities and in accordance with the requirements set out in the Regulations. Activity promoters should make themselves aware of the content of these documents and also "The Code of Practice for Permits" alongside which the Permit Scheme will be operated.

All current NRSWA and TMA legislation, codes of practice, etc., and any future amendments to that legislation, apply to the Permit Scheme.

#### **1.4 Objective of the Permit Scheme**

The Permit Scheme has been prepared in accordance with achieving the overriding statutory objectives and duties under the TMA 2004 and NRSWA 1991. It is an important aspect of the duties and policies for the permit authority to manage activities in the street, so as to minimise the impact of those activities, while allowing essential activities to take place. The specific objectives of the Permit Scheme are as follows:

- Reduce occupation of the highway to benefit all road users
- Obtain greater control of all activities on the public highway
- Minimise/avoid/manage delays to all road users
- Enhance co-ordination of all activities on the highway
- Achieve an improvement in air quality
- Enhance safety of all road users at road and street activities
- Reduce potential incidents/accidents at road activities
- Improve public perception of managing road activities
- Enhance reliability of journey times
- Enhance journey experience
- Reduce long-term damage to the highway asset
- Encourage collaborative activities between all activity promoters
- Enhance reliability of activities taking place at a particular time, especially on the strategic road network



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- Promote best practices across Merseyside
- Promote common activity practices across the region to ensure ease of operation for activity promoters
- Enhanced cross-boundary co-operation
- Demonstrate parity for all activity promoters
- Reduce instances of customer complaints regarding road and street activities
- Reduce the impact of noise on residents by having greater control of timing of activities

### **1.5 The Permit Authority**

The Permit Scheme is operated by the relevant Merseyside Authority, hereinafter referred to as the permit authority.

### **1.6 Activities**

The generic term "activities" has been used rather than "works" to reflect the fact that the scheme may eventually cover more than road and street works in subsequent regulations. These are the specified activities as set out in the Regulations.

### **1.7 Equivalent Definitions**

As the Permit Scheme will operate alongside the NRSWA notice system, the same or equivalent definitions and requirements are used as in the NRSWA notice system, namely:

- Registerable activities/works
- Categories of activities/works,  
(a S54 notice now becomes a provisional advance authorisation and a S55 notice becomes permit application for major permit, standard, minor and immediate activities/works)
- Street gazetteers, including street referencing by means of a Unique Street Reference Number (USRN) and Associated Street Data (ASD)
- Street reinstatement categories as defined in the NRSWA Reinstatement Specification
- The distinction between main roads and minor roads where such distinctions are relevant
- Streets designated as Protected Streets, streets having Special Engineering Difficulties (SED), or Traffic Sensitive Streets.

### **1.8 Changes to NRSWA Legislation**

Where it is implemented on the specified streets (see 4 below) and in accordance with the Regulations, the Permit Scheme will result in the non-application and modification of the following sections of the NRSWA:

- Sections of NRSWA not applied: s.53; s.54; s.55; s.56; s.57; s.66
- Sections of NRSWA modified: s.58; s.73A; s.74; s.88; s.89; s.93; Schedule 105; Schedule 3A
- Regulations modified: The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 SI 2007/1951  
In the interests of parity, the modified legislation will also apply to works for road purposes.

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### **2 Specified Activities**

#### **2.1 Activities Requiring a Permit**

The Permit Scheme controls the following activities undertaken on the public highway and as defined as Registerable Activities in Chapter 9 of The Code of Practice for Permits:

- i. Street works as in Part 3 of NRSWA, except for works by licensees under section 50 of NRSWA;
- ii. Works for road purposes as defined by section 86 of NRSWA;
- iii. Other activities that may be introduced under future regulations.

#### **2.2 Activities for Road Purposes**

The requirements of the Permit Scheme apply equally to both highway and statutory undertakers' activities with the one exception that fees will not be charged for permits issued for the highway authority's own activities for road purposes. Activity promoters of activities for road purposes must ensure that they have followed the equivalent processes for activities and declare that they have fulfilled these requirements in their applications.

#### **2.3 Activities Not Requiring a Permit before they start**

Immediate activities do require a permit, although as such activities are concerned with emergency or urgent situations, an activity promoter can start the activity before applying for a permit. (See section 7.5).

#### **2.4 Activities for which No Permit is Required**

Activities executed in a street pursuant to a street works licence issued under section 50 of the NRSWA are not included in the Permit Scheme.

### **3 Specified Area**

#### **3.1 Area Covered by the Permit Scheme**

The Permit Scheme is a Common Scheme for the Merseyside Authorities. A permit authority operating within MAPS will operate the scheme across the whole of the area encompassed by that authority's boundaries.

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### **4 Specified Streets**

#### **4.1 Definition of the Term "Street"**

For the purposes of the Permit Scheme, the term "street" refers to that length of road associated with a single USRN. Where a single street on the ground has more than one USRN, separate permits will be required for each USRN to which an activity relates.

#### **4.2 Streets Covered by the Permit Scheme**

The Permit Scheme will apply to ALL streets in the Borough of the relevant Merseyside Authority. The street gazetteer will be updated with the relevant information indicating it to be a permitted street well in advance of the implementation date. The street gazetteer will be available to all work promoters via the National Street Gazetteer (NSG) concessionaire's website (see Appendix E for street listing which shall be updated periodically).

#### **4.3 Identification of Streets**

All streets that are subject to the Permit Scheme will be identified via the ASD record held on the National Street Gazetteer (NSG) concessionaire's website alongside the NSG data, where the Operational District responsible for maintaining the street is defined as operating a permit scheme.

#### **4.4 Motorways and Trunk Roads**

Motorways and trunk roads within the relevant permit authority's boundary for which the Highways Agency is the highway authority are excluded from the Permit Scheme.

#### **4.5 Non-Maintainable Highways**

Streets that are not maintainable highways, other than those that are expected to become a maintainable highway, are not included in the Permit Scheme.

#### **4.6 Streets to be Adopted as Maintainable Highways**

Where a street is expected to become a maintainable highway, controls on specified activities under the Permit Scheme will only apply after the street has become a maintainable highway. A minimum of one calendar month's notice will be provided to all affected stakeholders when the new street becomes a maintainable highway.

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### **5 Permits General**

#### **5.1 Requirement to Obtain a Permit**

Any activity promoter of specified activities who wishes to carry out such an activity on a specified street must first obtain a permit from the permit authority. The permit will allow the activity promoter to:

1. carry out the specified activity;
2. at the specified location;
3. between the dates shown;
4. subject to any conditions the authority may require to be included.

#### **5.2 Exempt Activities**

The following activities do not require a permit:

- Works carried out in pursuance of a street works licence issued under section 50 of NRSWA.
- Traffic census surveys.
- The maintenance of fire hydrants by fire service vehicles provided the activity is undertaken outside traffic sensitive periods, unless these activities involve traffic control.

#### **5.3 One Application Per Street**

Each application for a permit will be limited to one street (see 4.1 for definition of street) and for one activity only, multiple activities **MUST NOT** be grouped under one permit.

#### **5.4 Activities Covering Several Streets**

Where the specified activity involves a number of specified streets, a separate permit will be required for each street. Permit applications for specified activities covering more than one specified street shall be cross-referenced to all related applications. Fees for specified activities which involve several permits will be discounted (refer to section 14.4) if the applications are submitted together and cross referenced. For consistency with NRSWA, a street will correspond to a USRN.

#### **5.5 Phasing of Activities**

A phase of an activity is a period of continuous occupation of the street (whether or not the activity is taking place for the whole time) between the start and completion of the works. As one permit can only contain one phase, the dates given in a permit application will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site.

#### **5.6 Linked Activities**

An activity promoter should clarify that an activity is to be carried out in phases on the application. Each phase will require a permit and possibly also a Provisional Advance Authorisation, which again should ideally use the original works / activity reference but failing that must be cross referenced to the original notice or permit. The cost of these permits may be reduced if the initial application indicates the plans for phased activities. Phased activities must relate to the same activity, and be within the scope of the description provided in the initial application. These could be a single or multiple linked excavation, or a trench dug progressively along the street as part of a continuous operation.

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A new main or cable run, which includes new customer connections, can be classed as one phase if all the activity is completed in a single occupation of the street. Otherwise, a new permit will be required for the customer connections stage.

Linked activities carried out at separate locations in a street must be treated as belonging to the same activity. However, unconnected activities carried out by the same promoter in one street should not be treated as parts, or phases, of a single set of activities.

Activity involving more than one street/USRN could form part of one project in management and contractual terms, therefore separate permits and Provisional Advance Authorisations will be required for each street/USRN. The Technical Specification for Electronic Transfer of Notices (EToN) allows for project references, activity references and phase types.

### **5.7 Reinstatement**

If a permanent reinstatement cannot be completed on the first phase, the activity shall be regarded as having two separate phases. Under the provisions of NRSWA, this will mean two separate works/activities for section 74 charging. Each phase is from the start date in the relevant permit to the completion of either interim or permanent reinstatement and the removal of all surplus materials and equipment from site. The same activity reference must be used for all phases.

### **5.8 Remedial Activities**

Remedial works correct defects identified in accordance with the *Code of Practice for Inspections* and associated regulations. The activity promoter of these activities is not required to apply for a Provisional Advance Authorisation, even if the activities are of such magnitude as to be classed as major activities. They will need to ideally use the original works / activity reference but failing that they need to be cross-referenced to the original activity promoter reference number. Those remedial works to remedy dangerous defects will, of course, be categorised as immediate emergency activities. Remedial works will require a new permit.

### **5.9 Interrupted Activities**

In the event of an activity being interrupted and delayed, for instance due to damage to a third party's plant or while missing apparatus is acquired, the activity promoter shall contact the permit authority to agree what action should be taken. Where the permit authority is satisfied that the excavation can remain open while the repairs are implemented or the equipment obtained, then a permit variation will be required. However, where it is considered that the opening should be reinstated and the road returned to full traffic use, then the activity promoter will need to apply for a further permit to complete the activity at a later date.

If an activity is interrupted at the request of the permit authority, they should discuss this and agree to a permit variation to cover the situation, or if necessary a further permit to allow the activity to be completed later.

Whenever an activity is interrupted, the activity promoter should first agree a way forward with the permit authority before starting any of the processes above.

### **5.10 Collaborative Working**

The permit authority encourages collaborative activities between activity promoters for street activities and activities for road purposes. Where two or more activity promoters for street activities and activities for road purposes enter into such arrangements, one must take on the role of the primary promoter with the overall responsibility for the activities and will be the point of contact with the permit authority.

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While the secondary activity promoter(s) will be required to make a permit application for the activity for which they are responsible, only the permit application made by the primary activity promoter will need to show the number of estimated inspection units.

The primary activity promoter's permit application must give details of the other activity promoter(s) involved and the extent of the collaborative working. The primary activity promoter must also ensure that the estimates of the activity duration are agreed and confirmed with the secondary activity promoter(s) when submitting the application. While the permit authority will issue permits to all of the activity promoters involved, not just the primary activity promoter, the fees will be discounted (please refer to section 14.4) to reflect the collaborative approach, subject to all criteria being met. The primary activity promoter will excavate the trench and install its own apparatus with the secondary activity promoter(s) installing their apparatus in the same trench. The primary activity promoter will backfill and reinstate the trench unless it has previously been agreed with the permit authority that the secondary activity promoter(s) will undertake the reinstatement, in which case the responsibility for the reinstatement will rest with the activity promoter who undertook this reinstatement, although the registration through EToN for this activity will still have to be submitted by the primary activity promoter.

### **5.11 Permit Validity**

Permits will only be valid from the start date to the end date of the permit on category 0 to 2 or traffic sensitive streets, and between adjusted dates based on the allowed slippage in start date for category 3 and 4 streets. The start and end dates will be calendar days, not withstanding reference elsewhere to working days, and may include weekends and bank holidays where agreed by the permit authority, even if these are not working days.

### **5.12 Charges for Overrunning Street Works/Activities**

Charges for overrunning street works/activities, under section 74 of NRSWA, will be made alongside the Permit Scheme. These regulations incorporate the process of setting and modifying the duration of the activity through the permit application, approval and variation processes, with the option to treat all or parts of a duration extension as overrun.

### **5.13 Start and End Dates**

A permit will allow an activity to be carried out during the period between the start and end date on the permit. An activity promoter carrying out an activity outside these dates would not have a valid permit and potentially would be committing an offence. It should be noted that if the permit scheme states that the activity should start on a Monday and finish on a Friday, the weekend cannot be used as additional days without the express approval of the permit authority through a permit variation (extension).

#### **Category 0-2 and Traffic Sensitive Streets**

In category 0-2 and traffic sensitive streets, the duration of the activity will exactly match the time from the start date to the end date, for example: start date Wednesday 1 June, end date Friday 10 June, duration eight (working) days (no work undertaken at the weekend unless stated in the permit). The permit start date will be the proposed start date of the activity. If the activity cannot begin on the permit start date, the promoter should inform the permit authority on the previous day by telephone. There is no automatic extension of the permit in these circumstances. If the promoter thinks that it could still complete the activity before the permit end date, then they could begin the activity on a subsequent day, submitting an actual start of activity notice under section 74 of NRSWA.

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If the activity promoter could not complete the activity before the permit end date, it would need to apply for a permit variation (extension). This would be required even if the extra days were on a weekend (in the above case, the permit expires at midnight on Friday night). A permit authority may or may not agree to a permit variation (extension), depending on the circumstances, and the activity promoter may be subject to overrun charges.

### **Category 3 and 4 Non-Traffic Sensitive Streets**

In category 3 and 4 streets that are not traffic sensitive, the permit will be issued with a start and end date. However, because both competition for space and the expected level of disruption is likely to be lower on less busy streets, there will be flexibility on the start of the activity - a "starting window" -equivalent to the validity period on a NRSWA notice.

The starting windows are:

- 5 days for major and standard activities
- 2 days for minor activities

When the activity commences, the activity promoter would have to submit the actual start of activity notice, setting out the actual start of the activity, and the duration must be the same as that given in the permit. The permit end date will be automatically adjusted to allow the agreed duration if the activity starts on any day up to the last day of the starting window. The duration applies to continuous working days and, once the activity starts, the activity promoter has only the successive working day duration in which to complete the activity. The normal working day rules apply, i.e. weekdays, although there may be conditions that affect the ability of an activity promoter to make use of weekends for activities.

#### **Note:**

Once the minimum period before the permit expires for an application for a permit variation is reached (2 days or 20% of the original duration, whichever is the longest), the activity promoter should apply for a permit variation (extension) if they wish to continue the activity after the current permit end date. If they continue undertaking the activity without an agreement of a permit variation, they will be committing an offence of working without a permit.

### **5.14 Early Start**

The permit authority will consider an activity promoter's request for an early start before or after applying for a Provisional Advance Authorisation or a permit application. Where this is agreed after the original permit application has been made, the activity promoter shall submit a permit variation application. Early start requests should not be unreasonably refused.

### **5.15 Working Without a Permit**

It is an offence for an activity promoter or a person contracted to act on its behalf to undertake specified activities in a specified street without a permit, except where the Permit Scheme provides that this requirement does not apply. Where it is believed that such an offence is being committed, the permit authority may impose a Fixed Penalty Notice (FPN)

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or pursue legal action via a prosecution and require the party concerned to remove the activity and return the street to its full use (see 15).

### **5.16 Application Requirements**

Each application for a permit must include the information indicated in 8 below.

## **6 Permits – Types**

### **6.1 Types Covered by the Permit Scheme**

There are two types of permit covered by the Permit Scheme as set out below.

### **6.2 Provisional Advance Authorisation (PAA)**

PAA's, are a means of enabling significant activities to be identified, co-ordinated and programmed in advance by allowing activities to be provisionally planned in by the activity promoters, pending the permit authority's subsequent decision on whether, and with what conditions, to grant a permit for the activities.

An activity promoter who wishes to undertake Major Activities (see 7.2 below) on a specified street shall apply for a PAA at least 3 months in advance of those activities starting on the highway, or as agreed with the permit authority. Subsequent applications for permits for Major Activities that have not been preceded by a PAA will not be accepted by the permit authority.

Each application for a PAA will be limited to one street.

An application for a PAA must include a full description of the activity and specify start and end dates, although the start date may be considered as provisional and can be amended in the application for a final permit with full justification of the amendment of the start and end dates.

A fee will be charged for a PAA in addition to the fee which is charged for the issue of the major permit.

The granting of a PAA does not prevent the permit authority from subsequently refusing to grant a major permit to which the PAA relates, if circumstances should change .

### **6.3 Permits**

These are full permits with final details for all registerable activities. The timing of permit applications to the permit authority will depend on the proposed activity (see 7 and 10.10 below).



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### **7 Permits – Classes**

#### **7.1 Classes Covered by the Permit Scheme**

There are four classes of permit covered by the Permit Scheme as set out below.

#### **7.2 Permit for Major Activities**

Major Activities are those which:

have been identified in an organisation's annual operating programme or, if not identified in that programme, are normally planned or known about at least six months in advance of the proposed date of the activity;

other than immediate activities, require a temporary traffic regulation order (i.e. not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities;

other than immediate activities, having a duration of 11 working days or more.

Major Activity Permits are required for the most significant activities on the highway and will require the activity promoter to obtain a Provisional Advance Authorisation as part of the application process for a Major Activity Permit. (See 6.2 above).

An application for a Major Activity Permit shall be submitted to the permit authority in accordance with the timescales given in 10.10 below and must include a description of the proposed activity together with the proposed start and end dates of the activity. Where these differ from those given in the PAA application, the applicant must justify the reasons for any variation.

#### **7.3. Permit for Standard Activities**

Standard Activities are those activities, other than immediate or major activities, that have a planned duration of between 4 and 10 working days inclusive. Activities lasting less than 10 working days but which require a traffic regulation order, such as a temporary road closure, will be classified as Major Activities and will be subject to the requirements in 7.2 above.

An application for a Standard Activity Permit shall be submitted to the permit authority in accordance with the timescales given in 10.10 below and must include a description of the proposed activity together with the proposed start and end dates of the activity.

#### **7.4 Permit for Minor Activities**

Minor Activities are those activities, other than immediate or major activities, where the planned working is 3 working days or less. An application for a Minor Activity Permit shall be submitted to the permit authority in accordance with the timescales given in 10.10 below and must include a description of the proposed activity together with the proposed start and end dates of the activity.

#### **7.5 Permit for Immediate Activities**

Immediate Activities are those which:

- a) Are emergency activities as defined in section 52 of NRSWA.

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- b) Are activities (not being emergency activities) which are required:
- i. To prevent or put an end to an unplanned interruption of any supply or service provided by the customer;
  - ii. To avoid substantial loss to the promoter in relation to an existing service;
  - iii. To reconnect supplies or services where the activity promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate permit period;

Including the activity that cannot reasonably be severed from such activities. Given the nature of immediate activities, the activity may commence without a permit. However, where it is necessary to carry out immediate activities requiring traffic control on traffic sensitive streets, as indicated on the ASD, activity promoters of such activities must contact the permit authority by telephone immediately, and in any case must apply to the permit authority within 2 hours of the activity starting immediate activity. Immediate activities will be subject to conditions - see 9.5.

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### **8 Mandatory Requirements in a Permit Application**

#### **8.1 Permit Authority Requirements**

To enable the permit authority to determine the granting of a permit and any conditions that it may wish to attach to the permit, activity promoters must supply the following information. In the case of Provisional Advance Authorisation applications, the activity promoter should provide the most accurate information available at the time of making the application.

#### **8.2 Contact Person**

All permit applications must include the contact details of the person appointed by the activity promoter to deal with any problems that may occur during the activity, including any provision made for out of hours contact.

#### **8.3 USRN**

Each application must relate to a single street only (see 4.1, 5.4 and 5.5 above). Where a single street on the ground has more than one USRN, separate permit applications will be required for each USRN to which an activity relates.

#### **8.4 Description of Activity**

A sufficiently detailed description of the activity must be provided to allow the Permit Authority to assess the impact of the activity.

#### **8.5 Location**

The activity promoter must provide location details reasonably accurately based on National Grid References (NGR). In the case of small excavations, an NGR should be given for the centre of the excavation; for larger works, a polygon representing the works footprint is required. In addition, dimensions should be given of the space that will be taken up by the activity in the street, including space for the storage of plant/materials, activity space, safety zone, provision for pedestrians and traffic management. These dimensions can be provided in the form of text in the location field.

#### **8.6 Timing and Duration**

Each permit application must include the proposed start and end dates of the activity. The application must also include the times of the day when the activity is to be carried out and the applicant must also indicate if it is intended for the activity to continue over weekends and bank holidays and if night activities are required. For traffic sensitive streets, details of the times of day the activity is to be carried out must also be provided. This information can be provided on the application in the form of text, either in the conditions or activity description field.

#### **8.7 Illustration**

Provisional Advance Authorisation applications Major permit applications and any other activities that pose disruption as directed by permit authority must be accompanied by an illustration(s) of the activity and should include details of the activity, and the extent of highway occupancy. The illustration may comprise plans, sections, digital photographs and similar material. Illustrations must also be submitted with the application for minor activities located on a designated traffic sensitive street and streets of engineering difficulty.

#### **8.8 Techniques to be used for Underground Activities**

Details of the planned techniques, including open cut, trench share, minimum dig technique or no dig must be provided. This information may be included in textual form either in the activity description or in the form of a comment.

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### **8.9 Traffic Management and Traffic Regulation Orders**

The activity promoter must supply full details of the traffic management proposals, including any requirement for action by the local permit authority such as the need for Temporary Traffic Regulation Orders (TTROs) and approval for portable light signals. In the case of the suspension of a parking bay being required, the activity promoter should make an application to the Parking Manager.

Applicants should be aware that such applications may involve additional costs and activity promoters should familiarise themselves with the timescales and procedures relating to TTRO applications.

### **8.10 Depth**

Activity promoters must provide their best estimate of the excavation depth of the activity. This may be expressed as a range where appropriate. This information may be provided in the form of text, either in the activity description or in the form of a comment.

### **8.11 Reinstatement Type**

Permit applications must indicate whether the proposed activity is intended to be completed with interim or permanent reinstatement or a mixture of both.

Where the activity will be completed with a mixture of both interim and permanent reinstatement, the applicant must give details of where these methods will be used within the permit. These details can be provided in the form of text, either in the activity description or in the form of a comment.

Where the activity is completed with an interim reinstatement, a separate permit application will be required for the permanent reinstatement where this is to be undertaken outside the duration of the permit.

### **8.12 Inspection Units**

The activity promoter is required to indicate the provisional number of estimated inspection units appropriate to the activity in accordance with the rules laid down in the relevant code of Practice for Inspections (activity promoters should be mindful of 5.10 where collaborative activities take place).

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### **9 Permit Conditions**

#### **9.1 Condition Classes**

The Permit Scheme allows for the attaching of various conditions to permits including Mandatory, specific and activities for road purposes, conditions for immediate activities and local conditions. These conditions will reflect any constraints on the original application.

#### **9.2 Breaching of Conditions**

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to warn them of its intention and allow the situation to be discussed.

Where it appears to the permit authority that a condition has been breached and that the activity promoter or a person contracted to act on its behalf has therefore committed an offence, it will take action as described in 15.4.

#### **9.3 Mandatory Conditions**

- The unique permit reference number must be prominently displayed on the site information board for each set of activities. The permit reference Number should be in line with section 4.4.2 of the EToN Technical Specifications.
- If the activity promoter finds that the activity cannot be completed within the timeframe specified in the permit or permit condition, an application must be made for a permit variation (extension).

#### **9.4 Specific Conditions (To be applied where appropriate to the activity)**

##### **1. Timing and Duration of Activity**

- Where dates between the permit start and completion dates include dates when activities should not take place, the site may also have to be cleared of all plant, materials and equipment, including traffic management. For example: Public Events, Royal Visit, Remembrance Day etc.
- The times of the day when activities cannot be carried out.
- Whether or not the duration of the activity includes weekends and Bank Holidays.

##### **2. Road Space**

- Where materials and plant are to be stored on site, then reference should be made to this on any illustration supplied with the permit application.
- The width and/or length of road space that can be occupied – including allowing for signing, lighting and guarding – at any one time during the period of the works.
- The minimum road space that is available to all traffic, including pedestrians, at certain times of the day.
- In circumstances where it is clear that there is likely to be disruption which can be minimised by the removal of plant that has become unnecessary and/or by the removal of excavated material, the permit authority may impose a condition requiring swift removal of both plant and material, thereby reducing the area.

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### **3. Traffic Management Provisions**

- The need for Temporary Traffic Regulation Orders (road closures, waiting restrictions, etc.).
- Where a temporary traffic order is required, no activities are to commence until the order has been sealed and all signs and markings are in place.
- The method of traffic control (For example: Use of portable traffic signals in place of Stop/Go boards, Priority Traffic flow, etc.).
- Traffic management/carriageway restriction arrangements including arrangements for pedestrians and those with disabilities. The Carriageway Restriction Type value should identify the most severe traffic management type that will be used during the activity.

### **4. Methodology**

- The manner in which the specified activities are to be carried out and the methods to be used (i.e. no dig, trench share, etc.).
- Methodology for special material – the activity promoter will agree its method for dealing with the excavation and reinstatement.
- Relocation/Closure of bus stops.

### **5. Consultation and Publicity** (Major Activities and those Standard Activities where the disruption to residents and businesses on the street is considered to be significant).

- Advance notice of activity to be given to nearby householders and businesses and/or traffic and pedestrians using the road.
- The type and length of publicity in certain cases.
- Details of the activity are to be displayed at the location of the activity.

### **6. Environmental Issues**

- Where relevant, the activity promoters are to consult with the permit authority's arboricultural consultants and/or other environmental officials when drawing up their proposals.
- Activity promoters considering placing underground, above ground apparatus, are to consult with other utility companies with similar apparatus to see if the underground facility can be shared.
- The permit authority may also need to impose environmental-based conditions where there is concern about maintaining the site in a clean and tidy condition, including removal of any spillage of materials on the public highway, during and on completion of the activity. In such circumstances, a condition requiring action at the end of any activity period that the activity promoter must ensure that waste, whatever the source, must not be left on site, may be imposed. In addition, the condition may require the removal of all spray paint markings of underground apparatus.

#### **9.5 Conditions for Immediate Activities**

- Activity promoters of such activities must contact the permit authority by telephone immediately where the activity involves traffic control.
- The activity promoter shall submit an application for a permit within two hours of the activity starting.
- The Permit Authority may impose further conditions prior to the issue of a permit, where this becomes apparent. The imposition of such conditions will

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be in discussion with the activity promoter of the activity and will be included in the subsequent permit.

### **9.6 Conditions of Activities for Road Purposes**

- The highway authority is to consult with any person who has apparatus likely to be affected by the permit activity.
- The highway authority is to take all reasonably practicable steps to comply with any requirement made by that person which is reasonably necessary for the protection of the apparatus or for securing access to it.

### **9.7 Local Conditions**

- Where temporary traffic signals are to be used, the signals must be manned during traffic sensitive times as directed by the Permit Authority to control the tidal flow of traffic and minimise delays.
- The permit authority may request first time permanent reinstatement to be carried out where reasonably practicable and where it believes significant disruption can be avoided.
- Where it is considered to be necessary, the permit authority will apply other local conditions that are pertinent to the nature of the activity and the network constraints. The application of local conditions to specific permits will follow discussions with the activity promoter of the activity.
- To assist the permit authority with its Network Management Duty, it is important that the permit authority can provide the public with information on what to expect on the roads network at any time. Therefore it will be a condition on all permits that the activity promoter must inform the permit authority, and confirm in writing, where a permit is no longer required on a traffic sensitive route. The activity promoter must inform the permit authority by 10am on the day before the permit start date; unless the permit authority agrees that there are circumstances beyond your control, e.g. inclement weather.

### **9.8 Avoidance of Conflict with Other Legislation**

The permit authority will endeavour to ensure that any conditions applied to a permit do not conflict with the activity promoter's obligations under separate legislation. The activity promoter should bring such conflicts to the attention of the permit authority, who will then be responsible for resolving the issue with the other body and amending the permit conditions accordingly. If the activity promoter has safety concerns about conditions set by the permit authority, it should raise these concerns with the permit authority and, if necessary, challenge the permit condition.

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**10. Permit Applications**

**10.1 Timing of Applications**

The timing of applications for permits and PAAs and the permit authority's response varies according to the proposed activity. The minimum times are given in the table in 10.10 below and activity promoters should give as much notice as possible, so as to facilitate the co-ordination process. Where the activity is dependent on a Temporary Traffic Regulation Order, temporary traffic signal approval or the suspension of parking regulations, the relevant timescales should be taken into account and applicants are advised to submit their requests for TTROs and/or temporary traffic signal approval when applying for a PAA. The application process will begin when the permit authority receives the applications, as defined in the EToN Specifications, not when the permit was sent.

**10.2 Submitting an Application**

Permit and PAA applications should be made electronically, as set down in EToN, unless there is a failure in the electronic system or the activity promoter does not have access to electronic systems, in which case a paper application will be acceptable.

**10.3 System Failure**

In the event of a system failure, activity promoters shall adopt the EToN Technical Specification procedure:

Fixed Penalty Notices (FPNs), Section 74 charges and any other penalties that result due to system failures will be waived. However, activity promoters should inform the permit authority about system failures and get an agreement to avoid FPNs and Section 74 charges.

**10.4 Compliance with EToN**

All applications must comply with the definitive format and content given in the current EToN Technical Specification.

**10.5 Use of Plain English**

The description of activities must be in plain English, avoiding industry jargon, and preferably be agreed standard descriptions.



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**10.6 One Application Per Street**

Each application shall refer to activities in only one street. Where a project covers more than one street, all related applications must be cross-referenced and the project reference included on each application.

**10.7 Application Covering More Than One Street**

Single applications containing activities in more than one street will not be accepted by the permit authority.

**10.8 Notification to Interested Parties**

Where the ASD indicates other interested parties, permit applications shall be copied to those parties.

**10.9 Consultation Requirements**

Activity promoters must carry out necessary consultations as set down in sections 88, 89 and 93 (as amended) and sections 90 and 91 of the NRSWA.

**10.10 Application and Response Times**

The Permit Scheme sets down the application and response times for dealing with permit applications and permit variation applications electronically in the table below. In all cases given in the table, the time period is measured from the time of receipt of the application by the permit authority. A "response" means a decision to grant or refuse a permit, but where there are reasons why the permit cannot be granted in the terms applied for, the response indicating that a permit will not be granted in those terms will explain the reasons to the applicant.

The term "days" in the table below refer to working days as defined in NRSWA and the Regulations.

Without a prior telephone call, the minimum period to apply electronically for a permit variation (extension) before the permit expires is 2 days or 20% of the original duration.

Application and Response Times						
Activity Type	Minimum Application Period ahead of proposed start date		Minimum period before permit expires for application for variation (including extension)	Response times for issuing a permit or seeking further information or discussion		
	Application for Provisional Advance Authorisation (PAA)	Application of Permit		Application for Provisional Advance Authorisation (PAA)	Application of Permit	Response times for responding to variations
Major	3 Months	10 Days	2 days or 20% of the original duration, whichever is longest	1 Calendar Month	10 Days	2 Days
Standard	N/A	10 Days		N/A	10 Days	
Minor	N/A	3 Days		N/A	3 Days	
Immediate	N/A	Within 2 Hours		N/A	Within 2 Hours	

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### **10.11 Refusal of Application**

The permit authority reserves the right to refuse an application for a permit or PAA where it considers that elements of the permit application, e.g. timing, location or conditions, are not acceptable.

### **10.12 Restriction on Activities Due to Embargoes**

Where an activity promoter wishes to apply for a permit to carry out specified activities on a specified street where a notice has been issued under Sections 58 or 58A of NRSWA, and the activities are not covered by the specific exemptions of that notice, the activity promoter must make an application for the permit authority's consent specifying the grounds on which the consent is sought. If the consent is given, then the permit authority will provide an agreement reference number. This agreement reference number must be included in the specific field for agreement details with the permit application for the permit to be approved

### **10.13 Error Correction**

Where the permit authority identifies an error in data recorded, or submitted for recording, in the permit authority register, it will contact the activity promoter to discuss and agree the corrections to be made. Where the activity promoter identifies an error, they will contact the permit authority to discuss and agree the corrections to be made. If an error has been identified on an application, the activity promoter shall submit a permit variation request by the end of the next working day following the agreement of the correction. This permit variation request should include the corrected data and the reference number provided while agreeing the correction, it must also state the data elements that have been corrected. The error correction process is described in the ETON Technical Specification.

This procedure should not be used without the prior agreement of both parties. A variation fee will be payable where the identified error has been caused by the activity promoter and identified by the permit authority, although if the error has been identified by the activity promoter, there will be no charge for the permit variation.

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### **11 Issue of Permits**

#### **11.1 Timing of Permit Issue**

Where the permit authority is content that all aspects of the permit application meet the criteria of the scheme, it will issue a permit within the response times detailed in 10.10 above.

#### **11.2 Issue of Permit**

A permit will be issued electronically (and copied to Interested Parties) in accordance with the formats given in the Technical Specification for EToN, with the details placed on the permit register. The permit will reference in detail the activity it allows and its duration. In case of an EToN system failure, the permit authority will contact the activity promoter and agree an alternative method by which permit should be sent such as fax, email, post, etc.

#### **11.3 Inclusion of Conditions**

A permit granted notice will be issued to the activity promoter for every permit and will reference all of the conditions attached to the permit.

#### **11.4 Permit Unique Reference Number**

All permits will be given a unique reference number following the EToN numbering sequence. Where permits are issued for linked activities, the common project reference is used on all the related applications, therefore enabling them to be cross referenced.

#### **11.5 Remedial Activities**

In the event of remedial activities being required after the expiry of the permit, an application must be made for a new permit. This application should be submitted using the original activity reference, and as a result the permit will be cross referenced to the permit for the original activity.

#### **11.6 Notification of Refusal**

If, having considered an application for a permit or PAA, the permit authority decides to refuse the application; it will contact the activity promoter within the response time given in 10.10 above to explain why the application is unsatisfactory and where amendments need to be made.

#### **11.7 Amendment to the Original Application**

Where the permit authority discusses its intention with the activity promoter to impose further conditions, which effectively amend the details of the original application, the activity promoter shall amend and resubmit a revised application. There will be no charge if instigated by the permit authority.

#### **11.8 Right of Appeal**

The activity promoter has a right of appeal, in accordance with the dispute resolution process set down in the Code of Practice for Permits, should it not be possible to reach a satisfactory resolution in discussions with the permit authority. There may be cases where an immediate activity has to stop, subject to safety and legal considerations, until the issues are resolved.

#### **11.9 Permit Application Deemed to be Approved**

If the permit authority fails to reply to an application for a permit or PAA within the designated response times, the permit or PAA is deemed to be granted in the terms of the

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application. The proposed start and end dates, description, location, duration, traffic management, etc. will be included in the permit and associated conditions for the activity and will then be binding on the activity promoter in the same manner as if the permit had been granted within the timescale. Breaching the conditions will constitute an offence. In cases of deemed permits, no fee will be applicable.

### **12 Reviews, Variation and Revocation of Permits and Permit Conditions**

#### **12.1 Permit Authority Powers**

Within the Permit Scheme, the permit authority has the power, under Regulation 15 of the Regulations, to review, vary or revoke permits and permit conditions on its own or an activity promoter's initiative. However, the permit authority is under no obligation to let activities run beyond the permitted period.

#### **12.2 Changes to a Provisional Advance Authorisation**

A PAA cannot be varied. Where a PAA has been given though a full permit has not been issued and the proposals change, the activity promoter must inform the permit authority immediately of the proposed changes and a revised application for a PAA should be made.

#### **12.3 Avoidance of Criminal Offence**

Permit variations should be sought as soon as changes are identified to avoid a criminal offence being committed by activities being undertaken without a permit or outside of the conditions associated with that permit.

#### **12.4 Timing of Permit Variations**

Applications for permit variations may be made at any time after the permit has been issued and before or during the activity itself. Applications must not be made after the end date has passed (no variation for an extension after the end date is allowed). If the actual dates of operation or details of the activities carried out are incorrect, they must be amended and this could therefore be done after the permit end date, so that the register is accurate.

#### **12.5 Electronic Application for a Variation**

Where the existing permit has more than 20% of its duration or more than two activity days to run, whichever is the longer, the activity promoter shall apply for a variation electronically.

#### **12.6 Telephone Application for a Variation**

Where the criteria in 12.5 are not met, the activity promoter shall first telephone the permit authority to ascertain whether the permit authority is prepared to grant a variation and only then apply, again electronically, if the permit authority has agreed.

#### **12.7 Variations for Immediate Activities**

In the event of immediate activities requiring a series of fault-finding excavations or openings, the following procedure shall apply where it is necessary to undertake activities beyond the initial excavation or opening that was indicated in the first permit application. For immediate activities, the activity promoter will submit the first permit application within two hours of starting the activity. That first permit application will contain the location of the initial excavation or opening:

For any further excavations or openings on the same street within 50 metres of the original excavation or opening, the activity promoter will telephone the permit authority with the new location. No permit variation will be needed and no variation charge will apply.

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- i. The activity promoter will telephone the permit authority to apply for a permit variation for the first excavation in each subsequent 50 metre band away from the original excavation or opening in the same street, i.e. 50-100 metres, 100-150 metres, etc. Standard permit variation charges will apply.
- ii. If the search carries into a different street or a new USRN (including if the street changes to a different street/permit authority), then a separate permit application or notice will be required.
- iii. If the activity promoter cannot contact the permit authority by telephone, it should record the fact and send the message electronically by means of a comment. Conditions for these activities may be varied to take into account the fact that a new location, even within the permitted bands, may be more disruptive.

### **12.8 Information Required for Permit Variation Application**

Applications for permit variations must contain the following information as applicable:

- i. The revised timescale.
- ii. Any change to the description of the activity.
- iii. A revised illustration.
- iv. Any change to the method of excavation.
- v. Any variation to the depth of the excavation.
- vi. Any changes to the reinstatement method.
- vii. Any changes to the conditions, if applicable.

### **12.9 Review of Permit by Permit Authority Due to Circumstances Beyond its Control**

The permit authority may review the permit and associated conditions in the event of circumstances beyond its control having a significant disruptive effect at the location of the activity. The permit authority's policy regarding the circumstances in which it will review, vary or revoke permits on its own initiative is given in Appendix D. No fee will apply for permit variations initiated by the permit authority unless, at the same time, the activity promoter applies for permit variations which are not the result of the circumstances causing the permit authority's action.

### **12.10 Review of Permit Due to Non-Compliance by the Activity Promoter**

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may issue a FPN or revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to inform them of its intention and initiate a discussion.

### **12.11 Waiving of Fees**

If the permit authority has to revoke a permit through no fault of the activity promoter, no fee will be chargeable for a new permit.

### **12.12 Continuation of an Activity when a Permit has been Revoked**

An activity promoter will be committing an offence if it continues an activity when a permit has been revoked.

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**13 Cancellation of a Permit**

**13.1 Cancellation Process**

If an activity promoter wishes to cancel a permit for which it has no further use, or withdraw a permit application that has been submitted, for which a permit has not yet been granted, it should use the cancellation process containing the relevant activity/works reference – see EToN Technical Specification. There is no fee payable for this process.

**13.2 Continuing an Activity following Cancellation of a Permit**

An activity promoter will be committing an offence if it continues an activity when a permit has been cancelled.

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### **14 Fees**

#### **14.1 Permit Authority's Power to Charge Fees**

To meet the costs of introducing and operating the Permit Scheme, Regulation 30 gives the permit authority the power to charge a fee in respect of the following:

- i. The application for a PAA;
- ii. The granting of a permit;
- iii. Each occasion where there is a permit variation or the conditions attached;
- iv. Where a permit variation would move an activity into a higher permit category, the activity promoter will be required to pay the difference between the permit categories as well as the permit variation fee.

#### **14.2 Fee Policy**

The permit authority will charge undertakers for the above actions.

#### **14.3 Where Fees will Not be Payable**

Fees will not be payable in the following circumstances:

- i. By the highway authority in respect of its own activities for road purposes, although records of all permits issued and the fees that could have been charged will be kept in order to assist in the review of fees, referred to in 14.7 below;
- ii. Where a permit is deemed to be granted because the permit authority failed to respond to an application within the time set down in 10.10;
- iii. If a permit variation is initiated by the permit authority or the permit authority has to revoke a permit through no fault of the activity promoter;
- iv. Where the activity promoter has sent a cancellation before the permit has been approved by the permit authority.

#### **14.4 Fee Discounts**

Fee discounts will be given in the following circumstances:

- i. Where there are several permit applications for activities that are part of the same project, although are carried out on more than one street;
- ii. Where several activity promoters undertaking activities within the same location, submit applications together. Where the highway authority activity promoter is collaborating with undertakers, those undertakers will be eligible for the discount.

#### **14.5 Rate of Discount**

A discount of 30% will be applied for i and ii above.

#### **14.6 Option to Waive or Reduce Fees**

The permit authority retains the option to waive or reduce fees at its discretion in certain circumstances.

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**14.7 Review of Fees**

The permit authority will review its level of fees annually to ensure that the overall fee income does not exceed the allowable costs. The outcome of the annual fee reviews will be published and open to public scrutiny.

**14.8 Approved Level of Fees**

The current approved level of fees is included in the order made by the Secretary of State for the permit authority to operate the Permit Scheme (see Appendix B).

**14.9 Processing of Fees**

Monthly invoices will be issued to each activity promoter, with all permits referenced.



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### **15 Sanctions**

#### **15.1 Permit Authority's Policy**

Appendix D sets down the permit authority's policy of how it will employ sanctions and this policy should be read in conjunction with this section.

#### **15.2 Undertaking Activities Without a Permit**

It is a criminal offence for a statutory undertaker or a person contracted to act on its behalf to undertake specified activities in a specified street in the absence of a permit, except as set down in 5.2 above.

#### **15.3 Breaching a Permit Condition**

It is a criminal offence for a statutory undertaker or a person contracted to act on its behalf to breach a permit condition.

#### **15.4 Action by Permit Authority**

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to inform them of its intention and initiate a verbal discussion followed by electronic communication.

Where a statutory undertaker or a person contracted to act on its behalf undertakes an activity without a permit, where a permit is required, or breaches a permit condition, the permit authority may take one or more of the following actions depending on the seriousness and persistence of the offence(s):

- i. Serve a notice requiring the statutory undertaker to take such reasonable steps as detailed in the notice to remedy the situation within a specified timescale;
- ii. Where a statutory undertaker fails to comply with the requirements of such a notice within the timescale, the permit authority may undertake the specified steps and recover the costs that are reasonably incurred, from the statutory undertaker;
- iii. Issue a Fixed Penalty Notice (FPN) against the statutory undertaker;
- iv. Prosecute the statutory undertaker.

#### **15.5 Fixed Penalty Notices**

Regulations 21 to 28 (and Schedules 1 and 2) authorise permit authorities to issue Fixed Penalty Notices (FPNs) in respect of criminal offences. Fixed Penalty Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.

A FPN may not be given more than 91 calendar days after the offence, beginning with the day on which the offence is committed. This is the maximum period allowed, although to improve co-ordination the permit authority will, once it is decided that a FPN is to be given, do so as soon as possible. The penalty amount is £500 for carrying out an activity without a permit, although a discounted amount is £300 if payment is received within 29 calendar days. For carrying out an activity in breach of a permit condition, the penalty is £120 and the discounted amount is £80 if payment is received within 29 calendar days, FPNs MUST be in the form set out in Schedule 1 to the Regulations (and in Chapter 18 of the Code of Practice for Permits).

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A FPN shall identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence. It must also state:

- i. the amount of the penalty and the period within which it may be paid;
- ii. the discounted amount payable in accordance with Regulation 25 and the period within which it may be paid;
- iii. the person to whom and the address at which payment may be made;
- iv. the method or methods by which payment may be made;
- v. the person to whom and the address at which any representations relating to the notice may be addressed; and
- vi. the consequences of not making a payment within the period for payment.

The person specified under (iii) shall be the permit authority or a person contracted to act on its behalf. FPNs will be served electronically where possible, but other means of giving the fixed penalty notice are permitted.

If an undertaker wishes to receive FPNs by electronic means, it must tell the permit authority which method (e.g. EToN, email or fax) and provide details of the EToN web service URL, email address or fax number to be used as appropriate. Where an address for service using a particular method for transmitting an electronic communication has been given for receipt of FPNs and the permit authority has not been notified that the address is withdrawn, then a FPN must be given by sending to that electronic address.

In all other circumstances, including system failures or if the permit authority has tried and failed to use electronic means, the fixed penalty may be given by alternative methods such as:

- i. delivering it to the person to whom it is to be given;
- ii. leaving it at the proper address;
- iii. sending it by first class post to their address; or
- iv. by any other agreed means.

Section 98 (2) of NRSWA provides that a notice given after 16:30 on a working day is deemed to have been given on the next working day. The Technical Specification for EToN includes a non-mandatory message type for sending a FPN using EToN.

#### **15.6 Withdrawal of an FPN**

In accordance with Regulation 27, if the permit authority considers that a FPN which has been given ought not to have been given, it shall give to the person to whom that notice was given, a notice withdrawing the FPN. The notice shall be in the form set out in Schedule 2 of the Regulations the permit authority in such circumstances will repay any amount which has been paid by way of a penalty in pursuance of the Fixed Penalty Notice. The permit 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.

#### **15.7 Non Payment of FPN**

If the undertaker pays either the full penalty or the discounted amount within the required period, then no further proceedings can be taken against that undertaker for that offence. If

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the undertaker does not pay the penalty within the 36 days, then the authority may bring proceedings in the Magistrates' Court for the original offence.

Legal action must be taken before the expiry of the six months deadline from the date of the offence for bringing a case before the Magistrates' Court (Section 127 of The Magistrates' Courts Act 1980). This is the case even if the FPN was not given for sometime after the offence was committed. In circumstances where a Fixed Penalty Notice has been issued in relation to an offence, although the permit authority subsequently forms the view that it would be more appropriate to prosecute the offender, the permit authority must withdraw the notice under Regulation 27 before bringing the proceedings.

#### **15.8 Application of Money by the Permit Authority**

The permit authority recognises that the FPN scheme is NOT intended to be an additional source of income for authorities, although some income may be generated incidentally. The objective of the FPN scheme is to enable permit authorities to manage and control activities better on the street and thereby contribute to the overall aim of the TMA, which is to minimise disruption from street activities, and will be operated with that in mind, the permit authority should therefore not expect any net proceeds emerging from this Permit Scheme.

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### **16 Registers**

#### **16.1 Register of Permits**

The Permit Scheme requires each permit authority to maintain a register of each street covered by their Permit Scheme. The register should contain information about all registerable activities on those streets and forward planning information about activities and other events, which could potentially affect users of the streets.

Permit authorities will still need a register under section 53 of NRSWA for street information. This will cover those streets that are not part of the Permit Scheme, including non-maintainable streets. A local register will be maintained by each of the street authorities for its own geographic area. It will include information on all streets other than those streets that are the responsibility of another authority. The Permit Authority will maintain a register of permits in connection with the Permit Scheme and in accordance with Regulation 33 and 34, Part 7 of the Regulations.

#### **16.2 Referencing of Information**

All information held in the register of permits will be referenced to the USRN and the permit register will be Geographic Information System (GIS) based.

#### **16.3 Content of Register**

The permit register must record:

- copies of all Provisional Advance Authorisation, permit and permit variation applications submitted to the permit authority relating to registerable activities in any street;
- copies of all permits and Provisional Advance Authorisations given by the authority, including conditions attached as well as all variations to permits and conditions including any permits "deemed" granted (see 11.9);
- copies of all revoked permits, refused Provisional Advance Authorisations and refused permits, together with the reasons for such refusals;
- copies of all notices, consents and directions served by a street authority under section 58 or 58A of NRSWA;
- copies of all notices served by a promoter under sections 58 and 58A of NRSWA;
- copies of all notices given under section 74 of NRSWA;
- description and location of activities for which plans and sections have been submitted under Schedule 4 of NRSWA (streets with special engineering difficulties);
- particulars of notices given by any relevant authority under Schedule 4 of NRSWA;
- particulars of street works licences under section 50 of NRSWA, including details of conditions and changes of ownership and of any NRSWA notices or directions associated with those licenses;
- information under section 70(3) and (4A) of NRSWA as to completion of reinstatements;
- particulars of apparatus notified to the street authority under section 80(2) of NRSWA;
- every notice of works pursuant to section 85(2) of NRSWA;
- details of every street for which the local highway authority are the street authority;
- details of every street which is a prospectively maintainable highway over which a permit scheme would operate;

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- details of every street over which a Permit Scheme would operate, of which the local authority is aware, which is a highway but for which it is not the highway authority;
- details of every street which is a) a protected street; b) a street with special engineering difficulties; c) a traffic sensitive street.

Authorities should ensure that their register also includes the following items, which are contained within the ASD:

- the road category of each street;
- details of every street where early notification of immediate activities is required.

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**17 Monitoring**

**17.1 Monitoring and Evaluating the Permit Scheme**

The permit authority will establish an internal monitoring group, which includes the Traffic Manager to monitor and evaluate the Permit Scheme to ensure that it demonstrates parity of treatment for all activity promoters, particularly between statutory undertakers and the highway authority's own activity promoters.

**17.2 Use of Key Performance Indicators**

Equality will be measured through Key Performance Indicators (KPIs). The following KPIs will be used to measure parity. KPI1 and KPI2 are the mandatory ones; KPI3 and KPI7 are the additional ones that will be measured.

1. KPI1 - The number of permits and permit variation applications received, the number granted and the number refused.
2. KPI2 - The number of conditions applied by condition type.
3. KPI3 - The number of approved permit variations (extensions).
4. KPI7 - The number of inspections carried out to monitor conditions.

Further KPI's may be introduced depending upon national guidance.

**17.3 Presentation of KPIs to co-ordination meetings**

The KPIs will be discussed at the regular activity promoter meetings as appropriate. In addition, the KPIs will be made available to any other person on request or the authority may wish to publish them on their website.

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**Appendix A**

Glossary of terms used in the Permit Scheme

Activity	Any works undertaken by Statutory Undertakers and the Highway Authority and any other works that may be covered in future regulations
Activity Promoter	See promoter
Additional Street Data	Additional Street Data (ASD) refers to other information about streets held on the NSG concessionaire's website alongside the NSG
Apparatus	As defined in Section 105(1) of NRSWA, "apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus"
Appeal	If there is an unresolved disagreement between the activity promoter and the Permit Authority about the terms and conditions of the permit or FAA, the promoter may appeal against the Permit Authority's decision
Bank holiday	As defined in Section 99(3) of NRSWA, "bank holiday means a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated"
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street)
Bridge	Section 88(1)(a) of NRSWA, "references to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street"
Bridge Authority	As defined in Section 88(1)(b) of NRSWA, "bridge authority means the authority, body or person in whom a bridge is vested"
Carriageway	As defined in Section 329 of the HA 1990, "carriageway means a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles"
Code of Practice for Permits	As published by the Department for Transport, March 2008
Collaborative Working	Includes trench sharing, multi-utility working, utility/works for road purposes and compliance testing
Cycle track	As defined in Section 329 of the HA 1990, "cycle track means a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way; that is to say, a right of way on pedal cycles with or without a right of way on foot"
Day	A working day, unless explicitly stated otherwise

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Emergency Works	As defined in Section 52 of NRSWA, "emergency works means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property"
EToN	Electronic Transfer of Notices, the system defined in the Technical Specification for EToN for passing notices. Permit applications, permits and other information between promoters and the Permit Authority
Excavation	"Breaking up" (as defined above)
Fixed Penalty Notice	As defined in Schedule 4B of NRSWA, "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"
Footway	As defined in Section 329 of the HA 1980, "footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only"
Geographical Information System (GIS)	A computer system for capturing, storing, checking, integrating, manipulating, analysing and displaying data related to positions on the Earth's surface
HA 1980	The Highways Act 1980
Highway	As defined in Section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway"
Highway Authority	As defined in Sections 1 and 329 of the HA 1980
Highway Works	"Works for road purposes" or "major highway works"
Immediate Activities	As stated in Section 9.2.4, immediate activities are either emergency works as defined in Section 52 of NRSWA or urgent works as defined in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007
Local Authority	As defined in Section 270(1) of the Local Government Act 1972(a) and includes the Common Council of the City of London
Local Highway Authority	As defined in Section 329 of the HA 1980, "local highway authority means a highway authority other than the Minister"
Main roads	All streets in Reinstatement Categories 0, 1 and 2 and those streets in Categories 3 and 4 which are Traffic Sensitive for all or part of the time



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Maintainable highway	As defined in Section 329 of the HA 1980, a "highway maintainable at the public expense means a highway which by virtue of Section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense"
Maintenance	As defined in Section 329 of the HA 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly"
Major activities	As stated in Section 9.2.1, major activities are activities which have been identified in a promoter's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the activity; or activities, other than immediate activities, where (i) the authority has indicated to the promoter, or (ii) the promoter considers that an order under Section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads) is required; or activities, other than immediate activities, which have a planned duration of 11 days or more"
Major highway works	As defined in Section 86(3) of NRSWA, "major highway works means works of any of the following descriptions executed by the Highway Authority in relation to a highway which consists of or includes a carriageway - (a) a reconstruction or widening of the highway; (b) works carried out in exercise of the powers conferred by Section 64 of the Highways Act 1980 (dual carriageways and roundabouts); (c) substantial alteration of the level of the highway; (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway; (e) the construction or removal of a road hump within the meaning of Section 90F of the Highways Act 1980; (f) works carried out in exercise of the powers conferred by Section 184 of the Highways Act 1980 (vehicle crossings over footways and verges); (g) provision of a cattle-grid in the highway or works ancillary thereto; or (h) tunnelling or boring under the highway"
Minor activities	As stated in Section 9.2.3, minor activities are those activities other than immediate activities where the planned duration is 3 days or less
Minor roads	Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time
Nationally Consistent Street Gazetteer (NSG)	A database defined as an "index of streets and their geographical locations created and maintained by the local highway authorities" based on BS7666 standard
NRSWA	New Roads and Street Works Act 1991

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NSG Concessionaire	The body appointed to manage the NSG on behalf of the local highway authorities
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any 'breaking up' of the street
Permit	The approval of a Permit Authority for an Activity Promoter to carry out activity in the highway subject to conditions
Permit Application	(See Section 10) the application that is made by a promoter to the Authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (Section 55 of NRSWA) given under the co-ordination regime
Permit Application	(See Section 10) the application that is made by a promoter to the Authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (Section 55 of NRSWA) given under the co-ordination regime
Permit Authority	See Section 1.4. A Local Authority or other "Street Authority" which has been given approval by the Secretary of State to operate a permit scheme on all or some of its road network
Permit Scheme	See Section 1. A scheme approved by the Secretary of State under which permits for activities are sought and given
Promoter	A person or organisation responsible for commissioning activities in the streets covered by the Permit Scheme. The promoter will usually be a Statutory Undertaker or the Highway or Traffic Authority
Protected Street	See Section 1.6. Any street that serves a specific strategic major traffic need and therefore needs to be protected from unnecessary excavation and works, and providing there is a reasonable alternative route in which undertakers can place the equipment that would otherwise lawfully have been placed in the protected street
Provisional Advance Authorisation	See Section 6.2. The early approval of activities in the highway, equivalent to the highway, equivalent to the advance notice given under Section 54 of NRSWA
Registerable	See Section 1.6. Registerable activities correspond to specified works in the regulations
Reinstatement	As defined in Section 105(1) of NRSWA, "reinstatement includes making good"
Relevant Authority	As defined in Section 49(6) of NRSWA, "references in this Part to the relevant authorities in relation to any works in a street are to the street authority and also (a) where the works include the breaking up or opening of a public sewer in the street, the sewer authority; (b) where the street is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, that authority; and (c) where in any other case the street is carried or crossed by a bridge, the bridge authority"

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Remedial work	Remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and Regulations
Road	See "highway"
Road works	Works for road purposes
Special Engineering Difficulties (SED)	See Section 1.6. By virtue of Section 63 of NRSWA, the term 'Special Engineering Difficulties' relates to streets or, more commonly, parts of streets associated with structures, or streets of extraordinary construction where street works must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure with attendant danger to person or property
Specified Area	That geographical area to which the Permit Scheme applies
Specified Street	Those streets to which the Permit Scheme applies
Standard Activities	Standard activities are those activities, other than immediate activities, that have a planned duration of between 4 and 10 days inclusive
Statutory Undertaker	A person entitled by virtue of a statutory right to carry out street works
Street	As defined in Section 49(1) of NRSWA, "street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare (a) any highway; road, lane, footway, alley or passage; (b) any square or court; (c) any land laid out as a way whether it is, for the time being, formed as a way or not"
Street Authority	As defined in Section 49(1) of NRSWA, "the street authority in relation to a street means, subject to the following provisions (a) if the street is a maintainable highway, the highway authority; and (b) if the street is not a maintainable highway, the street managers"
Street Works	As defined in Section 49(3) of NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street)"

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Street Works Licence	As stated in Section 50(1) of NRSWA, "the street authority may grant a licence (a "street works licence") permitting a person (a) to place, or to retain, apparatus in the street, and (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street)"
TMA	The Traffic Management Act 2004
Traffic	As defined in Section 105(1) of NRSWA, "traffic includes pedestrians and animals"
Traffic Control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works"
Traffic regulation order	This means an order made under Section 1, 6 or 9 of the Road Traffic Regulation Act 1984
Traffic Sensitive Street	See Section 1.6. This means a street designated by a Street Authority as Traffic Sensitive pursuant to Section 64 of NRSWA and, in a case where a limited designation is made pursuant to Section 64(3), any reference to works in a Traffic Sensitive Street shall be construed as a reference to works to be executed at the times and dates specified in such designation
Transport Authority	As defined in Section 91(1)(a) of NRSWA, "transport authority means the authority, body or person having the control or management of a transport undertaking"
Trunk road	As defined in Section 329 of the HA 1980, "trunk road means a highway, or a proposed highway, which is a trunk road by virtue of Section 10(1) or Section 19 above or by virtue of an order or direction under Section 10 above or under any other enactment"
Undertaker	As defined in Section 49(4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be"
Unique Street Reference Number (USRN)	As defined in the British Standard BS7666

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Urgent Activities	Urgent activities are (a) activities (not being emergency activities) whose execution at the time they are executed is required (or which the person responsible for the activity believes on reasonable grounds to be required) (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker; (ii) to avoid substantial loss to the undertaker in relation to an existing service; or (iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and (b) Includes activity that cannot reasonably be severed from such activities
Working Day	As defined in Section 99(2) of NRSWA, "for the purposes of this part, a working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and a notice given after 4.30pm on a working day shall be treated as given on the next working day"
Works	Street works or works for road purposes
Works for Road Purposes	As defined in Section 86(2) of NRSWA, "works for road purposes means works of any of the following descriptions executed in relation to a highway: (a) works for the maintenance of the highway; (b) any works under powers conferred by Part V of the Highways Act 1980 (improvement); (c) the erection, maintenance, alteration or removal of traffic signs on or near the highway; or (d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles"

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**Appendix B**

**St. Helens Borough Council Permits Fee Matrix**

	Category 0,1,2 & TS						Category 3 & 4 non TS					
	Major PAA	Major	Standard	Minor	Immediate	Permit Variation	Major PAA	Major	Standard	Minor	Immediate	Permit Variation
Maximum DfT Charges	£105.00	£240.00	£130.00	£65.00	£60.00	£45.00	£75.00	£150.00	£75.00	£45.00	£40.00	£35.00
St Helens Permit Charges	£103.00	£208.00	£122.00	£61.00	£57.00	£45.00	£63.00	£108.00	£63.00	£31.00	£28.00	£35.00

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### **Appendix C**

#### **Policy Statement – Circumstances in which the Permit Authority will review, vary or revoke permits on its own initiative**

Once a permit has been issued, the activity promoter should have reasonable confidence that the road space will be available for them. However, circumstances beyond the permit authority's control may occur which may cause the permit authority to review the permit and, as a result, may lead to the conclusion that the permit or its conditions need to be varied or revoked.

The permit authority's policy is to avoid making such variations other than in exceptional circumstances which could not reasonably have been predicted or where the impact is significant. Such events may include floods and other adverse weather conditions, burst mains, dangerous buildings, etc., which may result in traffic being diverted onto the road where the activity was underway or about to start.

If the consequent disruption of such events cannot be mitigated in a way other than by varying or revoking the permit, the permit authority will adopt the following procedure:

- i. As soon as the permit authority is aware that it may be necessary to vary or revoke a permit, it will contact the activity promoter to discuss the best way of dealing with the situation.
- ii. If these discussions lead to an acceptable solution for both the permit authority and the activity promoter, the activity promoter will apply for a permit variation from which the permit authority will grant the new permit. Failing that, the permit authority will issue an "Authority Imposed Variation".
- iii. In the event that agreement cannot be reached, and the permit authority believes the terms to be reasonable, then the activity promoter would have the option of invoking the dispute resolution procedure.
- iv. No fee will be charged for permit variations or the revoking of a permit where it is initiated by the permit authority unless, at the same time, the activity promoter seeks additional permit variations.

The above policy does not restrict the permit authority from revoking a permit if the activity promoter is considered to be acting unreasonably and causing unnecessary disruption to the flow of traffic or pedestrians.

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**Appendix D**

**Policy Statement – Employment of Sanctions**

Failure to obtain a permit, where one is required to undertake specified activities in a specified street/USRN, or to commit a breach of a permit condition, constitutes a criminal offence under the Regulations. The permit authority is empowered to employ three courses of action to achieve compliance with the Permit Scheme.

Before resorting to these courses of action, the permit authority will always endeavour to resolve problems and achieve the necessary compliance within the Permit Scheme by informal negotiation with the activity promoter concerned.

Where it is not possible to informally resolve the situation with the activity promoter, the permit authority will initially serve a notice on the activity promoter, in respect of the non-compliance, setting down the action that is to be taken within a set timescale. Failure of the activity promoter to positively respond to such a notice may result in the permit authority carrying out the required action and recovering all reasonably incurred costs from the activity promoter.

As a last resort, and dependent on the seriousness and persistence of the offence, the permit authority may either issue a Fixed Penalty Notice or commence legal proceedings against the activity promoter.



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## Appendix E

### Street Listing

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An electronic copy of the current street listing is available on request. Please email [Streetworks@sthelens.gov.uk](mailto:Streetworks@sthelens.gov.uk)

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order gives effect to the St Helens Borough Council Permit Scheme.

The St Helens Borough Council Permit Scheme is designed to control the carrying out of works in specified streets in St Helens by imposing an obligation to obtain a permit from St Helens Borough Council before undertaking the works.

*Article 3* gives effect to the permit scheme, which will come into effect on 10th April 2012. The permit scheme referred to in this article is set out in the Schedule to the Order.

*Article 4* applies Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (which makes provision for the disapplication and modification of enactments in relation to specified works in specified streets) to the specified works and specified streets within the St Helens Borough Council Permit Scheme.

A copy of the St Helens Borough Council Permit Scheme is deposited and can be inspected at the offices of the St Helens Borough Council, Environmental Protection Department, Engineering, 4th Floor, Wesley House, St Helens, WA10 1HF and is available to inspect on the Council's website <http://www.sthelens.gov.uk>.