
STATUTORY INSTRUMENTS

2022 No. 549

**The M25 Junction 10/A3 Wisley Interchange
Development Consent Order 2022**

**PART 3
STREETS**

Application of the 1991 Act

11.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(1) (dual carriageways and roundabouts) of the 1980 Act or section 184(2) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act (whether modified or not by the permit scheme) do not apply in relation to any works executed under the powers of this Order—

- section 56(3) (power to give directions as to timing of street works);
- section 56A(4) (power to give directions as to placing of apparatus);
- section 58(5) (restrictions on works following substantial road works);
- section 58A(6) (restriction on works following substantial street works);
- section 73A(7) (power to require undertaker to re-surface street);
- section 73B(8) (power to specify timing etc. of re-surfacing);

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- (1) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the 1991 Act.
 - (2) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Schedule 8 and Schedule 9 to, the 1991 Act.
 - (3) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
 - (4) Section 56A was inserted by section 44 of the Traffic Management Act 2004.
 - (5) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004.
 - (6) Section 58A was inserted by section 52(1) of the Traffic Management Act 2004.
 - (7) Section 73A was inserted by section 55(1) of the Traffic Management Act 2004.
 - (8) Section 73B was inserted by section 55(1) of the Traffic Management Act 2004.

section 73C**(9)** (materials, workmanship and standard of re-surfacing);
 section 78A**(10)** (contributions to costs of re-surfacing by undertaker); and
 Schedule 3A**(11)** (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 14 (temporary closure and restriction of use of streets), whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act**(12)** referred to in paragraph (4) are—
 section 54**(13)** (advance notice of certain works), subject to paragraph (6);
 section 55**(14)** (notice of starting date of works), subject to paragraph (6);
 section 57**(15)** (notice of emergency works);
 section 59**(16)** (general duty of street authority to co-ordinate works);
 section 60 (general duty of undertakers to co-operate);
 section 68 (facilities to be afforded to street authority);
 section 69 (works likely to affect other apparatus in the street);
 section 75 (inspection fees);
 section 76 (liability for cost of temporary traffic regulation); and
 section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 12 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act, and the undertaker is not by reason of any duty under that article to maintain a street, to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act, as respects which the provisions of Part 3 of the 1991 Act apply.

(8) Subject to paragraph (3), the permit scheme applies to the construction and maintenance of the authorised development and will be used by the undertaker in connection with the exercise of any powers conferred by this Part.

(9) For the purposes of this Order a permit may not be granted under the permit scheme subject to conditions where compliance with those conditions would constitute a breach of this Order or where

(9) Section 73C was inserted by section 55(1) of the Traffic Management Act 2004.

(10) Section 78A was inserted by section 57(1) of the Traffic Management Act 2004.

(11) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.

(12) Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.

(13) Section 54 was also amended by section 49(1) of the Traffic Management Act 2004.

(14) Section 55 was also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.

(15) Section 57 was also amended by section 52(3) of the Traffic Management Act 2004.

(16) Section 59 was amended by section 42 of the Traffic Management Act 2004.

the undertaker would be unable to comply with those conditions pursuant to the powers conferred by this Order.

(10) Any difference arising between the undertaker and Surrey County Council under the permit scheme will be referred to the appeals procedure under section 7.2 of the permit scheme.

(11) Where agreement cannot be reached under sub-paragraph (10) the undertaker and Surrey County Council may refer the dispute to independent adjudication under section 7.3 of the permit scheme or where this is not agreed, the dispute will be resolved by arbitration under article 48 (arbitration).

(12) Any order which may be made by the Secretary of State under section 74A(2)(17) of the 1991 Act designating Surrey County Council as an approved authority for the purposes of the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012(18) will not have effect in relation to works carried out by the undertaker as part of the construction or maintenance of the authorised development.

(17) Section 74A was inserted by section 255(1) of the Transport Act 2000 (c. 38) and amended by section 1(6) of and paragraphs 113 and 120(1) and (2) of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(18) S.I. 2012/425.