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WELSH STATUTORY INSTRUMENTS

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**2008 No. 102**

**The Street Works (Fixed Penalty) (Wales) Regulations 2008**

**Title, commencement and application**

1. The title of these Regulations is the Street Works (Fixed Penalty) (Wales) Regulations 2008. They come into force on 12th May 2008 and apply in relation to Wales.

**Interpretation**

2. In these Regulations—

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

“address”, in relation to a particular method for transmitting an electronic communication, means any number or address used for the purposes of such method of transmission;

“electronic communication” has the meaning given in section 15(1) of the Electronic Communications Act 2000(1); and

“offence” means a fixed penalty offence.

**Exceptions**

3. Section 95A(1) of, and Schedule 4A to, the 1991 Act (fixed penalty offences under Part 3) do not apply to a street which is not a maintainable highway.

**Form of fixed penalty notice**

4. A fixed penalty notice must be in the form set out in Schedule 1.

**Manner of service of a fixed penalty notice or a notice withdrawing a fixed penalty notice**

5.—(1) Subject to paragraphs (5) and (7), where a person—

(a) has provided a street authority with an address for service on him or her of any notice under Schedule 4B to the 1991 Act (fixed penalties for certain offences under Part 3) by using a particular method for transmitting an electronic communication; and

(b) has not notified the authority that the address is withdrawn for that purpose,

such notice must be given by sending it to him or her at that address by that method, in accordance with the condition set out in paragraph (3).

(2) In any other case, a notice under that Schedule must be given by—

(a) sending it by first class post to the person to whom it is to be given at his or her proper address;

(b) delivering it to him or her;

(c) leaving it at his or her proper address; or

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(1) 2000 c. 7. Section 15(1) was amended by the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 158.

- (d) any other means agreed with him or her.
- (3) The condition referred to in paragraph (1) is that the notice must be—
- (a) capable of being accessed by the person to whom it is being sent;
  - (b) legible in all material respects; and
  - (c) in a form which permits the notice to be retained for subsequent reference,
- and for this purpose “legible in all material respects” means that the information contained in the notice is available to that person to no lesser extent than it would be if given by means of a notice in printed form.
- (4) Subject to section 98(2) of the 1991 Act (reckoning of periods), where an electronic communication is used for the purpose of serving a notice under Schedule 4B to that Act, then, unless the contrary is proved, the notice will be deemed to be given on the day and at the time recorded by the transmitting apparatus as being the day and time of satisfactory completion of the transmission.
- (5) Where, after three attempts (duly recorded by the person serving the notice) to effect service by using one particular method for transmitting an electronic communication, service cannot be effected, the notice may be given by serving it upon the person to whom it is to be given by any other such method for which an address is available by virtue of paragraph (1) or by any of the other means referred to in paragraph (2).
- (6) Subject to paragraph (7), for the purposes of this regulation, the proper address of any person to whom a notice under Schedule 4B to the 1991 Act is to be given, is to be—
- (a) where such person has provided the street authority giving the notice with an address for postal service of such notices, that address; and
  - (b) otherwise—
    - (i) in the case of a corporation, the registered or principal office of the corporation; and
    - (ii) in any other case, the last known address of such person.
- (7) A person may provide different addresses for different notices or different classes of notice.

#### **Time limit for giving fixed penalty notice**

**6.** A fixed penalty notice for an offence may not be given more than 91 days after the commission of the offence beginning with the day of its commission.

#### **Amount of penalty**

**7.—(1)** Subject to paragraph (2), where a fixed penalty notice has been given in relation to an offence set out in column 2 of the Table in Schedule 2 to these Regulations, and briefly described in column 3 of that Table, the penalty for that offence will be the amount set out, in relation to it, in column 4.

(2) Where, in relation to such an offence, payment is made before the end of the period specified in paragraph 5(1) of Schedule 4B to the 1991 Act, or if the last day of that period does not fall on a working day, before the end of the next working day in accordance with paragraph 5(3) of that Schedule, the penalty for that offence will instead be the amount set out, in relation to it, in column 5.

#### **Modification of Schedule 4B**

- 8.—(1)** Schedule 4B to the 1991 Act is modified (in its application as respects Wales) as follows.
- (2) In paragraph 4(2) for “29” substitute “36”.
  - (3) In paragraph 5(1) for “15” substitute “29”.

### **Application of penalties**

**9.** A street authority may deduct from fixed penalties received under Schedule 4B to the 1991 Act, the reasonable costs of operating the scheme under which they are paid, and must apply the net proceeds for the purpose of developing or implementing policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within their area.

### **Form of notice withdrawing a fixed penalty notice**

**10.** Where a notice withdrawing a fixed penalty notice is given in accordance with paragraph 7(1) of Schedule 4B to the 1991 Act, it must be in the form set out in Schedule 3.

17 January 2008

*Ieuan Wyn Jones*  
Minister for the Economy and Transport, one of  
the Welsh Ministers