
STATUTORY INSTRUMENTS

2009 No. 303

The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009

Manner of service of notice

15.—(1) Subject to paragraphs (2), (5) and (7), where an undertaker is required to give notice to a highway authority in accordance with regulation 6, such notice shall be given by—

- (a) sending it to the highway authority at its proper address by using an electronic communication in accordance with the condition set out in paragraph (4);
- (b) delivering it to that authority at that address; or
- (c) any other means agreed between the undertaker and the authority.

(2) Where a highway authority to whom an undertaker is obliged to give such notice does not have arrangements for receiving and responding to notices for any period after 4.30 pm and before 8.00 am the following day, the undertaker shall have complied with that obligation if a notice is served by 10.00 am on that following day.

(3) Subject to paragraphs (5) and (7), in any other case where a person is required to give a notice under these Regulations, such notice shall be given by—

- (a) sending it to the person to whom it is to be given at that person's proper address by using an electronic communication in accordance with the condition set out in paragraph (4);
- (b) sending it by first class post to that person at that address;
- (c) delivering it to that person;
- (d) leaving it at that person's proper address; or
- (e) any other means agreed between the person giving it and the person to whom it is to be given.

(4) The condition referred to in paragraphs (1)(a) and (3)(a) is that the notice shall 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.

(5) Subject to paragraph (7), from and including 1st April 2009 all notices required to be given under these Regulations by a highway authority or a statutory undertaker shall be exchanged between one highway authority and another, one statutory undertaker and another and between a highway authority and a statutory undertaker by using electronic communications in accordance with the condition set out in paragraph (4).

(6) 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, then, unless the contrary is proved, the

notice shall 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 transmission.

(7) 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 there is a proper address, or by any of the other means referred to in paragraph (1) or, as the case may be, paragraph (3).

(8) Subject to paragraph (9), for the purposes of this regulation, the proper address of any person to whom notice is to be given shall be—

- (a) where such person—
 - (i) has provided the person giving the notice with an address for service of notices under these Regulations by using a particular method for transmitting an electronic communication; and
 - (ii) has not notified the latter that the address is withdrawn for that purpose, that address in relation to that method of transmission;
- (b) where such person has provided the person giving the notice with an address for postal service of such notices, that address in relation to postal service;
- (c) where such person has provided the person giving the notice with an address for service of such notices by any other means, that address in relation to such other means; and
- (d) otherwise—
 - (i) in the case of a body corporate, the registered or principal office of that body corporate; and
 - (ii) in any other case, the last known address of such person.

(9) A person may provide different addresses for different notices or different classes of notice.