
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Street Works (Charges for the Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009 (“the 2009 Regulations”).

Regulation 3 amends regulation 3 of the 2009 Regulations to insert “carriageway” before “footpath” as a term which has the meaning given in section 329(1) of the Highways Act 1980. In addition, the definitions of “minor works” and “standard works” in the 2009 regulations have been amended to remove reference to regulation 9(8) which is not replicated in the new regulation 9 contained in these Regulations.

Regulation 4 substitutes a new regulation 9 into the 2009 Regulations. The new Regulation 9 continues to prescribe a charge payable by undertakers for each day or part of a day that the duration of street works exceeds the longer of the prescribed period or a reasonable period (“period of overrun”). However, the level of charges in the new regulation 9 is now dependent on the status of the street where the works take place rather than the category of works (for example, whether the street is designated as a traffic-sensitive street). It will also be dependent on whether the works taking place during a period of overrun do so at any time on the carriageway. In addition, for works which take place during a period of overrun on certain types of street a higher rate of charge will be applicable after the first three days. In addition to the above, the new regulation 9 differs from the original regulation 9 in the following ways. Paragraph (2)(a) provides certain exclusions from the requirement in paragraph (1) to pay a charge. Paragraph (2)(a) is now extended to include protected streets within those exclusions. Paragraphs (4) and (5) prescribe the way in which the amount of charge is calculated. Paragraph (4) provides that if, during a period of overrun, the works take place on any part of the carriageway, the amount of the daily charge in relation to the description of street in column (2) of an item in column (1) is set out in column (3) in Table 1. After the first three days the charge will be that stated in column (4). As the category of works no longer determines the amount of the charge, paragraphs (5) to (8) of the original regulation 9 have been omitted from the new regulation 9.

Paragraph (5) prescribes lower rates of charge to those in paragraph (4) for works which do not take place on the carriageway at any time during a period of overrun. For such works the amount of the daily charge in relation to the description of street in column (2) of an item in column (1) is set out in column (3) of Table 2. Paragraph (6) defines certain terms for the purposes of regulation 9. Firstly, that “description of street” means the description of the street at the time when the undertaker first makes any of the notifications or applications set out in sub-paragraphs (a) and (b). It also defines the terms “period of overrun” and “provisional advance authorisation”. Paragraphs (7) to (9) provide for a single lower charge where the works have been completed on time and up to five items of signing lighting or guarding remain. This provision remains the same as in the original regulation 9, save that the maximum number of items has been increased from one to five. The wording of paragraphs (10) and (11) are unchanged from the original regulation 9.

Regulation 5 is a transitional provision which retains the original regulation 9 for calculating charges for certain works. Where the notifications set out in sub-paragraph (a) or the applications set out in (b) are made by an undertaker before the 1st October 2012, any charges which are required to be paid for a period of overrun on those works will be calculated in accordance with the original regulation 9.

An impact assessment on the effects this instrument will have on business and the voluntary sector is available from the Department for Transport, zone 3/26, 33 Horseferry Road, London

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

SW1P 4DR and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.