
STATUTORY INSTRUMENTS

2023 No. 834

**The A303 (Amesbury to Berwick Down)
Development Consent Order 2023**

PART 4

OPERATIONAL PROVISIONS

Power to operate and use the tunnel

38. The undertaker may operate and use the tunnel.

Closing the tunnel

39.—(1) The undertaker may, whenever in its opinion it is necessary to do so, close the tunnel, whether wholly or partially.

(2) Where the undertaker proposes to close the tunnel it must, except in an emergency, and subject to any tunnel closure management plan produced in accordance with paragraph 4 (outline environmental management plan) of Schedule 2 (requirements)—

- (a) give not less than 7 days' notice in such manner as the undertaker considers appropriate; and
- (b) throughout the period of such closure display signs at convenient situations on the roads communicating with the tunnel area giving warning of the closure.

(3) In this article “emergency” means any circumstance whether existing or imminent, which the undertaker considers is likely to cause danger to—

- (a) persons or property, including the tunnel or any person in or using the tunnel; or
- (b) the environment.

No apparatus in the tunnel area without consent

40. Regardless of anything contained in any enactment, no person is to enter upon, break up or interfere with the tunnel, or any part of it, for the purpose of placing or doing anything in or in relation to any sewer, drain, main, pipe, wire or other apparatus or executing any work except with the written consent of the undertaker and in accordance with such terms and conditions as the undertaker may determine, including as to payment, such consent not to be unreasonably withheld and any disputes as to failure to consent or over terms and conditions to be subject to the arbitration provisions in article 57 (arbitration).

Removal of vehicles

41.—(1) If any obstruction is caused by a vehicle waiting, loading, unloading or breaking down in the tunnel area, the person in charge of the vehicle must immediately remove it; and if that person fails to do so an authorised person may take all reasonable steps to remove the obstruction.

(2) An authorised person who removes a vehicle under paragraph (1) may do so by towing or driving the vehicle or in such other manner as the authorised person may think necessary and may take such measures in relation to the vehicle as the authorised person considers necessary to enable the vehicle to be removed.

(3) Where an authorised person requires a person to remove a vehicle which is causing an obstruction in the circumstances described under paragraph (1) and the authorised person determines that the manner of removal proposed by the person required to remove it may cause danger to other persons using the road, the authorised person may require the vehicle to be moved in such other manner as the authorised person considers safe or may remove or arrange for the removal of the vehicle if the person required to remove it refuses to remove it in the manner so required.

(4) A vehicle removed by an authorised person under this article—

- (a) may be returned immediately to the person in charge of that vehicle; or
- (b) where immediate return of that vehicle to the person in charge of it is not practicable or appropriate, must be delivered to the undertaker or to a person authorised by the undertaker to keep vehicles so removed (“the custodian” in either case).

(5) The custodian is entitled to recover the relevant charges from any person responsible.

(6) The custodian may dispose of a vehicle at any time after its removal—

- (a) where the owner of the vehicle has disclaimed all rights of ownership of the vehicle;
- (b) where in the opinion of the authorised person the vehicle is in such a condition that it ought to be destroyed; or
- (c) in the case of a vehicle, not falling within sub-paragraph (a) or (b), which—
 - (i) does not display a licence (whether current or otherwise and whether or not the vehicle is required to display a licence), and
 - (ii) does not display any registration mark (whether indicating registration within or outside the United Kingdom).

(7) In a case to which paragraph (6) does not apply, the custodian must—

- (a) if the vehicle carries a United Kingdom registration mark, ascertain from records kept by the Secretary of State under the Vehicle Excise and Registration Act 1994(1) the name and address of the person by whom the vehicle is kept; or
- (b) if the vehicle does not carry such a registration mark, make such inquiries as appear to the custodian reasonably practicable to ascertain the owner of the vehicle.

(8) If the custodian, having taken the relevant steps required under paragraph (7), has been unable to ascertain the name and address of the owner of the vehicle, the custodian may dispose of the vehicle.

(9) A custodian who has ascertained the name and address of the owner of the vehicle must issue a notice to the owner at the owner’s address in the form prescribed in paragraph (10).

(10) A notice under paragraph (9) must—

- (a) contain the specified information; and
- (b) state—
 - (i) the place to which the vehicle has been removed;
 - (ii) that if the recipient is the owner of the vehicle, the recipient is required to remove the vehicle from the custody of the custodian and pay the relevant charges within the period specified; and

(iii) that the custodian intends to dispose of the vehicle if it is not removed within that period.

(11) The periods specified in paragraph (10)(b)(ii) and (iii) must be not less than 7 days beginning with the day on which the notice is served.

(12) If the person to whom the notice issued under paragraph (9) fails to comply with all of its requirements, the custodian may dispose of the vehicle at any time after the date specified in the notice in accordance with paragraph (10).

(13) As soon as reasonably practicable following the disposal of a vehicle under this article the custodian must—

(a) where the vehicle carried a GB registration mark or a mark indicating registration in Northern Ireland, give information relating to the disposal to—

- (i) the Secretary of State;
- (ii) the chief officer of the police force in whose area the vehicle was removed under paragraph (1); and
- (iii) HPI Ltd.

(b) where the vehicle carried a mark indicating registration outside the United Kingdom, give information relating to the disposal to—

- (i) the Secretary of State;
- (ii) the Commissioners of Customs and Excise; and
- (iii) the chief officer of the police force in whose area the vehicle was removed under paragraph (1);

(c) where the vehicle did not carry any registration mark, give information relating to the disposal to the chief officer of the police force in whose area the vehicle was removed under paragraph (1);

(d) in the case of any vehicle, information relating to the disposal must be given to any person who appears to the custodian to have been the owner of the vehicle immediately before it was disposed of.

(14) Where, by virtue of paragraph (5), any sum is recoverable in respect of a vehicle by a custodian, the custodian is entitled to retain custody of the vehicle until that sum is paid.

(15) A person (“the claimant”) may take possession of a vehicle (with its contents) which has been removed and delivered to a custodian and has not been disposed of under this article, if the conditions specified in paragraph (16) are satisfied.

(16) The conditions are that—

(a) the claimant satisfies the custodian that the claimant is the owner of the vehicle or that the claimant is authorised by the owner to take possession of the vehicle;

(b) all outstanding relevant charges are paid to the custodian; and

(c) the claimant takes possession of the vehicle within 7 days of the custodian being satisfied that—

- (i) the claimant is the owner of the vehicle or is authorised by the owner to take possession; and
- (ii) any relevant charges have been paid to the custodian.

(17) Where it appears to the custodian that more than one person is the owner of the vehicle, or person authorised by the owner, the custodian must give possession of the vehicle to the first claimant who satisfies the conditions set out in paragraph (16).

(18) If before the end of the period of one year beginning with the date on which a vehicle is disposed of pursuant to this article, a person claims to have been the owner of the vehicle at the time when it was disposed of and the conditions specified in paragraph (19) are fulfilled, a sum calculated in accordance with paragraph (20) is payable by the custodian to the owner.

(19) The conditions are that—

- (a) the person claiming satisfies the custodian that the person so claiming was the owner of the vehicle at the time it was disposed of;
- (b) the claim is made before the end of the period of one year beginning with the date on which the vehicle was disposed of; and
- (c) no previous claim in respect of the vehicle has been made.

(20) The sum payable under paragraph (18) is calculated by deducting from the proceeds of sale the relevant charges that would have been payable had the vehicle been claimed by the owner immediately before its disposal.

(21) Where it appears to the custodian of a vehicle that more than one person is the owner, the custodian must treat the first person who makes a claim that satisfies the conditions set out in paragraph (19) as the owner for the purposes of this article.

(22) For the purposes of this article the owner of a vehicle is taken to be the person by whom the vehicle is kept and in determining for those purposes who was the owner of the vehicle at any time, it is presumed (unless the contrary appears) that the owner was the person in whose name the vehicle was at that time registered under the Vehicle Excise and Registration Act 1994.

(23) For the purposes of this article “breaking down” includes by way of a mechanical defect, lack of fuel, oil, water or power required for the vehicle or any other circumstances in which a person in charge of the vehicle could not immediately, safely and without damage to the vehicle or its accessories drive it under its own power away from the tunnel area.

(24) In this article—

“GB registration mark” means a registration mark issued in relation to a vehicle under the Vehicle Excise and Registration Act 1994;

“HPI Ltd” means HPI Limited (company number 04068979), whose registered office is at Capitol House, Bond Court, Leeds, Yorkshire, England, LS1 5EZ, being a company incorporated under the Companies Act 1985 and includes its successors and assigns;

“information relating to the disposal” means, in relation to a vehicle—

- (a) any information which is sufficient to relate the information now being given to any information previously given to the same person in respect of the removal, storage or disposal of the vehicle;
- (b) such of the specified information as has not been previously given to the same person in respect of the removal, storage or disposal of the vehicle; and
- (c) information as to whether the vehicle was disposed of by destruction or by sale and if by sale, the sum realised.

“owner”, in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement;

“person responsible”, in relation to a vehicle, means—

- (a) the owner of the vehicle at the time when it was put in the place from which it was removed as mentioned in paragraph (1), unless the owner demonstrates that the owner was not concerned in, and did not know of, the vehicle being put in the tunnel area;
- (b) any person by whom the vehicle was put in that place;

- (c) any person convicted of an offence under section 2(1) (penalty for unauthorised dumping) of the Refuse Disposal (Amenity) Act 1978(2) in consequence of the putting of the vehicle in that place;

“relevant charges” means the sums and charges prescribed by the Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges) Regulations 2008(3);

“specified information”, in relation to a vehicle, means such of the following information as can be, or could have been, ascertained from an inspection of the vehicle, or has been ascertained from any other source—

- (a) in the case of a vehicle which carries a GB registration mark, or a mark indicating registration in a country outside Great Britain, particulars of such mark; and
(b) the make of the vehicle; and

“vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

Removal of obstructions

42.—(1) Where an obstruction or hazard is caused in the tunnel area by a load falling from a vehicle and the person in charge of the vehicle fails to remove it, an authorised person may take all reasonable steps to remove the load.

(2) An authorised person—

- (a) may return a load which the authorised person has removed immediately to the person in charge of the vehicle from which it has fallen; or
(b) where a return of the load which the authorised person has removed to the person in charge of the vehicle from which it has fallen is not practicable or appropriate, must deliver the load to the undertaker or to a person authorised by the undertaker to keep loads so removed (“the custodian” in either case).

(3) The custodian must take reasonable steps to ascertain the identity of the owner of the load.

(4) Where the custodian has been unable to ascertain contact details for the owner of the load, the custodian may dispose of or sell the load as the custodian thinks fit.

(5) Where the custodian has been able to ascertain contact details for the owner of the load, the custodian must notify such person that—

- (a) the load is in the possession of the custodian;
(b) the owner must take possession of the load within 5 weeks of the date of the notice;
(c) the owner may only take possession of the load on the payment of the custodian’s expenses in removing and storing the load; and
(d) if the owner fails to act in accordance with the requirements in the notice, title in the load vests in the custodian.

(6) The custodian may recover any expenses reasonably incurred in the removal and storage of a load from the owner of the load.

(7) Unless the owner of the load acts in accordance with the notice requirements, title in the load vests in the custodian on the date specified in the notice.

(8) Where a load consists of, or includes, liquids or semi-liquids or items which are loose or an aggregate, or noxious, perishable or otherwise hazardous or difficult to collect-up or remove, and

(2) 1978 c. 3. Section 2(1) was amended by section 46 of the Criminal Justice Act 1982 (c. 48).

(3) S.I. 2008/2095, as amended by S.I. 2008/3013.

the driver of the vehicle fails to remove it or the fallen load poses a hazard, paragraphs (2) to (7) do not apply and an authorised person or custodian (as the case may be) may, as it sees fit, immediately wash, clean or clear away or remove the fallen load or otherwise dispose of it or sell it.

(9) In this article “vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

Dangerous goods

43.—(1) The undertaker is to be treated as having in the tunnel area the same enforcement powers as any body mentioned in regulation 32 (enforcement) of the Carriage of Dangerous Goods and the Use of Transportable Pressure Equipment Regulations 2009(4) (“the 2009 Regulations”) in relation to roads and to the extent permitted by regulation 32.

(2) The exercise of the enforcement powers mentioned in paragraph (1) is subject to any limitation which applies to the Health and Safety Executive under the 2009 Regulations.

(3) Nothing in this article prejudices or prevents a body mentioned in regulation 32 of the 2009 Regulations from exercising any power conferred on it by those Regulations.

Byelaws relating to the tunnel area

44.—(1) The undertaker may make byelaws regulating—

- (a) the efficient management and operation of the tunnel area;
- (b) travel in the tunnel area;
- (c) the maintenance of order in the tunnel area;
- (d) the conduct of persons in the tunnel area.

(2) The byelaws contained in Schedule 8 (byelaws) have effect in relation to the tunnel area and continue to have effect until such time as they are amended or revoked by further byelaws made under paragraph (1) and in each case are to be treated as if they are byelaws that have been made by the undertaker under paragraph (1) and confirmed by the Secretary of State on the date this Order comes into force.

(3) Subject to paragraph (4), the provisions of subsection 236(3) to (8), and (11) (procedure, etc., for byelaws) of the Local Government Act 1972(5) apply in relation to byelaws other than those in Schedule 8 made by the undertaker under paragraph (1), as if the undertaker were a local authority for the purposes of subsection 236(1) of the Local Government Act 1972.

(4) The undertaker may make byelaws under paragraph (1) in accordance with the procedure in the Byelaws (Alternative Procedure) (England) Regulations 2016(6) as if those regulations applied to the making and revoking of byelaws under this article.

(5) Byelaws made under this article are enforceable by the undertaker and any authorised person.

(6) A person who breaches a byelaw made under this article commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) [S.I. 2009/1348](#), regulation 32 was substituted by [S.I. 2014/469](#) and subsequently amended by [S.I. 2015/1682](#).

(5) [1972 c. 70](#). Section 236 was amended by section 84 of, and paragraph 31(1) of Schedule 14 to, the Local Government Act 1985 ([c. 51](#)), paragraph 34 of Schedule 6 to the Local Democracy, Economic Development and Construction Act 2009 ([c. 20](#)), and section 129(2) of the Local Government and Public Involvement in Health Act 2007 ([c. 28](#)). There are other amendments to section 236 which are not relevant to this Order.

(6) [S.I. 2016/165](#).

Fixed penalty notices

45.—(1) This article applies where it appears to an authorised person that a person has committed an offence under byelaws made under article 44 (byelaws relating to the tunnel area).

(2) The authorised person may serve on that person a fixed penalty notice in respect of the offence.

(3) Where a person is given a fixed penalty notice under this article in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of 14 days after the date of the notice; and
- (b) that person may not be convicted of the offence if the fixed penalty is paid before the expiration of 14 days after the date of the notice.

(4) A fixed penalty notice must state—

- (a) the amount of the fixed penalty;
- (b) particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence;
- (c) the time by which and the manner (including the number to be used for payments by credit or debit card) in which the fixed penalty must be paid; and
- (d) that proceedings may be instituted if payment is not made within the time specified in the fixed penalty notice.

(5) The amount of the fixed penalty is—

- (a) one fifth of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction provided that person pays the fixed penalty in full within 7 days of issue of the fixed penalty notice; or
- (b) one half of the maximum amount of the fine to which the person to whom the fixed penalty notice is issued would be liable on summary conviction.

(6) An authorised person may require a person to whom this article applies to pay a deposit of one tenth of the maximum amount of the fine to which a person may be liable under level 3 on the standard scale on accepting a fixed penalty notice if that person fails to provide, when requested, a residential address in the United Kingdom.

(7) Payment of the deposit must be made—

- (a) in person to the authorised person by cash, credit or debit card, if the authorised person has the necessary means to accept payment in that manner;
- (b) by telephone by credit or debit card to the number stipulated in the fixed penalty notice for making payments; or
- (c) by App.

(8) The undertaker must apply the deposit towards payment of the fixed penalty.

(9) In any proceedings a certificate which—

- (a) purports to be signed on behalf of an officer of the undertaker; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(10) In this article—

“App” means a software application for use on an electronic device which provides for payment by credit or debit card and which is provided by the undertaker for that purpose;

“credit card” means a card or similar thing issued to any person, use of which enables the holder to defer payment of the deposit;

“debit card” means a card or similar thing issued by any person, use of which causes the deposit to be paid by the electronic transfer of funds from any current account of the holder at a bank or other institution providing banking facilities; and

“fixed penalty notice” means a notice offering the opportunity of the discharge of liability to conviction of an offence under byelaws made under article 44.

Classification of roads, etc.

46.—(1) On the date on which the roads described in Parts 1 to 8 of Schedule 9 (classification of roads etc.) are completed and open for traffic—

- (a) the roads described in Parts 1, 2 and 6 of Schedule 9 are to become trunk roads as if they had become so by virtue of an order made under section 10(2)(7)(general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads;
- (b) subject to sub-paragraph (c), the roads described Parts 3, 4, 5, 7 and 8 of Schedule 9 are to be classified as set out in that Part and are to be a classified road for the purpose of any enactment or instrument which refers to highways classed as classified roads, as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act; and
- (c) the roads described in paragraph 11 in Part 4, paragraph 18 in Part 7 and paragraph 22 in Part 8 of Schedule 9 are to be unclassified.

(2) Subject to paragraph (3), the undertaker may vary the classification of the roads, or any part of those roads, provided for in paragraph (1) and such variation may provide for any trunk road comprised in the authorised development and referred to in paragraph (1)(a) to be classified as a special road.

(3) The undertaker must not exercise the powers conferred by paragraph (2) unless the undertaker has—

- (a) given not less than 4 weeks’ notice in writing of the undertaker’s intention so to do to the chief officer of police and to the local highway authority in whose area the road is situated; and
- (b) published a notice, declaring the date on which that road or part of it is to be classified, not less than 7 days before that date, in at least one local newspaper circulating in the area in which the road or, as the case may be, the relevant part of it is situated and in the London Gazette.

(4) Before exercising the powers conferred by paragraph (2), the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

(5) Any roads classified as a special road in accordance with paragraph (2) are to be—

- (a) classified as special roads for the purpose of any enactment or instrument which refers to highways classified as special roads; and
- (b) provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 4 (classes of traffic for purposes of special roads) to the 1980 Act.

(6) On any such days as the undertaker may determine, unless otherwise agreed in writing with the local highway authority, the roads described in Part 9 of Schedule 9 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(7) Section 10(2) was amended by section 22(2)(a) of the 1991 Act and by section 1(6) of, and paragraphs 1 and 10(1) and (2) of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(7) The application of paragraphs (1) to (6) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

Clearways

47.—(1) From such day as the undertaker may determine, except as provided in paragraph (2) below, no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 2 (clearways and prohibitions) of Schedule 10 (traffic regulation measures) where it is identified that such lengths of road are to become a clearway in the corresponding row of column (3) of that Part, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(2) Nothing in paragraph (1) applies—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—

(i) the removal of any obstruction to traffic;

(ii) the maintenance, improvement, reconstruction or operation of the road;

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A (the electronic communications code) to the Communications Act 2003(8); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

(i) for police, ambulance, fire and rescue authority or traffic officer purposes;

(ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;

(iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(9); or

(iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000(10); or

(c) in relation to a vehicle waiting when the person in control of it is—

(i) required by law to stop;

(ii) obliged to stop in order to avoid an accident; or

(iii) prevented from proceeding by circumstances outside the person's control.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph (1) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(5) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(11).

(8) 2003 c. 21. Schedule 3A was inserted by section 4(2) of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).

(9) 1991 c. 56.

(10) 2000 c. 26.

(11) 2004 c. 18.

Traffic regulation measures

48.—(1) Subject to the provisions of this article, and from any such days as the undertaker may determine—

- (a) no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of Part 1 (speed limits) of Schedule 10 (traffic regulation measures) along the lengths of road identified in the corresponding row of column (2) of that Part;
- (b) no person is to drive a vehicle on a section of a road which is subject to a variable speed limit at a speed exceeding that indicated by a speed limit sign displayed on a variable message sign (paragraphs (3), (4) and (5) make further provision in respect of variable speed limits);
- (c) subject to paragraph (2) and article 47 (clearways), the restrictions specified in column (3) of Part 2 (clearways and prohibitions) of Schedule 10 are to apply to the lengths of road identified in the corresponding row of column (2) of that Part; and
- (d) the orders specified in column (3) of Part 3 (revocations and variations of existing traffic regulation orders) of Schedule 10 are to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(2) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011⁽¹²⁾ when used in accordance with regulation 3(5) of those regulations.

(3) A section of road is subject to a variable speed limit in relation to a vehicle being driven along it if—

- (a) the section of road is identified in column (2) of Part 1 (speed limits) of Schedule 10 as being subject to a variable speed limit in column (3) of that Part;
- (b) the vehicle has passed a speed limit sign displayed on a variable message sign; and
- (c) the vehicle has not subsequently passed—
 - (i) another speed limit sign indicating a different speed limit; or
 - (ii) a traffic sign which indicates that the national speed limit is in force.

(4) In relation to a vehicle, the speed limit indicated by a speed limit sign is the speed shown at the time the vehicle passes the sign, or, if higher, the speed limit shown by the sign ten seconds before the vehicle passed the sign.

(5) For the purposes of this article, a speed limit sign displayed on a variable message sign is to be taken as not indicating any speed limit if, ten seconds before the vehicle passed it, the sign had indicated no speed limit or that the national speed limit was in force.

(6) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, in so far as necessary or expedient for the purposes of, in connection with, or in consequence of the construction, maintenance and operation of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;

⁽¹²⁾ S.I. 2011/935.

- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(7) The power conferred by paragraph (6) may be exercised at any time prior to the expiry of 24 months from the opening of the authorised development for public use, but subject to paragraph (10), any prohibition, restriction or other provision made under paragraph (6) may have effect both before and after the expiry of that period.

(8) The undertaker must not exercise the powers conferred by paragraph (6), unless the undertaker has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the undertaker's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(9) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (6)—

- (a) has effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated, as an order under section 32(13) (power of local authorities to provide parking places) of the 1984 Act,and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(14).

(10) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) or (6) within a period of 24 months from the opening of the authorised development.

(11) Before exercising the powers conferred by paragraphs (1) or (6) the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

(12) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(13) In this article—

(13) Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(14) 2004 c. 18.

“national speed limit” has the meaning given by Schedule 1 (definitions) to the Traffic Signs Regulations and General Directions 2016⁽¹⁵⁾ and a traffic sign which indicates that the national speed limit is in force means a traffic sign of the type shown in diagram 671 in Part 2 (signs and road markings indicating speed limits) of Schedule 10 (signs for speed limits) to the Traffic Signs Regulations and General Directions 2016 which is—

- (a) placed on or near a road; and
- (b) directed at traffic on the carriageway on which the vehicle is being driven;

“road” includes the adjacent hard shoulder and verge;

“speed limit sign” in relation to a vehicle, means a traffic sign of the type shown in diagram 670 in Part 2 of Schedule 10 to the Traffic Signs Regulations and General Directions 2016 which is—

- (a) situated on or near any part of a road specified in column (2) as being subject to a variable speed in limit in column (3) of Part 1 (speed limits) of Schedule 10; and
- (b) directed at traffic on the carriageway on which the vehicle is being driven; and

“variable message sign” has the meaning given by Schedule 1 (definitions) to the Traffic Signs Regulations and General Directions 2016.