
WELSH STATUTORY INSTRUMENTS

2008 No. 540 (W.52)

HIGHWAYS, WALES

The Street Works (Registers, Notices, Directions and Designations) (Wales) (No 2) Regulations 2008

<i>Made</i>	- - - -	<i>28 February 2008</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>29 February 2008</i>
<i>Coming into force</i>	- -	<i>1 April 2008</i>

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State for Transport, by sections 48(2), 49(5), 53(1), (2), (3) and (6), 54(1), (2), (3), (4), (4A), and (4B), 55(1), (2), (3), (7) and (8), 56(2), 56A(4), 57(2) and (3), 58(1), (2), (3), (4), (5), (7) and (7A), 58A, 62(1), 63(2), 64(1) and 2, 70(3) (b), (4A) and (4B), 97, 104(1) and (3) of, and paragraphs 1(2), 2 (2), (3), (4)(f) and (5), 3(5)(b), 4(4) and (5) and 5(2)(c), (3) and (4) of Schedule 3A to, the New Roads and Street Works Act 1991(1), subsequently transferred to the National Assembly for Wales and now vested in them(2), make the following Regulations.

Title, commencement and application

1. The title of these Regulations is the Street Works (Registers, Notices, Directions and Designations) (Wales) (No 2) Regulations 2008, they come into force on 1st April 2008 and apply in relation to Wales.

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- (1) 1991 c. 22. Section 53 is prospectively amended by section 45 of the Traffic Management Act 2004 (“the 2004 Act”). Section 54 is prospectively amended, and (4A), (4B) and (4C) inserted, by section 49(1) of the Traffic Management Act 2004. Section 55(2) and (5) are amended by section 51(9) and 40(1) and (2) of, and Schedule 1 to, the 2004 Act and section 55(8) and (9) are inserted by section 49(2) of that Act. Section 56A is inserted by section 44 of the 2004 Act. Section 58(1), (2), (3), (4), (6)(b) and (7) are amended, and section 58(7A) inserted, by section 51 of the 2004 Act. Section 58(6)(a) is amended by section 40(1) and (2) of, and Schedule 1 to, that Act. Section 58A and Schedule 3A are inserted by section 52(1) and (2) of the 2004 Act. Section 70(3) and (4) are substituted, and (1A), (4A) and (4B) inserted, by section 54 of that Act. Section 70(6) is amended by section 40(3) of the 2004 Act and section 95A and Schedules 4A and 4B are inserted by section 41 of, and Schedules 2 and 3 to, that Act. There are other amendments and prospective amendments which are not relevant to these Regulations.
- (2) All functions of a Minister of the Crown under the 1991 Act, except section 167(3), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2, Schedule 1, as amended by section 96 of the Traffic Management Act 2004 (c. 18) (“the 2004 Act”). The functions of the National Assembly for Wales under the New Roads and Street Works Act 1991 were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c. 32).

Amendment of the Street Works (Registers, Notices, Directions and Designations) Regulations 1992

2.—(1) Subject to regulation 19, the Street Works (Registers, Notices, Directions and Designations) Regulations 1992(3) are amended as follows.

(2) After regulation 1 there is inserted the following regulation —

“Application

1A. These Regulations are revoked in relation to Wales.”

Interpretation

3.—(1) In these Regulations —

“the 1984 Act” (“*Deddf 1984*”) means the Road Traffic Regulation Act 1984(4);

“the 1991 Act” (“*Deddf 1991*”) means the New Roads and Street Works Act 1991;

“the 2002 Regulations” (“*Rheoliadau 2002*”) means the Traffic Signs Regulations 2002(5);

“day” (“*diwrnod*”) means a working day;

“immediate works” (“*gwaith disymwth*”) means urgent works or emergency works;

“limited designation” (“*dynodiad cyfyngedig*”) means a designation in accordance with regulation 16(3) for particular times or on particular dates;

“major works” (“*gwaith pwysig*”) means —

(a) street works which have been identified in the annual operating programme of an undertaker, or which, though not specifically identified in such programme, would normally be planned or known about at least six months in advance of the date proposed for the works;

(b) street works, other than immediate works, where —

(i) the street authority has indicated to an undertaker; or

(ii) an undertaker considers,

that an order under section 14 of the 1984 Act (temporary prohibition or restriction on roads) is required; or

(c) street works, other than immediate works, the planned duration of which exceeds ten days;

“minor works” (“*mân weithiau*”) means street works, other than immediate works or major works, the planned duration of which does not exceed three days;

“road category” (“*catategori o ffordd*”) means one of the road categories specified in paragraph 1.3.1 of Chapter S1 of the Code of Practice 2006 no 72, entitled: “The Specification for the Reinstatement of Openings in Highways” dated November 2006 and approved by the National Assembly for Wales on 24th January 2007;

“standard works” (“*gwaith safonol*”) means street works, other than immediate works or major works, the planned duration of which exceeds three days but does not exceed ten days;

“statutory undertaker” (“*ymgymerwr statudol*”) means a person entitled by virtue of a statutory right to carry out street works;

(3) S.I. 1992/2985; as amended by S.I. 1995/990 and 2128 and 1999/1049.

(4) 1984 c. 27. Section 14 was substituted by the Road Traffic (Temporary Restrictions) Act 1991, section 1(1) and Schedule 1. Section 138(3) was amended by the Road Traffic (Consequential Provisions) Act 1988, section 4 and Schedule 3, paragraph 25(8).

(5) Part 1 of S.I. 2002/3113, as amended by S.I. 2005/1670. There are other amendments not relevant to these Regulations.

“street with special engineering difficulties” (“*stryd ag iddi anawsterau peirianyddol arbennig*”) means a street designated as having special engineering difficulties under section 63 of the 1991 Act;

“street works register” (“*cofrestr gwaith stryd*”) means a register required to be kept by a street authority by section 53 of the 1991 Act;

“the Technical Specification” (“*y Fanyleb Dechnolegol*”) means The Technical Specification for the Electronic Transfer of Notices produced by the Department for Transport and dated 5th July 2007 as revised or reissued from time to time;

“traffic-sensitive street” (“*stryd sy'n sensitif i draffig*”) means a street designated as traffic-sensitive under section 64 of the 1991 Act;

“traffic-sensitive time” (“*amser sy'n sensitif i draffig*”), in relation to a traffic-sensitive street, means —

- (a) the times or dates specified in the case of a limited designation; and
- (b) any time in any other case; and

“urgent works” (“*gwaith brys*”)—

- (a) means street works, other than emergency works, whose execution at the time when they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required) —
 - (i) to prevent or put an end to an unplanned interruption of any supply or service provided by an undertaker;
 - (ii) to avoid substantial loss to an undertaker in relation to an existing service; or
 - (iii) to reconnect supplies or services where an undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and
- (b) includes works which cannot reasonably be severed from such works.

(2) Unless it is expressly provided otherwise, a reference in these Regulations to a numbered section is a reference to the section so numbered in the 1991 Act.

Street works registers

4.—(1) Subject to regulation 13 and to the requirements set out in paragraphs (2) and (3), street works registers must be kept so as to enable the information referred to in paragraphs (4) and (5), relating to a particular street, to be traced.

(2) Each register must —

- (a) be indexed;
- (b) no later than 1st April 2009, be based on a geographical information system; and
- (c) identify the highway authority in relation to every street in the street authority’s area which is a maintainable highway.

(3) Every register kept by a local highway authority must be in a form which complies with the system of street referencing specified in Part I of the publication issued by the British Standards Institution on 1st August 2006 entitled: “*Spatial data sets for geographical referencing — specification for a street gazetteer*” under reference No.BS 7666-1 2006(6) as revised or re-issued from time to time.

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

(4) The information with respect to street works to be shown on the register and, in each case, the person responsible for securing its registration are specified in columns (1) and (2) respectively of the following Table.

Table

<i>(1) Information</i>		<i>(2) Person responsible for securing its registration</i>
1.	Particulars of all notices under sections 54, 55 and 57 served on the highway authority relating to street works in any street which is a maintainable highway.	The undertaker concerned.
2.	Particulars of all notices under sections 54, 55 and 57 served on street managers relating to street works in any street which is not a maintainable highway.	The undertaker concerned.
3.	Particulars of all directions given under sections 56 and 56A.	The street authority concerned.
4.	Particulars of all notices, consents and directions published or given by a street authority under sections 58 and 58A.	The street authority concerned.
5.	Particulars of all notifications made by an undertaker under paragraph 2(1)(d) of Schedule 3A to the 1991 Act.	The undertaker concerned.
6.	Particulars of all notices served by a street authority under section 66.	The street authority concerned.
7.	Information under section 70(3) and (4A) as to completion of reinstatements.	The undertaker concerned.
8.	Particulars of all notices given by a street authority under section 72(3).	The street authority concerned.
9.	Particulars of all notices given by an undertaker under section 74.	The undertaker concerned.
10.	Particulars of all notices given by a street authority under section 74.	The street authority concerned.

<i>(1) Information</i>		<i>(2) Person responsible for securing its registration</i>
11.	Description and location of street works for which plans and sections have been submitted under Schedule 4 to the 1991 Act.	The undertaker concerned.
12.	Particulars of notices given by any relevant authority under Schedule 4 to the 1991 Act.	The relevant authority.

(5) The information with respect to other descriptions of works and other matters to be shown on the register and, in each case, the person responsible for securing its registration are specified in columns (1) and (2) respectively of the following Table.

Table

<i>(1) Information</i>		<i>(2) Person responsible for securing its registration</i>
1.	Every street for which the local highway authority is the street authority.	The local highway authority.
2.	Every street which is a prospectively maintainable highway.	The local highway authority.
3.	Every street, of which the local highway authority is aware, which is a highway but for which it is not the street authority.	The local highway authority.
4.	Every street which — (a) is — (i) a protected street ⁽⁷⁾ ; (ii) a street with special engineering difficulties; or (iii) a traffic-sensitive street, including, where appropriate, details of the parts of the street so designated and, in the case of a traffic-sensitive street, of any limited designation; or (b) is proposed for designation as such.	The street authority concerned.

(7) See sections 61 and 62 New Roads and Street Works Act 1991 (1991 c. 22).

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

<i>(1) Information</i>		<i>(2) Person responsible for securing its registration</i>
5.	Description, timing and location of works for road purposes and major highway works which involve — (a) breaking up the highway; (b) opening the carriageway of a traffic-sensitive street at a traffic-sensitive time; or (c) the width of carriageway available for vehicular traffic being reduced — (i) by one or more traffic lanes; (ii) by more than one third in a case where there are no such lanes; or (iii) by any amount in a traffic sensitive street at a traffic-sensitive time, and any such works that are proposed.	The street authority concerned.
6.	Particulars of all consents given by a street authority under section 61 together with details of any conditions.	The street authority concerned.
7.	Details of all directions given under section 62.	The street authority concerned.
8.	Particulars of street works licences, including details of conditions and of changes in ownership.	The street authority concerned.
9.	Particulars of apparatus notified to the street authority under section 80(2).	The street authority concerned.
10.	Every notice of works under section 85(2).	The authority concerned.
11.	Details of road closures and diversions where an order under section 14 of the 1984 Act is required.	The highway authority.
12.	The road category of each street.	The street authority concerned

(6) Information of the following types is restricted information for the purpose of section 53(3);

- (a) information certified by, or with the authorisation of, the Secretary of State for Transport as being restricted information because its disclosure would, or would be likely to, prejudice the safeguarding of national security; and
 - (b) information certified by, or with the authorisation of, an undertaker as being restricted information because its disclosure would, or would be likely to, prejudice the commercial interests of that undertaker.
- (7) In this regulation —
- “geographical information system” (“*system wybodaeth ddaeryddol*”) means a computer system for capturing, storing, checking, integrating, manipulating, analysing and displaying data related to positions on the Earth’s surface;
 - “hard shoulder” (“*llain galed*”) has the same meaning as it does under regulation 4 of the 2002 Regulations and includes in relation to any highway which is not a motorway any hard strip which is designed to take the weight of a vehicle and which has the position of its right hand or off-side edge marked with a traffic sign of the type shown in diagram 1012.3 in Schedule 2 to those Regulations;
 - “motorway” (“*traffordd*”) has the same meaning as it does under regulation 4 of the 2002 Regulations;
 - “person responsible for securing registration” (“*y person sydd â'r cyfrifoldeb o sicrhau ei gofrestru*”) means, in relation to any information, the person responsible for conveying such information to the street authority for registration in the street works register; and
 - “traffic lane” (“*lôn draffig*”) has the same meaning as in regulation 4 of the 2002 Regulations and includes a hard shoulder.

Prescribed notice

5.—(1) Any notice for the purposes of section 54, 55, 57, 58, 58A, 66, 70 or 72(3) must be in, or to the like effect as, the form contained in the Technical Specification.

(2) A notice for the purposes of section 54, 55, 57 or 58A must, in addition to any information required by the 1991 Act to be contained in the notice, also include such other information as may be required by that Specification to complete the parts of the form referred to in paragraph (1) which are indicated in that form as being relevant to the notice.

(3) Any notice required or authorised to be given for the purposes of any other provision of Part III of the 1991 Act, other than section 74 or Schedule 4B to that Act, must be in writing, must refer to the provision of the Act pursuant to which it is given and, subject to the foregoing, may be in any form.

Manner of service of notices

6.—(1) Subject to paragraphs (2), (5) and (7), where under Part III of the 1991 Act an undertaker is under an obligation to give notice within a specified period of works having begun, other than under section 74, such notice must be given by —

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

(2) Where the person to whom an undertaker is obliged to give such notice does not have arrangements for receiving and responding to notices for any period between 4.30pm and 8.00am

the following day, the undertaker will have complied with his or her obligation if he or she serves a notice by 10.00am on that following day.

(3) Subject to paragraphs (5) and (7), in any other case where a person is required or authorised to give a notice under Part III of the 1991 Act, other than under section 74 or Schedule 4B to that Act, such notice must be given by —

- (a) sending it to the person to whom it is to be given at his or her 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 him or her at that address;
- (c) delivering it to him or her;
- (d) leaving it at his or her 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 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.

(5) Subject to paragraph (7), from and including 1 April 2009 all notices required to be given under Part III of the 1991 Act by a street authority or a statutory undertaker, other than notices under Schedule 4B to that Act, must be exchanged between one street authority and another, one statutory undertaker and another and between a street 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) (reckoning of periods), where an electronic communication is used for the purpose of serving a notice, then, unless the contrary is proved, the notice is 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.

(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 is —

- (a) where such person —
 - (i) has provided the person giving the notice with an address for service of notices under the 1991 Act, other than notices under section 74 or Schedule 4B to that Act, 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 corporation, the registered or principal office of the corporation; 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.
- (10) In this regulation —
- “address” (“*cyfeiriad*”), 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; and
 - “electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(8).

Manner of service of copies of notices

7. Where a copy of a notice is required to be given under Part III of the 1991 Act, the provisions of regulation 6(3) to (10) shall apply in the same manner as they apply to the giving of a notice under that regulation.

Advance notice of works

8.—(1) For the purposes of section 54, an undertaker must give not less than three months' advance notice of major works, except where such works are —

- (a) the subject of a notice under section 55(1) given in accordance with regulation 9(3) and in respect of which no notice has already been given under this paragraph; or
- (b) notified under paragraph 2(1)(d) of Schedule 3A to the 1991 Act.

(2) For the purposes of section 54(4A), the period prescribed is 2 days beginning with the starting date specified in the notice.

(3) For the purposes of section 54(4B), the period prescribed is 15 days.

Notice of starting date of works

9.—(1) Subject to paragraph 2(6) of Schedule 3A to the 1991 Act and paragraphs (3), (6) and (7) below, for the purposes of section 55, an undertaker proposing to begin to execute street works of a category specified in column 1 of the table below must give a period of notice in relation to that category of not less than that shown in column 2.

Table

<i>(1)</i> Category of works	<i>(2)</i> Period
Major works	10 days
Standard works	10 days
Minor works	3 days

(2) Subject to regulation 6(2) and paragraphs (6) and (7) below, for the purposes of section 55, where an undertaker proposes to execute urgent works in any street, he or she must give notice as soon as reasonably practicable and in any event within two hours of the works having begun.

(8) 2000 c. 7. Section 15(1) was amended by the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 158.

- (3) Subject to paragraphs (6) and (7), where an undertaker —
- (a) has been given notice under section 58(1) restricting future street works following substantial road works;
 - (b) proposes to begin to execute —
 - (i) street works, other than immediate works, before the restriction comes into effect; or
 - (ii) street works, other than works permitted under section 58(5), which involve breaking up the part of the highway to which the restriction will apply or tunnelling or boring under it, while it is in effect; and
 - (c) has not already given notice in relation to those works in accordance with paragraph (1), he or she must, for the purposes of section 55, give notice of his or her proposals not more than 20 days from the date on which the notice under section 58(1) was published.
- (4) For the purposes of section 55(7), the period prescribed is —
- (a) 5 days where the notice relates to major works or standard works; and
 - (b) 2 days where it relates to minor works.
- (5) For the purposes of section 55(8), the period prescribed is 2 days beginning with the date on which the notice ceases to have effect.
- (6) No notice under section 55(1) is required where an undertaker proposes to begin to execute street works —
- (a) in a street which is not a traffic-sensitive street;
 - (b) in the footway of a traffic-sensitive street at a traffic-sensitive time; or
 - (c) in a traffic-sensitive street, other than at a traffic-sensitive time,
- if the works do not involve breaking up the street or tunnelling or boring under it.
- (7) A statutory undertaker is not required to give notice under section 55(1) to any person to whom this paragraph applies unless such person has requested such notice.
- (8) Sub-paragraph (7) applies to —
- (a) any statutory undertaker having apparatus in the street which is likely to be affected by the works; and
 - (b) any person who would otherwise be entitled to such notice solely by virtue of his or her having in the street part of a service pipe lying between the boundary of the street and the stopcock on such pipe in that street or his or her having a drain in that street.
- (9) In paragraph (8) “drain”, “service pipe” and “stopcock” have the same meaning as in the Water Industry Act 1991(9).

Procedure for giving directions under section 56 or 56A

- 10.**—(1) Every direction under section 56(1) or 56A must be given by giving the undertaker a copy of the notice relating to the works given by that undertaker in accordance with regulation 8, or where no such notice is required, regulation 9; the copy being endorsed with the terms of the direction.
- (2) A direction under section 56(1A) must be given by giving the undertaker a copy of the notice of the beginning of the works given by that undertaker under section 74(5C); the copy being endorsed with the terms of the direction.

(9) 1991 c. 56. The definition of “service pipe” in section 219(1) was amended by section 92(6) of the Water Act 2003 (c. 37). There are other amendments not relevant to these Regulations.

(3) In relation to a notice under regulation 8 a direction under section 56(1) and the first of any directions under section 56A is of no effect if given more than one month after the receipt of the notice by the street authority.

(4) In relation to a notice pursuant to regulation 9(1) or (2), a direction under section 56(1) and the first of any directions under section 56A will be of no effect if given later than —

- (a) 5 days from the date of receipt of the notice by the street authority in the case of major works or standard works; and
- (b) 2 days from the date of its receipt by the street authority in the case of minor works.

Restriction on works following substantial road works

11.—(1) For the purposes of section 58(1), substantial road works means works for road purposes which comprise a reconstruction, widening, alteration in the level, resurfacing or specialist non-skid surface dressing of the part of the highway concerned and which if carried out —

- (a) in a footpath, footway, bridleway or cycle track —
 - (i) extend for more than 30 metres of continuous length; and
 - (ii) in the case of a footpath or cycle track, result in the width available for pedestrians or cyclists, as the case may be, being reduced by more than two-thirds; or
 - (b) in the carriageway —
 - (i) extend for more than 30 metres of continuous length; and
 - (ii) result in the use by vehicles of the carriageway being prohibited or the width of carriageway available for vehicular traffic being reduced by more than one-third.
- (2) For the purposes of section 58(1), the prescribed period is —
- (a) 5 years in relation to substantial road works involving reconstruction;
 - (b) 3 years in relation to substantial road works involving resurfacing or an alteration in the level of the highway;
 - (c) 1 year in relation to any other substantial road works carried out in a traffic-sensitive street or a street in road category 0, 1 or 2 which is not a traffic-sensitive street; and
 - (d) 6 months in relation to any other substantial road works carried out in a street in road category 3 or 4 which is not a traffic-sensitive street.

(3) A notice under section 58(1) relating to a proposed restriction on street works following substantial road works must be published by the street authority concerned on any website maintained by the authority for the purpose of providing information to the public.

(4) For the purposes of section 58(2), the period prescribed is 3 months.

(5) In addition to those to whom a copy of the notice must be given by virtue of section 58(3), a copy must also be given to —

- (a) the occupier of any premises which have a frontage onto the part of the highway to which the proposed restriction relates; and
- (b) any other person who has made a written request asking for a copy of any such notice.

(6) Where street works following substantial road works are restricted by a notice under section 58(1), that notice ceases to be effective if the road works to which it relates are not substantially begun within six months of the later of —

- (a) the date specified in the notice as being the date on which it is proposed to begin the works; or
- (b) the completion of all works executed as a consequence of any notice given to a street authority in accordance with regulation 9(3).

(7) For the purpose of section 58(5), in addition to the cases specified in that subsection, an undertaker may execute urgent works or any other works set out in paragraph (8).

(8) The works referred to in paragraph (7) are street works —

(a) not involving breaking up the street;

(b) that are —

(i) required to respond to a request for a new service or supply to a customer which was not received at a time when it was practicable for the works to be done before the date on which the restriction began; and

(ii) carried out more than 19 days from that date;

(c) carried out —

(i) under regulation 16(3)(b) of the Gas Safety (Installation and Use) Regulations 1998⁽¹⁰⁾ (primary meters);

(ii) to comply with an improvement notice under section 21 of the Health and Safety at Work etc Act 1974⁽¹¹⁾ (improvement notices); or

(iii) as a consequence of a prohibition notice under section 22 of that Act (prohibition notices); or

(d) that —

(i) are required to comply with a programme approved under regulation 13A of the Pipelines Safety Regulations 1996⁽¹²⁾ (iron pipelines); and

(ii) could not have been identified before the restriction began.

(9) For the purposes of section 58(7), any question as to whether the withholding of consent by a street authority is unreasonable is to be settled by arbitration.

(10) In this regulation —

“cycle track” (“*llwybr beiciau*”) has the same meaning as in section 329(1) of the Highways Act 1980⁽¹³⁾;

“reconstruction” (“*ail adeiladu*”) means the removal of some or all of the various layers that make up a road pavement and their replacement; and

“resurfacing” (“*rhoi wyneb newydd*”) means the removal of the running surface of a carriageway and its replacement to restore surface integrity and skid resistance.

Restriction on works following substantial street works

12.—(1) For the purposes of Schedule 3A to the 1991 Act, substantial street works means major works.

(2) The period prescribed under paragraph 2(2) of that Schedule must be not less than 20 days from the date on which the notice is published.

(3) A notice under paragraph 2 of that Schedule relating to a proposed restriction on street works following substantial street works must be published by the street authority concerned on any website maintained by the authority for the purpose of providing information to the public.

(4) In addition to those to whom a copy of the notice must be given under paragraph 2(4) of that Schedule, a copy must also be given to —

(10) S.I. 1998/2451.

(11) 1974 c. 37. Section 22(1) and (2) were amended, and section 22(4) substituted, by the Consumer Protection Act 1987, section 3 and Schedule 3, paragraph (2).

(12) S.I. 1996/825 as amended by S.I. 2003/2563.

(13) 1980 c. 66; section 329(1) was amended by section 1(1) of the Cycle Tracks Act 1984 (c. 38) and by the Road Traffic (Consequential Provisions) Act 1988 (c. 54), section 4 and Schedule 3, paragraph 21(2).

- (a) the occupier of any premises which have a frontage onto the part of the highway to which the proposed restriction relates; and
 - (b) any other person who has made a written request asking for a copy of any such notice.
- (5) Notification by an undertaker under paragraph 2(1)(d) of Schedule 3A of proposed street works and a direction restricting the execution of works under paragraph 4 of that Schedule must be in, or to the like effect as, the form contained in the Technical Specification and must contain such information as is relevant to the notification or direction, as the case may be, in accordance with that specification.
- (6) The provisions of regulation 6(3) to (10) apply to the making of such notification in the same manner as they apply to the giving of a notice under that regulation.
- (7) A direction under paragraph 4 of that Schedule must be given by publishing it on any website maintained by the street authority for the purpose of providing information to the public.
- (8) In addition to the case specified in paragraph 3(5)(a) of Schedule 3A to the 1991 Act, paragraph 3(4) of that Schedule does not apply in the cases set out in paragraph (11) below where no prior notification has been given under section 54 or 55, or paragraph 2(1)(d) of that Schedule, in relation to the works referred to.
- (9) For the purposes of paragraph 4(4) of that Schedule, the prescribed period is —
- (a) 1 year in relation to traffic-sensitive streets and streets in road category 0, 1 or 2 which are not traffic-sensitive streets; and
 - (b) 6 months in relation to streets in road category 3 or 4 which are not traffic-sensitive streets.
- (10) In addition to the cases specified in paragraph 5(2) of that Schedule, paragraph 5(1) of that Schedule does not apply in the cases set out in the following paragraph.
- (11) The cases referred to in paragraphs (8) and (10) are where an undertaker executes urgent works or any other works set out in paragraph (12).
- (12) The works referred to in paragraph (11) are street works —
- (a) not involving breaking up the street;
 - (b) that are —
 - (i) required to respond to a request for a new service or supply to a customer which was not received at a time when it was practicable for the works to be done before the date on which the restriction began; and
 - (ii) carried out more than 19 days from that date;
 - (c) carried out —
 - (i) under regulation 16(3)(b) of the Gas Safety (Installation and Use) Regulations 1998;
 - (ii) to comply with an improvement notice under section 21 of the Health and Safety at Work etc Act 1974; or
 - (iii) as a consequence of a prohibition notice under section 22 of that Act; or
 - (d) that —
 - (i) are required to comply with a programme approved under regulation 13A of the Pipelines Safety Regulations 1996; and
 - (ii) could not have been identified before the restriction began.
- (13) For the purposes of paragraph 5(3) of Schedule 3A to the 1991 Act, any question as to whether the withholding of consent by a street authority is unreasonable will be settled by arbitration.

Exemptions and adaptations

- 13.**—(1) Street managers are exempted from the provisions of section 53(1).
- (2) In relation to a street which is not a maintainable highway —
- (a) sections 53 and 80 and regulation 4 are adapted so that, for the purposes of those provisions, the local highway authority are the street authority; and
 - (b) section 61 does not apply where consent to the breaking up or opening of the street is required under any other enactment.

Designation of streets as protected

- 14.**—(1) A street authority must not designate a street as protected under section 61 unless —
- (a) the street fulfils a specific strategic traffic need;
 - (b) the street is subject to such high and constant traffic flows that designation as a traffic-sensitive street would not be sufficient to avoid serious disruption to traffic caused by street works; and
 - (c) there exists a reasonable alternative for placing undertakers' apparatus which could lawfully be placed in the street.
- (2) The procedure for making or withdrawing such a designation is set out in the Schedule.
- (3) The information to be made available by the street authority in respect of each street for the time being designated by them as protected must include —
- (a) the date of designation;
 - (b) particulars of the street in sufficient detail to enable it to be identified; and
 - (c) particulars of all consents to the placing of apparatus in the street.

Designation of streets as having special engineering difficulties

- 15.**—(1) The criteria for designating a street as having special engineering difficulties under section 63 are —
- (a) in the case of a street with which an engineering structure is associated, that its fundamental integrity and safety is dependent upon special measures being taken in the planning and execution of street works in the relevant part of the street in order to avoid serious failure of the structure concerned; or
 - (b) in the case of any other street, that there is a specific engineering feature identified as fundamental to the structure and integrity of the street as a whole requiring special measures to be taken in the planning and execution of street works in order to avoid serious failure of the street as a whole.
- (2) The procedure for making or withdrawing such a designation is set out in the Schedule.
- (3) The information to be made available by the street authority in respect of each street for the time being designated by them as having special engineering difficulties must include —
- (a) the date of designation;
 - (b) particulars of the street in sufficient detail to enable it to be identified;
 - (c) the features which justify the designation; and
 - (d) particulars of the authority or undertaker with an interest in the street.

Designation of streets as traffic-sensitive

16.—(1) Subject to paragraphs (3) and (5), a street authority may only designate a street as traffic-sensitive under section 64 if one or more of the criteria set out in paragraph (2) are met.

(2) The criteria referred to in paragraph (1) are that the street —

- (a) is one on which at any time the street authority estimate the traffic flow to be greater than 500 vehicles per hour per lane of carriageway, disregarding bus or cycle lanes;
- (b) is a single carriageway two-way road, the carriageway of which is less than 6.5 metres wide, having a traffic flow in both directions of not less than 600 vehicles per hour;
- (c) falls within an area covered by an Order in respect of congestion charges made under section 169 of the Transport Act 2000(14);
- (d) is one on which more than 25% of the traffic flow in both directions consists of heavy commercial vehicles;
- (e) is one on which the traffic flow in both directions includes more than eight buses per hour;
- (f) is designated by the local highway authority, as part of its winter maintenance programme, as one requiring the treatment of any part of it with salt or other chemicals, when low temperatures are expected, to prevent the formation of ice;
- (g) is within 100 metres of a critical signalised junction or a critical gyratory or roundabout system;
- (h) has a pedestrian traffic flow of at least 1300 people per hour, per metre width of footway; or
- (i) is on a tourist route or within an area where international, national or significant major local events take place.

(3) A street authority may only designate a street as traffic-sensitive in accordance with paragraph (1) for the times and on the dates when one or more of the criteria set out in paragraph (2) apply.

(4) The procedure for making or withdrawing a designation under paragraph (1) is set out in the Schedule.

(5) A street authority may, notwithstanding paragraphs (1) to (3), designate a street as traffic-sensitive with the agreement of the majority of statutory undertakers whom they know to have apparatus in the street.

(6) The information to be made available by the street authority in respect of each street for the time being designated by them as traffic-sensitive must include —

- (a) the date of designation;
- (b) particulars of the street in sufficient detail to enable it to be identified; and
- (c) in the case of a limited designation, the times of day, days, periods or occasions when the designation applies.

(7) In this regulation —

“bus” (“*bws*”) has the same meaning as in regulation 22(2) of the 2002 Regulations;

“bus lane” (“*lôn i fysiau*”) and “cycle lane” (“*lôn i feiciau*”) have the same meaning as in regulation 4 of the 2002 Regulations;

“critical signalised junction” (“*cyffordd â signalau critigol*”) means a traffic signal junction at which, in the absence of street works or works for road purposes and at times when the exit is not blocked, no less than 5 per cent of peak hour vehicles on average fail to clear the junction on the first green signal;

(14) 2000 (c. 38).

“critical gyratory or roundabout system” (“*system gylchdro neu gylchfan gritigol*”) means a gyratory or roundabout system where, in the absence of street works or works for road purposes, no less than 5 per cent of peak hour vehicles on average are delayed by more than 20 seconds;

“heavy commercial vehicle” (“*cerbyd masnachol trwm*”) has the meaning given by section 138 of the 1984 Act; and

“peak hour” (“*oriau brig*”) means between 7.30 am and 9.30 am and between 3.30 pm and 7.00 pm on the relevant day.

Modification of section 70(3) and (4A)

17.—(1) Section 70 (duty of undertaker to reinstate) is modified (in its application as respects Wales) as follows.

(2) In subsections (3) and (4A) for “7” substitute “10”.

Notification of reinstatement

18.—(1) Any notice given by an undertaker to the street authority in accordance with —

- (a) section 70(3) that a reinstatement has been completed; or
- (b) section 70(4A) that a permanent reinstatement has been completed,

must give the information about the reinstatement set out in paragraph (2).

(2) The information referred to in paragraph (1) is —

- (a) a reference point for —
 - (i) the centre of any reinstatement that does not exceed 10 metres in length; and
 - (ii) each end of any reinstatement that exceeds 10 metres in length;
- (b) the dimensions of the reinstatement;
- (c) the date on which the reinstatement was completed; and
- (d) the method of reinstatement.

(3) In paragraph (2) “reference point” (“*pwynt cyfeiriol*”) means an Ordnance Survey National grid reference point to a resolution of one metre.

Transitional arrangements

19. These Regulations do not apply to street works in Wales in respect of which an undertaker has given a notice under section 54(1), 55(1) or 57 before the date on which these Regulations come into force and the Street Works (Registers, Notices, Directions and Designations) Regulations 1992 continue to have effect in relation to those works, as if they had not been disappplied.

Revocation of the Street Works (Registers, Notices, Directions and Designations) (Wales) Regulations 2008

20. The Street Works (Registers, Notices, Directions and Designations) (Wales) Regulations 2008(15) are revoked.

28 February 2008

Rhodri Morgan
First Minister for Wales, one of the Welsh
Ministers

SCHEDULE

Regulations 14, 15 and 16

PROCEDURES FOR DESIGNATIONS UNDER SECTIONS 61, 63 AND 64 AND WITHDRAWAL OF SUCH DESIGNATIONS

PART 1

Designation of streets as protected

1. Before designating a street as protected under section 61, the street authority must publish a notice of their intention to make the designation on any website maintained by the authority for the purpose of providing information to the public.

2. The notice must specify a period, being not less than one month from the date on which the notice is published, within which objections may be made.

3. The street authority must, not later than the date on which the notice is published, give a copy of that notice to —

- (a) every undertaker whom the authority know to be working in their area, or who has given notice under either section 54 or section 55 of its intention to execute street works in their area;
- (b) every local authority (other than the street authority) in whose area any street to which the proposed designation relates is situated;
- (c) the occupiers or reputed occupiers of any land which is adjacent to the street;
- (d) any local transport authority or local transport authority group in whose area the street is located;
- (e) the Chief Officer of Police, the Chief Fire Officer and the Chief Executive of the Welsh Ambulance Services Trust in whose respective areas the street is located; and
- (f) any person who has made a written request to the street authority asking to be given notice of any proposed designation under section 61.

4. If within the specified period no objection is received by the street authority, or if all objections have been withdrawn, that authority may make the designation.

5. If within that period an objection is received by the street authority from any person to whom a copy of the notice is required to be given under paragraph 3 or from any other person appearing to the street authority to be affected by the proposed designation and the objection is not withdrawn, the street authority must, before making the designation, cause a local inquiry to be held.

6. Where a local inquiry has been held the street authority must consider the objections and the report of the person who held the inquiry and may make the designation with or without modifications, or may decide not to make it.

PART 2

Designation of streets as having special engineering difficulties or as being traffic-sensitive

7. Before designating a street as having special engineering difficulties under section 63 or as being traffic-sensitive in accordance with regulation 16(1), the street authority must give notice of their intention to make the designation to —

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- (a) every undertaker whom the authority know to be working in their area, or who has given notice under section 54 or section 55 of its intention to execute street works in their area;
 - (b) every local authority (other than the street authority) in whose area any street to which the proposed designation relates is situated;
 - (c) any local transport authority or local transport authority group in whose area the street is located
 - (d) the Chief Officer of Police, the Chief Fire Officer and the Chief Executive of the Welsh Ambulance Services Trust in whose respective areas the street is located; and
 - (e) any person who has made a written request to the street authority asking to be given notice of any such proposed designation.
8. The notice must specify —
- (a) a period, being not less than one month from the date on which the notice is given, within which objections can be made; and
 - (b) in the case of a notice given for the purposes of regulation 16(1), which of the criteria set out in regulation 16(2) are met in relation to the street.
9. If within the specified period no objection is received by the street authority, or if all objections have been withdrawn, that authority may make the designation.
10. If within that period an objection is received by the street authority from any person to whom notice is required to be given under paragraph 7 or from any other person appearing to the street authority to be affected by the proposed designation and the objection is not withdrawn, the street authority must before making the designation consider the objection and may make the designation with or without modifications or may decide not to make it.

PART 3

Notice of designation

11. A street authority must give written notice of their decision to designate a street as protected, as having special engineering difficulties or as traffic-sensitive to any undertaker to whom they gave a copy of a notice under paragraph 3(a), or, as the case may be, a notice under paragraph 7(a).

PART 4

Withdrawal of designation and recording of decisions

12. After consultation with every person entitled to notice or a copy of a notice under the relevant designation procedure, a street authority may at any time withdraw the designation of a street as protected, as traffic-sensitive or, subject to section 63(4), as having special engineering difficulties.

13. Any person entitled to notice or a copy of a notice under the relevant designation procedure or any other person whom the street authority consider to have sufficient interest may make representations to the street authority requesting the withdrawal of a designation. The authority must carefully consider any such representations before deciding whether or not to withdraw it.

14. If a street authority withdraw a designation they must publish notice of the withdrawal on any website maintained by the authority for the purpose of providing information to the public.

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15. When a street manager makes or withdraws a designation he or she must notify the highway authority.

16. When a highway authority make or withdraw a designation, or receive notification from a street manager in accordance with paragraph 15, the authority must —

- (a) notify the concessionaire for the time being responsible for maintaining the National Street Gazetteer; and
- (b) record such decisions on the street works register,

as soon as reasonably practicable and in any event within one month.

PART 5

Interpretation

17. In this Schedule —

“local authority” (“*awdurdod lleol*”) has the meaning given by section 270(1) of the Local Government Act 1972(16);

“the National Street Gazetteer” (“*y Rhestr Strydoedd Genedlaethol*”) means the national computer database of streets which is maintained by the concessionaire for the time being appointed by the Local Government Information House Limited.

“local transport authority” (“*awdurdod trafnidiaeth lleol*”) means a county council or a county borough council in Wales; and

“local transport authority group” (“*grŵp awdurdod trafnidiaeth lleol*”) means any one of the four groups of local transport authorities described in the Schedule to the Regional Transport Planning (Wales) Order 2006(17).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and remake with modifications, the Street Works (Registers, Notices, Directions and Designations) (Wales) Regulations 2008. The modifications relate to minor drafting typographical points in those Regulations.

These Regulations also replace, with modifications, the Street Works (Registers, Notices, Directions and Designations) Regulations 1992 (“the 1992 Regulations”), as respects Wales.

Regulation 3 includes definitions of “major works”, “minor works”, “standard works” and “urgent works”.

Regulation 4 sets out requirements as to the form of the street works register that a street authority is required to keep under section 53(1) of the New Roads and Street Works Act 1991 (“the 1991 Act”).

(16) 1972 c. 70. Section 270(1) was amended by the Local Government Act 1985 (c. 51), section 102(2) and Schedule 17. There are other amendments which are not relevant to these Regulations.

(17) S.I. 2006/2993.

It also prescribes the information with respect to street works which is to be held in the register together with information about certain categories of street, other works, notices, licences, apparatus, reinstatements and other matters that must also be held. Provision is made for information certified by the Secretary of State for Transport for the purpose of safeguarding national security and for information which is commercially sensitive to an undertaker to be restricted information for the purposes of section 53(3) of the 1991 Act.

Regulation 5 prescribes, by reference to the Technical Specification for the Electronic Transfer of Notices produced by the Department for Transport and dated 5th July 2007 as revised or reissued from time to time, the form of notice to be given for the purposes of sections 54, 55, 57, 58, 58A, 66, 70, and 72(3) of the 1991 Act. These sections deal with advance notice of certain works, notice of starting date of works, notice of emergency works, restrictions on works following both substantial road works and substantial street works and the avoidance of unnecessary delay, obstruction or reinstatement. Provision is also made for additional information to be contained in notices under sections 54, 55, 57 and 58A and as to the form of other notices.

Regulations 6 and 7 set out the manner in which service of notices under Part III of the 1991 Act, other than those under section 74 or Schedule 4B, and copies of notices is to be effected and include specific provision for service by using “electronic communications”.

Regulation 8 requires an undertaker to give not less than three months advance notice of major works, except in certain cases, and prescribes other periods for the purposes of notices under section 54 of the 1991 Act.

Regulation 9 prescribes the period of notice of starting date of street works, required to be given under section 55 of the 1991 Act, for major, standard, minor and urgent works. It also makes alternative provision where a notice is given under section 58(1) restricting future street works following substantial road works by establishing a period of not more than 20 days from publication of that notice in which undertakers, who have not already given notice of proposed works, must give notice of their proposals. It also deals with other matters connected with section 55.

Regulation 10 sets out the procedure to be followed where a street authority gives a direction under section 56(1) or (1A) of the 1991 Act as to the timing of street works or under section 56A as to the placing of apparatus. It also prescribes periods after which such directions will not be effective.

Regulation 11 defines “substantial road works” for the purposes of section 58(1) of the 1991 Act, prescribes different periods for the restriction on street works following the completion of substantial road works and provides that notice of a proposed restriction under this section must be published on any website maintained by the street authority concerned for the purpose of providing the public with information. It goes on to prescribe additional persons to whom a copy of the notice must be given, additional categories of work that may be carried out despite the restriction and to deal with a number of related matters.

Regulation 12 defines “substantial street works” for the purposes of section 58A of, and Schedule 3A to, the 1991 Act. It makes provision for notice of a proposed restriction on street works following the completion of substantial street works to be published by way of a website and prescribes additional persons to whom a copy of the notice must be given. It establishes a period of not less than 20 days from publication in which undertakers, who have not already given notice of proposed works, must notify the street authority of their proposals and prescribes the form of such notification and the manner of giving it. It also prescribes the form of a direction imposing the restriction and provides for it to be given by way of publication on a website. It specifies different periods for the restriction on street works following the completion of substantial street works, prescribes additional categories of work that may be carried out despite the restriction and deals with other related matters.

Regulation 13 exempts street managers (the street authority for a street which is not a maintainable highway) from the requirement to keep a register and provides that the local highway authority is to be the street authority for such a street for the purposes of keeping the register and receiving information from an undertaker as to the location and description of apparatus he or she has found.

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It also provides that section 61 of the 1991 Act (protected streets) will not apply to a street which is not a maintainable highway where consent to breaking up or opening is required under another enactment.

Regulations 14(1), 15(1) and 16(1) and (2) prescribe the criteria which a street authority must use when designating a street as protected under section 61 of the 1991 Act, as a street having special engineering difficulties under section 63 or, except where designation is by agreement between the street authority and the majority of undertakers whom it knows to have apparatus in the street, as traffic-sensitive under section 64.

Regulations 14(3), 15(3) and 16(6) set out the information which a street authority must make available when designating a street as protected, as having special engineering difficulties or as traffic-sensitive.

Regulation 14(2) and Parts 1 and 3 of the Schedule set out the procedure for designating a street as protected. Provision is made for the publication of notice of a proposed designation by way of a website, its service upon specified bodies and persons and for the holding of a local inquiry before a designation is made if there are objections.

Regulations 15(2), 16(4) and Parts 2 and 3 of the Schedule set out the procedure for designating a street as having special engineering difficulties or as traffic-sensitive. Provision is made for the giving of a notice of the proposal to specified bodies and persons and for the consideration of objections before a designation is made.

Regulations 14(2), 15(2) and 16(4) and Part 4 of the Schedule provide for the withdrawal by a street authority of a designation of a street as protected, as having special engineering difficulties or as traffic-sensitive.

Regulation 17 modifies section 70(3) and (4A) of the 1991 Act (duty to notify authority of reinstatement) in its application as respects Wales by changing the period within which notice of interim and permanent reinstatements must be notified to the street authority from 7 to 10 working days.

Regulation 18 prescribes the information that undertakers must give to the street authority in notices under section 70 of the 1991 Act about interim and permanent reinstatements.

Regulation 19 disapplies these Regulations in relation to street works in Wales in respect of which a notice under section 54(1), 55(1) or 57 of the 1991 Act was given before the date on which they come into force and preserves the application of the 1992 Regulations in respect of those works.

The publication issued by the British Standards Institution (BSI) on 1st August 2006 entitled “Spatial data sets for geographical referencing — specification for a street gazetteer” under reference No. BS 7666 — 1 2006 (ISBN 0 580 48710 5) can be obtained from any of the sales outlets operated by the BSI, or by post from the BSI at Milton Keynes. The publication entitled “Specification for the Reinstatement of Openings in Highways” made on 7th November 2006 and approved by the National Assembly for Wales on 24th January 2007 can be obtained from the Welsh Assembly Government website at <http://www.assemblywales.org/f29c0c680f7a88bd158e4818c74d08b5.pdf>. The “Technical Specification for the Electronic Transfer of Notices” dated 5th July 2007 is available on the Department for Transport’s website at www.dft.gov.uk/roads/streetworks and will be published in due course.

A full Regulatory Impact Assessment and Explanatory Memorandum can be obtained from the Roads Network Management Division, Transport Wales, Welsh Assembly Government, Crown Offices, Cathays Park, Cardiff, CF10 3NQ or on the Welsh Assembly Government website at <http://www.assemblywales.org/bus-home/buslegislation/bus/bus-legislation-sub/bus-legislation-sub-annulment.htm>