



New Roads and Street Works Act 1991

1991 CHAPTER 22

PART III

STREET WORKS IN ENGLAND AND WALES

Charges, fees and contributions payable by undertakers

74 Charge for occupation of the highway where works unreasonably prolonged

- (1) The Secretary of State may make provision by regulations requiring an undertaker executing street works in a maintainable highway to pay a charge to the highway authority where—
 - (a) the duration of the works exceeds such period as may be prescribed, and
 - (b) the works are not completed within a reasonable period.
- (2) For this purpose “a reasonable period” means such period as is agreed by the authority and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question.

In default of agreement, the authority’s view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

- (3) The regulations may provide that if an undertaker has reason to believe that the duration of works will exceed the prescribed period he may submit to the authority an estimate of their likely duration—
 - (a) in the case of works in connection with the initial placing of apparatus in the street in pursuance of a street works licence, together with his application for the licence,
 - (b) in the case of other works (not being emergency works), together with his notice under section 55 (notice of starting date), or
 - (c) in the case of emergency works, as soon as reasonably practicable after the works are begun,

Status: This is the original version (as it was originally enacted).

and that the period stated in an estimate so submitted shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

- (4) The regulations may also provide that if it appears to the undertaker that by reason of matters not previously foreseen or reasonably foreseeable the duration of the works—
- (a) is likely to exceed the prescribed period,
 - (b) is likely to exceed the period stated in his previous estimate, or
 - (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the authority to be reasonable unless they give notice, in such manner and within such period as may be prescribed, objecting to the estimate.

- (5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the time taken to complete the works and the extent to which the surface of the highway is affected by the works.

Different rates of charge may be prescribed according to the place and time at which the works are executed and such other factors as appear to the Secretary of State to be relevant.

- (6) The regulations may make provision as to the time and manner of making payment of any charge.
- (7) The regulations shall provide that a highway authority may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as they may decide or as may be prescribed, or generally.
- (8) The first regulations for the purposes of this section shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.

75 Inspection fees

- (1) An undertaker executing street works shall, subject to the provisions of any scheme under this section, pay to the street authority the prescribed fee in respect of each inspection of the works carried out by the authority.
- (2) Different fees may be prescribed according to the nature or extent of the excavation or other works, the place where they are executed and such other factors as appear to the Secretary of State to be relevant.
- (3) The Secretary of State may by regulations make a scheme under which undertakers pay the prescribed fee only in respect of such proportion or number of excavations or other works as may be determined in accordance with the scheme.
- (4) The scheme may make provision—
- (a) as to the periods and areas by reference to which the proportion or number is to be determined, and

(b) as to the intervals at which an account is to be struck between an undertaker and a street authority and any necessary payment or repayment made; and different provision may be made for different descriptions of undertaker and different descriptions of street authority.

(5) Nothing in this section applies in relation to inspections in respect of which the undertaker is obliged to bear the cost under section 72(2) (inspections consequent on his failure to comply with his duties as to reinstatement).

76 Liability for cost of temporary traffic regulation

(1) Where by reason of street works—

(a) the traffic authority makes an order or issues a notice under section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction of traffic), or

(b) a concessionaire issues a notice under that section by virtue of section 3(4) of this Act,

the authority or concessionaire may recover from the undertaker the whole of the costs incurred by them in connection with or in consequence of the order or notice.

(2) Those costs shall be taken to include, in particular, the cost to the authority or concessionaire—

(a) of complying with any requirement to notify the public of any matter in connection with the making, issuing or operation of the order or notice, and

(b) of providing traffic signs in connection with the prohibition or restriction of traffic by the order or notice.

77 Liability for cost of use of alternative route

(1) Where by reason of street works the use of a highway is restricted or prohibited and the diverted traffic uses as an alternative route a highway of a lower classification, the undertaker shall indemnify the highway authority for the latter highway in respect of costs reasonably incurred by them—

(a) in strengthening the highway, so far as that is done with a view to and is necessary for the purposes of its use by the diverted traffic; or

(b) in making good any damage to the highway occurring in consequence of the use by it of the diverted traffic.

(2) For this purpose the order of classification of highways, from higher to lower, is as follows:

1	Trunk roads.
2	Principal roads.
3	Other classified roads.
4	Other highways.

As to principal and other classified roads, see sections 12 and 13 of the Highways Act 1980.

78 Contributions to costs of making good long-term damage

- (1) The Secretary of State may make provision by regulations requiring an undertaker executing street works to contribute to the costs incurred or likely to be incurred by the street authority or, in the case of a road subject to a concession within the meaning of Part I of this Act, by the concessionaire, in works of reconstruction or re-surfacing of the street.
- (2) The regulations may provide—
 - (a) for a contribution to the cost of particular remedial works, or
 - (b) for a general contribution calculated in such manner as may be prescribed.
- (3) In the former case the regulations may contain provision for apportioning the liability where the need for the remedial works is attributable to works executed by more than one person.
- (4) In the latter case the regulations may provide for the amount of the contribution to vary according to the nature of the street, the description and extent of the works and such other factors as appear to the Secretary of State to be relevant.
- (5) The first regulations under this section shall not be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament; subsequent regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.