



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART III

#### STREET WORKS IN ENGLAND AND WALES

*Provisions with respect to particular authorities and undertakings*

#### **86 Highway authorities, highways and related matters.**

(1) In this Part—

“highway authority” and “local highway authority” have the same meaning as in the <sup>M1</sup>Highways Act 1980; and

“maintainable highway” means a highway which for the purposes of that Act is maintainable at the public expense.

(2) In this Part “works for road purposes” means works of any of the following descriptions executed in relation to a highway—

- (a) works for the maintenance of the highway,
- (b) any works under powers conferred by Part V of the Highways Act 1980 (improvement),
- (c) the erection, maintenance, alteration or removal of traffic signs on or near the highway, or
- (d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles,

or works of any corresponding description executed in relation to a street which is not a highway.

(3) In this Part “major highway works” means works of any of the following descriptions executed by the highway authority in relation to a highway which consists of or includes a carriageway—

- (a) reconstruction or widening of the highway,
- (b) works carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts),

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- (c) substantial alteration of the level of the highway,
  - (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway,
  - (e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980,
  - (f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges),
  - (g) provision of a cattle-grid in the highway or works ancillary thereto, or
  - (h) tunnelling or boring under the highway.
- (4) Works executed under section 184(9) of the Highways Act 1980 by a person other than the highway authority shall also be treated for the purposes of this Part as major highway works; and in relation to such works the references in sections 84 and 85 to the highway authority shall be construed as references to him.

**Modifications etc. (not altering text)**

**C1** S. 86(3) extended (13.1.1999) by S.I. 1998/3269 art. 4(1)(a)

**C2** S. 86(3) applied (14.3.2002) by The Chester Guided Busway Order 2002 (S.I. 2002/412), **art. 3(1)(a)** (with art. 38)

**Marginal Citations**

**M1** 1980 c. 66.

**87 Prospectively maintainable highways.**

- (1) Where a local highway authority are satisfied that a street in their area (whether a highway or not) is likely to become a maintainable highway, they may make a declaration to that effect.
- (2) The declaration shall be a local land charge.
- (3) The provisions of this Part apply to a street in respect of which such a declaration has been made and registered as a local land charge as they apply to a maintainable highway.
- (4) In relation to street works in such a street, the street authority—
  - (a) shall secure the performance by undertakers of their duties under this Part, and shall exercise their powers under this Part, in such manner as is reasonably required for the protection of the street managers; and
  - (b) shall comply with any reasonable request as to securing performance of those duties, or as to the exercise of those powers, which may be made by the street managers.

**88 Bridges, bridge authorities and related matters.**

- (1) In this Part—
  - (a) references to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street; and

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- (b) “bridge authority” means the authority, body or person in whom a bridge is vested.
- (2) In this Part “major bridge works” means works for the replacement, reconstruction or substantial alteration of a bridge.
- (3) Where a street is carried or crossed by a bridge, any statutory right to place apparatus in the street includes the right to place apparatus in, and attach apparatus to, the structure of the bridge; and other rights to execute works in relation to the apparatus extend accordingly.
- References in this Part to apparatus in the street include apparatus so placed or attached.
- (4) An undertaker proposing to execute street works affecting the structure of a bridge shall consult the bridge authority before giving notice under section 55 (notice of starting date) in relation to the works.
- (5) An undertaker executing such works shall take all reasonably practicable steps—
- (a) to give the bridge authority reasonable facilities for monitoring the execution of the works, and
  - (b) to comply with any requirement made by them which is reasonably necessary for the protection of the bridge or for securing access to it.
- (6) An undertaker who fails to comply with subsection (4) or (5) commits an offence in respect of each failure and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Subsections (4) to (6) do not apply to works in relation to which Schedule 4 applies (works in streets with special engineering difficulties).

**Modifications etc. (not altering text)**

- C3** [S. 88\(4\)\(5\)](#): functions of a local authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by [S.I. 1999/2106, art. 2, Sch. 2 para.4\(d\)](#)

**89 Public sewers, sewer authorities and related matters.**

- (1) In this Part—
- (a) “sewer” and “public sewer” have the same meaning as in [<sup>F1</sup>the <sup>M2</sup>Water Industry Act 1991], and
  - (b) “sewer authority”, in relation to a public sewer, means the sewerage undertaker within the meaning of that Act in whom the sewer is vested.
- (2) An undertaker proposing to execute street works affecting a public sewer shall consult the sewer authority before giving notice under section 55 (notice of starting date) in relation to the works.
- (3) References in this Part to apparatus include a sewer, drain or tunnel.
- (4) References to the undertaker in relation to such apparatus, or in relation to street works in connection with such apparatus, shall be construed—
- (a) in the case of a public sewer, as references to the sewer authority, and

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- (b) in any other case, as references to the authority, body or person having the management or control of the sewer, drain or tunnel.
- (5) Section 69 (provisions as to works likely to affect other apparatus in the street) does not apply by virtue of subsection (3) above in relation to works likely to affect a public sewer if, or to the extent that, Schedule 4 (works in streets with special engineering difficulties) applies.

#### Textual Amendments

**F1** Words in s. 89(1) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF 130), ss. 2(1), 4(2), [Sch. 1 para. 57\(1\)](#)

#### Marginal Citations

**M2** 1991 c. 56

## 90 Provisions as to reinstatement of sewers, drains or tunnels.

- (1) The duties of an undertaker under this Part with respect to reinstatement of the street extend, in the case of street works which involve breaking up or opening a sewer, drain or tunnel, to the reinstatement of the sewer, drain or tunnel.
- (2) The responsible authority may by notice require an undertaker who has failed to comply with his duties under this Part with respect to reinstatement to carry out the necessary remedial works within such period of not less than 7 working days as may be specified in the notice.

If he fails to comply with the notice, the authority may carry out the necessary works and recover from him the costs reasonably incurred by them in doing so.

- (3) If it appears to the responsible authority that a failure by an undertaker to comply with his duties under this Part as to reinstatement is causing danger to users of the street, the authority may carry out the necessary works without first giving notice and may recover from him the costs reasonably incurred by them in doing so.

They shall, however, give notice to him as soon as reasonably practicable stating their reasons for taking immediate action.

- (4) The responsible authority for the purposes of this section is—
- in the case of a public sewer, the sewer authority, and
  - in the case of any other sewer, drain or tunnel, the authority, body or person having the management or control of it.

#### Modifications etc. (not altering text)

**C4** [S. 90](#): functions of a local authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by [S.I. 1999/2106](#), art. 2, [Sch. 2 para. 5](#)

## 91 Transport authorities, transport undertakings and related matters.

- (1) In this Part—

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- (a) “transport authority” means the authority, body or person having the control or management of a transport undertaking; and
  - (b) “transport undertaking” means a railway, tramway, dock, harbour, pier, canal or inland navigation undertaking of which the activities, or some of the activities, are carried on under statutory authority.
- (2) In this Part “major transport works” means substantial works required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking.
- (3) References in this Part to a street which crosses or is crossed by property held or used for the purposes of a transport undertaking extend to cases in which the street and the property in question are at different levels.
- But the transport authority shall not be treated as a relevant authority as regards undertakers’ works in such a street where the property in question consists only of—
- (a) subsoil of the street which is held by the transport authority but is not used, and has not been adapted for use, for the purposes of the transport undertaking, or
  - (b) property underground at such a depth that there is no reasonable possibility of the works affecting it.
- (4) The provisions of this Part relating to a street which crosses or is crossed by property held or used for the purposes of a transport undertaking apply to a street which is or forms part of a towing-path or other way running along a canal or inland navigation, provided the path or way is held or used, or the subsoil of it is held, for the purposes of the canal or inland navigation undertaking.

## **92 Special precautions as to displaying of lights.**

- (1) An undertaker executing street works in a street which crosses, or is crossed by, or is in the vicinity of, a railway, tramway, dock, harbour, pier, canal or inland navigation, shall comply with any reasonable requirements imposed by the transport authority concerned with respect to the displaying of lights so as to avoid any risk of their—
- (a) being mistaken for any signal light or other light used for controlling, directing or securing the safety of traffic thereon, or
  - (b) being a hindrance to the ready interpretation of any such signal or other light.
- (2) An undertaker who fails to comply with any such requirement commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In proceedings for such an offence it is a defence for the undertaker to show that all reasonable care was taken by him, and by his contractors and by persons in his employ or that of his contractors, to secure that no such failure occurred.

## **93 Works affecting level crossings or tramways.**

- (1) This section applies to street works at a crossing of a railway on the level or which affect a tramway.

In this section “the relevant transport authority” means the authority having the management of the railway or tramway undertaking concerned.

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- (2) An undertaker proposing to begin to execute works to which this section applies shall give the prescribed notice to the relevant transport authority notwithstanding that such notice is not required under section 55 (notice of starting date).

The provisions of subsections (2) to (7) of that section (contents of notice, when works may be begun, &c.) apply in relation to the notice required by this subsection as in relation to a notice under subsection (1) of that section.

- (3) An undertaker executing works to which this section applies shall comply with any reasonable requirements made by the relevant transport authority—
- (a) for securing the safety of persons employed in connection with the works, or
  - (b) for securing that interference with traffic on the railway or tramway caused by the execution of the works is reduced so far as is practicable;

and, except where submission of a plan and section is required, he shall defer beginning the works for such further period as the relevant transport authority may reasonably request as needed for formulating their requirements under this subsection or making their traffic arrangements.

- (4) Nothing in subsection (2) or (3) affects the right of an undertaker to execute emergency works.

- (5) An undertaker executing emergency works shall give notice to the relevant transport authority as soon as reasonably practicable of his intention or, as the case may be, of his having begun to do so notwithstanding that such notice is not required by section 57 (notice of emergency works).

The provisions of subsections (3) and (4) of that section (contents of notice and penalty for failure to give notice) apply in relation to the notice required by this subsection as in relation to a notice under subsection (2) of that section.

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