

SCHEDULE 2

Article 3

FUNCTIONS CONFERRED BY OR UNDER THE 1991 ACT OR REGULATIONS MADE UNDER THAT ACT

1. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street, by or under any of the following provisions of the 1991 Act—

- (a) section 53(1) (the street works register);
- (b) section 54(1), (4), (4A) and (4B)(2) (advance notice of certain works);
- (c) section 55(1), (4) and (8)(3) (notice of starting date of works);
- (d) section 56(1), (1A) and (4)(4) (power to give directions as to timing of street works);
- (e) section 56A(1), (3) and (8)(5) (power to give directions as to placing of apparatus);
- (f) section 57(2)(6) (notice of emergency works);
- (g) section 58(7) (restriction on works following substantial road works);
- (h) section 58A and Schedule 3A, paragraphs 1(1), 2(1) and (4), 3(1) and 4(1), (6), (8), (9) and (10), and 5(2)(b) and (3)(8) (restriction on works following substantial street works);
- (i) section 59(9) (general duty of street authority to co-ordinate works);
- (j) section 60(1) (general duty of undertakers to co-operate);
- (k) section 61(protected streets), except for sub-paragraph (b) in the second paragraph of subsection (1);
- (l) section 65(5) (safety measures);
- (m) section 66(3) and (4) (avoidance of any unnecessary delay or obstruction);
- (n) section 68(1) (facilities to be afforded to street authority);
- (o) section 70(3) and (4A)(10) (duty of undertaker to reinstate);
- (p) section 72(11) (powers of street authority in relation to reinstatement);
- (q) section 75(12) (inspection fees);
- (r) section 81 (duty to maintain apparatus);
- (s) section 82(1) (liability for damage or loss caused);
- (t) section 87(4) (prospectively maintainable highways); and
- (u) section 94(1) and (2) (power of street authority or district council to undertake street works).

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- (1) Section 53 is prospectively amended by the Traffic Management Act 2004 (c.18), section 45.
 - (2) Section 54(4A) and (4B) were inserted by the Traffic Management Act 2004 (c.18), section 49(1)(b).
 - (3) Section 55(8) was inserted by the Traffic Management Act 2004 (c.18), section 49(2). There are other amendments and prospective amendments which are not relevant to this Order.
 - (4) Section 56(1) was amended by the Traffic Management Act 2004 (c.18), section 43(1) and (2). Subsection (1A) was inserted by section 43(1) and (3) of that Act. There are other amendments and prospective amendments which are not relevant to this Order.
 - (5) Section 56A was inserted by the Traffic Management Act 2004 (c.18), section 44.
 - (6) Section 57(2) was amended by the Traffic Management Act 2004 (c.18), section 52(3)(b).
 - (7) Section 58 was amended by the Traffic Management Act 2004 (c.18), sections 40(1) and (2) and 51 and Schedule 1.
 - (8) Section 58A and Schedule 3A were inserted by the Traffic Management Act 2004 (c.18), section 52(1) and (2).
 - (9) Section 59 was amended and is prospectively amended by the Traffic Management Act 2004 (c.18), section 42.
 - (10) Section 70(3) was substituted, and (4A) inserted, by the Traffic Management Act 2004 (c.18), section 54(1) and (3). Subsections (3) and (4A) were further amended by the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951), regulation 17 and the Street Works (Registers, Notices, Directions and Designations) (Wales) Regulations 2008 (S.I. 2008/101 (W.14)), regulation 17.
 - (11) Section 72 is prospectively amended by the Traffic Management Act 2004 (c.18), sections 53(1) and 58(1).
 - (12) Section 75 is prospectively substituted by the Traffic Management Act 2004 (c.18), section 58(2).

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2. Functions conferred on the Secretary of State or a local highway authority, as the traffic authority(**13**) for a highway, by section 65(2) of the 1991 Act (safety measures).
3. Functions conferred on the Secretary of State or a local highway authority, as a relevant authority, other than a street authority, by or under any of the following provisions of the 1991 Act—
 - (a) section 81 (duty to maintain apparatus); and
 - (b) section 82(1) (liability for damage or loss caused).
4. Functions conferred on the Secretary of State or a local highway authority, as the highway authority for a highway or as the bridge authority for a bridge, by or under any of the following provisions of the 1991 Act—
 - (a) section 83(**14**) (works for road purposes likely to affect apparatus in the street);
 - (b) section 84(1), (3) and (4) (measures necessary where apparatus affected by major works);
 - (c) section 85(1) and (3) (sharing of cost of necessary measures); and
 - (d) section 88(4)(**15**) and (5) (bridges, bridge authorities and related matters).
5. Functions conferred on the Secretary of State or a local highway authority, as the responsible authority, by or under section 90 of the 1991 Act(**16**) (provisions as to reinstatement of sewers, drains or tunnels).
6. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street, by or under any of the following—
 - (a) regulation 3 of the Street Works (Inspection Fees) (England) Regulations 2002(**17**) (undertaker required to pay the street authority a fee for each chargeable inspection carried out by the street authority in England); and
 - (b) regulation 3 of the Street Works (Inspection Fees) (Wales) Regulations 2006(**18**) (undertaker required to pay the street authority a fee for each chargeable inspection carried out by the street authority in Wales).
7. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street, by or under regulation 3 of the Street Works (Reinstatement) Regulations 1992(**19**) (street authority’s power to give notice affecting the standard of reinstatement required).
8. Functions conferred on the Secretary of State or a local highway authority, as the highway authority for a highway, as the bridge authority for a bridge or, in the case of a local highway authority, as the transport authority for a transport undertaking, by or under any provision of—
 - (a) the Street Works (Sharing of Costs of Works) (England) Regulations 2000(**20**); and
 - (b) the Street Works (Sharing of Costs of Works) (Wales) Regulations 2005(**21**).
9. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street, under regulation 3 or 4 of the Street Works (Maintenance) Regulations 1992(**22**) (street authority’s power to execute works to enable it to inspect an undertaker’s apparatus and to execute any emergency works needed).

(13) Section 105(1) of the New Roads and Street Works Act 1991 (c.22) contains a definition of “traffic authority”.

(14) Section 83(3) was amended by the Traffic Management Act 2004 (c.18), section 40(1) and (2) and Schedule 1.

(15) Section 88(4) was amended by the Traffic Management Act 2004 (c.18), section 52(6).

(16) Section 90 is prospectively amended by the Traffic Management Act 2004 (c.18), section 53(2).

(17) S.I. 2002/2092, as amended by S.I. 2004/572, 2007/584 and 2008/589.

(18) S.I. 2006/1532 (W.150), as amended by S.I. 2007/1713 (W.150) and 2008/600 (W.62).

(19) S.I. 1992/1689, as amended by S.I.1992/3110, in relation to England by S.I. 2002/1487 and in relation to Wales by S.I. 2006/2932 (W.265) and 2006/2934 (W.266).

(20) S.I. 2000/3314.

(21) S.I. 2005/1721 (W.133).

(22) S.I. 1992/1691.

10. Functions conferred on the Secretary of State or a local highway authority, as the highway authority for a highway, under any provision of the Street Works Register (Registration Fees) Regulations 1999⁽²³⁾ (undertaker to pay the appropriate highway authority a fee on the registration of prescribed information).

11. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street in England, the highway authority for a highway in England or the bridge authority for a bridge in England by or under any of the following provisions of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007⁽²⁴⁾—

- (a) regulation 4(4) and (5) (street works registers);
- (b) regulation 6 (manner of service of notices);
- (c) regulation 7 (manner of service of copy notices);
- (d) regulation 9(1), (2) and (3) (notice of starting date of works);
- (e) regulation 10(1) and (2) (procedure for giving directions under section 56 or 56A);
- (f) regulation 11(3), (5) and (9) (restriction on works following substantial road works);
- (g) regulation 12(3), (4) and (7) (restriction on works following substantial street works);
- (h) regulation 14(3) (designation of streets as protected);
- (i) regulation 15(3) (designation of streets as having special engineering difficulties); and
- (j) regulation 16(6) (designation of streets as traffic-sensitive).

12. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street in Wales, the highway authority for a highway in Wales or the bridge authority for a bridge in Wales by or under any of the following provisions of the Street Works (Registers, Notices, Directions and Designations) (Wales) Regulations 2008⁽²⁵⁾—

- (a) regulation 4(4) and (5) (street works registers);
- (b) regulation 6 (manner of service of notices);
- (c) regulation 7 (manner of service of copies of notices);
- (d) regulation 9(1), (2) and (3) (notice of starting date of works);
- (e) regulation 10(1) and (2) (procedure for giving directions under section 56 or 56A);
- (f) regulation 11(3), (5) and (9) (restriction on works following substantial road works);
- (g) regulation 12(3), (4) and (7) (restriction on works following substantial street works);
- (h) regulation 14(3) (designation of streets as protected);
- (i) regulation 15(3) (designation of streets as having special engineering difficulties); and
- (j) regulation 16(6) (designation of streets as traffic-sensitive).

13. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street in England, under regulation 5(1) or (6) of the Street Works (Fixed Penalty) (England) Regulations 2007⁽²⁶⁾ (manner of service of a fixed penalty notice or a notice withdrawing a fixed penalty notice).

14. Functions conferred on the Secretary of State or a local highway authority, as the street authority for a street in Wales, under regulation 5(1) or (6) of the Street Works (Fixed Penalty)

⁽²³⁾ S.I. 1999/1048.

⁽²⁴⁾ S.I. 2007/1951.

⁽²⁵⁾ S.I. 2008/101 (W.14).

⁽²⁶⁾ S.I. 2007/1952.

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(Wales) Regulations 2008⁽²⁷⁾ (manner of service of a fixed penalty notice or a notice withdrawing a fixed penalty notice).

15. Functions conferred on the Secretary of State or a local highway authority, as the highway authority for a highway in England, by or under any of the following provisions of the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2001⁽²⁸⁾—

- (a) regulation 4 (notices);
- (b) regulation 5(1) (prescribed charges and prescribed periods);
- (c) regulation 6 (estimates of duration of works); and
- (d) regulation 7 (further and revised estimates of duration of works).

⁽²⁷⁾ S.I. 2008/102 (W.15).

⁽²⁸⁾ S.I. 2001/1281.