
STATUTORY INSTRUMENTS

2017 No. 1329

The Boston Barrier Order 2017

PART 1

PRELIMINARY

Application of 1991 Act

3.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway must be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 (dual carriageways and roundabouts)(1) of the 1980 Act or section 184 (vehicle crossings)(2) of that Act.

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned must, in relation to works which are major transport works by virtue of paragraph (1), be construed as references to the Agency.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- section 56 (directions as to timing)(3);
- section 56A (power to give directions as to placing of apparatus)(4);
- section 58 (restrictions following substantial road works)(5);
- section 58A (restriction on works following substantial street works)(6);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works)(7).

(4) The provisions of the 1991 Act mentioned in paragraph (5) which, together with other provisions of that Act, apply in relation to the execution of street works and any regulations made, or

(1) Section 64 was amended by Schedule 17 to the Local Government Act 1965 (c. 51) and Schedule 9 to the 1991 Act.
(2) Section 184 was amended by section 4 of, and Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and Schedule 8 to the New Roads and Street Works Act 1991 (c. 22) and sections 35 and 46 of the Criminal Justice Act 1982 (c. 48).
(3) Section 56 was amended by section 43 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(4) Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).
(5) Section 58 was amended by section 51 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
(6) Section 58A was inserted by section 52 of the Traffic Management Act 2004 (c. 18).
(7) Schedule 3A was inserted by Schedule 4 to the Traffic Management Act 2004 (c. 18).

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code of practice issued or approved under, those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the Agency under the powers conferred by article 12 (temporary stopping up and diversion of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

- (5) The provisions of the 1991 Act⁽⁸⁾ referred to in paragraph (4) are—
- section 54 (advance notice of certain works)⁽⁹⁾ subject to paragraph (6);
 - section 55 (notice of starting date of works)⁽¹⁰⁾ subject to paragraph (6);
 - section 57 (notice of emergency works)⁽¹¹⁾;
 - section 59 (general duty of street authority to co-ordinate works)⁽¹²⁾;
 - section 60 (general duty of undertakers to co-operate);
 - section 68 (facilities to be afforded to street authority);
 - section 69 (works likely to affect other apparatus in the street);
 - section 76 (liability for cost of temporary traffic regulation);
 - section 77 (liability for cost of use of alternative route), and

all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Part 3 (Permit Schemes) of the Traffic Management Act 2004⁽¹³⁾ and any permit scheme made under that Part do not apply in relation to any works executed under this Order.

Commencement Information

- II** Art. 3 in force at 2.1.2018, see [art. 1](#)

⁽⁸⁾ Sections 54, 55, 57, 60, 68 and 69 were amended by sections 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

⁽⁹⁾ As also amended by section 49(1) of the Traffic Management Act 2004 (c. 18).

⁽¹⁰⁾ As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 (c. 18).

⁽¹¹⁾ As also amended by section 52(3) of the Traffic Management Act 2004 (c. 18).

⁽¹²⁾ As amended by section 42 of the Traffic Management Act 2004 (c. 18).

⁽¹³⁾ 2004 c. 18.

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Order excluded in part by [S.I. 2023/778 art. 41](#)