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STATUTORY INSTRUMENTS

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**2024 No. 60**

The A12 Chelmsford to A120 Widening  
Development Consent Order 2024

PART 3  
STREETS

**Application of the 1991 Act**

**12.**—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway 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<sup>(1)</sup>; or
- (b) they are works which, had they been executed by the relevant local highway authority, might have been carried out in exercise of the powers conferred by section 64<sup>(2)</sup> (dual carriageways and roundabouts) of the 1980 Act or section 184<sup>(3)</sup> (vehicle crossings over footways and verges) of that Act.

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

(3) The following provisions of the 1991 Act (including any equivalent or modified provisions in any permit scheme) do not apply in relation to any works executed under the powers of this Order—

- (a) section 56<sup>(4)</sup> (power to give directions as to timing of street works);
- (b) section 56A<sup>(5)</sup> (power to give directions as to placing of apparatus);
- (c) section 58<sup>(6)</sup> (restrictions on works following substantial road works);
- (d) section 58A<sup>(7)</sup> (restriction on works following substantial street works);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);

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(1) There are amendments to section 86 of the Act which are not relevant to this Order.

(2) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the 1991 Act.

(3) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); by section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and Schedule 8 to the New Roads and Street Works Act 1991.

(4) Section 56 was amended by sections 40 and 43 of, and Schedule 1 to the Traffic Management Act 2004 Act.

(5) Section 73A was inserted by section 44 of the Traffic Management Act 2004.

(6) As amended by section 51 of the Traffic Management Act 2004.

(7) Inserted by section 52 of the Traffic Management Act 2004.

- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A(8) (restriction on works following substantial street works).

(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 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 undertaker under the powers conferred by article 18 (temporary alteration, diversion, prohibition and restriction of the use 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 referred to in paragraph (4) are—
- (a) section 54(9) (advance notice of certain works), subject to paragraph (6);
  - (b) section 55(10) (notice of starting date of works), subject to paragraph (6);
  - (c) section 57(11) (notice of emergency works);
  - (d) section 59(12) (general duty of street authority to co-ordinate works);
  - (e) section 60(13) (general duty of undertakers to co-operate);
  - (f) section 68(14) (facilities to be afforded to street authority);
  - (g) section 69(15) (works likely to affect other apparatus in the street);
  - (h) section 75(16) (inspection fees);
  - (i) section 76 (liability for cost of temporary traffic regulation); and
  - (j) 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(17) 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 restriction, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 13 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act;
- (b) means the undertaker is by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (c) has effect in relation to maintenance works which are street works within the meaning of the 1991 Act to which the provisions of Part 3 of the 1991 Act apply.

### **Construction and maintenance of new, altered or diverted streets and other structures**

**13.—**(1) Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the relevant local highway authority in whose area the highway lies and, unless otherwise agreed in writing with the relevant local highway authority, the

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(8) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.  
(9) Section 54 was amended by sections 40(1) and (2) and 49(1) of, and Schedule 1 to, the Traffic Management Act 2004.  
(10) Section 55 was amended by sections 40(1) and (2), 49(2) and 51(9) of, and Schedule 1 to, the Traffic Management Act 2004.  
(11) Section 57 was amended by sections 40(1) and (2) and 52(3) of, and Schedule 1 to, the Traffic Management Act 2004.  
(12) Section 59 was amended by section 42(2) and (3) of the Traffic Management Act 2004 (c. 18).  
(13) Section 60 was amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004.  
(14) Section 68 was amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004.  
(15) Section 69 was amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004.  
(16) Section 75 was substituted by section 58(2) of the Traffic Management Act 2004.  
(17) Section 54 was amended by section 49(1) of, and Schedule 1 to, the Traffic Management Act 2004.

highway must be maintained by and at the expense of the relevant local highway authority from its completion.

(2) Where a highway (other than a trunk road) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the relevant local highway authority and, unless otherwise agreed in writing with the relevant local highway authority, that part of the highway must be maintained by and at the expense of the relevant local highway authority from its completion.

(3) Where a highway is de-trunked under this Order—

- (a) section 265(18) (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the relevant local highway authority, be maintained by and at the expense of the relevant local highway authority from the date of de-trunking.

(4) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over a trunk road, the highway surface (being those elements over the waterproofing membrane) must be maintained by and at the expense of the relevant local highway authority unless otherwise agreed in writing between the undertaker and the relevant local highway authority, and the remainder of the bridge, including the waterproofing membrane, the structure below the waterproof membrane and the parapets must be maintained by and at the expense of the undertaker.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and the competent person had carried out those instructions.

### **Classification of roads, etc.**

**14.—(1)** On the date on which the roads described in Part 1 (trunk roads) of Schedule 3 (classification of roads etc.) are completed and open for traffic, they are to become trunk roads as

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(18) Section 265 was amended by paragraph 52 of Schedule 1 to the Infrastructure Act 2015 (c. 7).

if they had become so by virtue of an order under section 10(2)(19) (general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(2) On the date on which the roads described in Part 2 (classified A roads), Part 3 (classified B roads) and Part 4 (classified C roads) of Schedule 3 are completed and open for traffic, they are to become classified roads for the purpose of any enactment or instrument which refers to highways classified as classified roads as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

(3) On and after the date on which the roads described in Part 5 (unclassified roads) of Schedule 3 are completed and open for traffic, they are to become unclassified roads for the purpose of any enactment or instrument which refers to roads which are not classified roads.

(4) On such day as the undertaker may determine, the orders specified in column (3) of Part 12 (revocations & variations of existing traffic regulation orders) of Schedule 3 are to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(5) Subject to article 9(4) (limits of deviation) unless otherwise agreed in writing with the relevant local highway authority, the footpaths, cycle tracks, footways and bridleways set out in Part 13 (footpaths, cycle tracks, footways and bridleways) of Schedule 3 and identified on the streets, rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open to traffic.

(6) On such day as the undertaker may determine, the roads described in Part 14 (roads to be de-trunked) of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(7) The undertaker may only make a determination for the purposes of paragraph (6) with the consent of the Secretary of State, who must consult the relevant local highway authority as to the date and as to whether the highway to be de-trunked is of a reasonably satisfactory standard for use as a local highway.

(8) The application of paragraphs (1) to (6) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

### **Speed limits**

**15.**—(1) On and after the date on which the roads specified in the table in Part 6 (speed limits) of Schedule 3 (classification or roads etc) are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of that table (or the national speed limit where so specified) along the lengths of road identified in the corresponding row of column (2) of that table.

(2) Where the words “national speed limit” appear in column (3) of the table in Part 6 of Schedule 3, on and after the date on which the lengths of road identified in the corresponding row of column (2) of that table are open to traffic the national speed limit will apply to those lengths of roads.

(3) On and after the date on which the roads specified in Part 7 (variable speed limits) of Schedule 3 are open for traffic no person is to drive any motor vehicle on the lengths of road identified in column (2) of that Part at a speed exceeding the lesser of—

- (a) the national speed limit (if no limit in miles per hour is indicated by a variable message sign); or
- (b) the limit in miles per hour indicated by a speed limit sign displayed on a variable message sign, if one is so indicated.

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(19) Section 10(2) was amended by section 22 of the New Roads and Street Works Act 1991 Act and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(4) A section of road is subject to a variable speed limit in relation to a vehicle being driven along it if—

- (a) the section of road is identified in column (2) of Part 7 (speed limits) of Schedule 3 as being subject to a variable speed limit in column (3) of that Part;
- (b) the vehicle has passed a speed limit sign displayed on a variable message sign; and
- (c) the vehicle has not subsequently passed—
  - (i) another speed limit sign indicating a different speed limit; or
  - (ii) a traffic sign which indicates that the national speed limit is in force.

(5) For the purposes of paragraph (3)—

- (a) the speed limit indicated by a variable message sign is the speed shown at the time the vehicle passes the sign, or, if higher, the speed limit shown by the sign ten seconds before the vehicle passed the sign;
- (b) if, ten seconds before the vehicle passed it, no speed limit in miles per hour is indicated by a variable message sign, the national speed limit applies.

(6) On and after the date on which the roads specified in the tables in Parts 6 (speed limits) and 7 (variable speed limits) of Schedule 3 are open for traffic, where the words “Removal of restricted road status” appear in column (3) of those tables, those lengths of road will cease to be restricted roads as if, on that date, a direction had been made under section 82(2)(a) (what roads are restricted roads) of the 1984 Act.

(7) No speed limit imposed by or under this Order applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(20) when used in accordance with regulation 3(5) of those Regulations.

(8) The application of paragraphs (1) to (6) may be varied or revoked by any instrument under any enactment which provides for the variation or revocation of such matters, including by an instrument made under the 1984 Act where the matter in question could have been included in an order made under that Act.

(9) In this article—

“national speed limit” has the same meaning as in Schedule 1 to the 2016 Regulations and Directions and a traffic sign which indicates that the national speed limit applies means a traffic sign of the type shown in diagram 671 in Part 2 of Schedule 10 to the 2016 Regulations and Directions which is—

- (a) placed on or near a road; and
  - (b) directed at traffic on the carriageway on which the vehicle is being driven,
- where “road” includes the adjacent hard shoulder and verge and any lay by;

“speed limit sign” in relation to a vehicle, means a traffic sign of the type shown in diagram 670 in Part 2 of Schedule 10 to the 2016 Regulations and Directions which is—

- (a) situated on or near any part of a road specified in column (2) of the table in Part 1 (speed limits) of Schedule 10 to this Order as being subject to a variable speed in limit in column (3) of that table; and
- (b) directed at traffic on the carriageway on which the vehicle is being driven;

“variable message sign” has the meaning given by Schedule 1 (definitions) to the 2016 Regulations and Directions;

### **Power to alter layout etc. of streets**

16.—(1) Subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1)—

- (a) are exercisable on the giving of not less than 42 days' notice to the street authority; and
- (b) are not to be exercised without the consent of the street authority where that authority is a public authority.

(4) If a street authority which receives an application for consent under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(5) Any application to which this article applies must include a statement that the provisions of paragraph (4) apply to that application.

(6) Paragraphs (2), (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

### **Street Works**

17.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street or carry out works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in or under the street;
- (e) maintain, renew, alter apparatus in the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for, or incidental to, any works referred to in sub-paragraphs (a) to (j).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

### **Temporary alteration, diversion, prohibition and restriction of the use of streets**

**18.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily alter, divert, prohibit or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street where the use has been temporarily prohibited or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary alteration, diversion, prohibition or restriction of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily alter, divert, prohibit or restrict the use of any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the temporary alteration, diversion, prohibition or restriction of any private right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(6) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(7) Any application to which this article applies must include a statement that the provisions of paragraph (6) apply to that application.

### **Permanent stopping up and restriction of use of streets and private means of access**

**19.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the construction of the authorised development, stop up each of the streets and private means of access shown on the streets, rights of way and access plans and the de-trunking and stopping up plans and specified in columns (1) and (2) of Parts 1, 2, 4 and 6 of Schedule 4 (permanent stopping up of highways and private means of access and provision of new highways and private means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Parts 2 and 4 of Schedule 4 (being a street or private means of access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) subject to article 9(4) (limits of deviation) the new street or private means of access to be constructed and substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street or private means of access until the completion and opening of the new street or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Parts 1 and 6 of Schedule 4 (being a highway or private means of access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in

paragraph (4) is satisfied in relation to all the land which abuts on either side of the street or private means of access to be stopped up.

- (4) The condition referred to in paragraph (3) is that—
- (a) the undertaker is in possession of the land; or
  - (b) there is no right of access to the land from the street or private means of access concerned; or
  - (c) there is a reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
  - (d) the owners and occupiers of the land have agreed to the stopping up.
- (5) Where a street or private means of access has been stopped up under this article—
- (a) all rights of way over or along the street or private means of access so stopped up are extinguished; and
  - (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) This article is subject to article 43 (apparatus and rights of statutory undertakers in stopped up streets).

### **Public rights of way**

**20.**—(1) The public rights of way identified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (being highways to be stopped up) and shown on the streets, rights of way and access plans, are extinguished on the date of the expiry of the notice given under paragraph (2).

(2) The undertaker must erect a site notice at each end of each of the rights of way to be extinguished in accordance with paragraph (5) no less than 28 days prior to the extinguishment of the right of way in question.

(3) The lengths of highway which may be provided under this Order are described in Part 3 (new highways which are otherwise to be provided) of Schedule 4.

### **Access to works**

**21.** The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

### **Clearways, prohibitions and restrictions**

**22.**—(1) Except as provided in paragraph (6), on an after such day as the undertaker may determine, no person is to cause or permit any vehicle to stop on any part of the lengths of road described in column (2) of Part 8 (traffic regulation measures (clearways)) of Schedule 3 (classification of roads, etc.) and identified on the traffic regulation measures movement restrictions plans where it is identified in the corresponding row of column (3) of that Part that such lengths of road are to become a clearway, or that the stopping of vehicles is otherwise prohibited, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(2) Except as provided in paragraph (10), on and after such day as the undertaker may determine, no person is to cause or permit any vehicle to proceed on any part of the lengths of road described in



column (2) of Part 9 (traffic regulation measures (prohibitions)) of Schedule 3 and identified on the traffic regulation measures movement restrictions plans where it is identified in the corresponding row of column (3) of that Part that such lengths of road are to be subject to a width restriction, if the width of the vehicle exceeds the width specified in column (3) of that Part, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(3) Except as provided in paragraph (10), on and after such day as the undertaker may determine, no person is to proceed or cause or permit any vehicle to proceed on any part of the lengths of road described in column (2) of Part 9 (traffic regulation measures (prohibitions)) of Schedule 3 (classification of roads, etc.) and identified on the traffic regulation measures movement restrictions plans in contravention of a prohibition set out in the corresponding row of column (3) of that Part except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(4) Except as provided in paragraph (11), on and after such day as the undertaker may determine, no person is to proceed on or cause or permit any vehicle to enter a road specified in column (2) of Part 10 (traffic regulation measures (no entry)) of Schedule 3 and identified on the traffic regulation measures movement restrictions plans from the road which is identified in column (3) of that Part where it is identified in the corresponding row of column (4) of that Part (by the words “No Entry”) that there is a prohibition on such entry, except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(5) Except as provided in paragraphs (6) to (9), on and after such a day as the undertaker may determine, no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 11 (traffic regulation measures (waiting restrictions)) of Schedule 3 and identified on the traffic regulation measures movement restrictions plans during the periods specified in column (3) of that Part, except upon the direction of, or with the permission of, a uniformed constable or civil enforcement officer.

(6) Nothing in paragraphs (1) or (5) applies—

- (a) to render it unlawful to cause or permit a vehicle to stop or wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—
  - (i) the removal of any obstruction to traffic;
  - (ii) the maintenance, improvement, reconstruction or operation of the road;
  - (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable, or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 3A (the electronic communications code) to the Communications Act 2003(21); or
  - (iv) any building operation or demolition;
- (b) in relation to a vehicle being used—
  - (i) for police, ambulance, fire and rescue authority or traffic officer purposes,
  - (ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;
  - (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(22); or
  - (iv) by a universal service provider for the purposes of providing a universal postal service as the Postal Services (Universal Postal Service) Order 2012(23); or

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(21) 2003 c. 21. Schedule 3A was inserted by section 4(2) of, and Schedule 1 to, the Digital Economy Act 2017 (c. 30).

(22) 1991 c. 56.

(23) S.I. 2012/936, amended by S.I. 2013/3108 and S.I. 2015/643.

- (c) in relation to a vehicle stopping or waiting when the person in control of it is—
  - (i) required by law to stop;
  - (ii) obliged to stop in order to avoid an accident; or
  - (iii) prevented from proceeding by circumstances outside the person’s control.
- (7) Nothing in paragraph (5) applies in relation to a vehicle waiting—
  - (a) to enable a person to board or alight from the vehicle;
  - (b) while any gate or other barrier at the entrance to premises to or from which the vehicle requires access, or from which it has emerged, is opened or closed, if it is not reasonably practicable for the vehicle to wait otherwise;
  - (c) to enable goods to be loaded or unloaded to or from the vehicle;
  - (d) where a disabled person’s badge and a parking disc are displayed in the relevant position, and the driver or the person in charge of the vehicle has marked the time at which the period of waiting began, for a period not exceeding three hours (not being a period separated by an interval of less than one hour from a previous period of waiting by the same vehicle in the same road) but only if that vehicle has been or is about to be driven or used by the person to whom the badge has been issued or, as the case may be, used for the carrying of a disabled person as a passenger (except where the prohibition of waiting does not relate to “no waiting except taxis, ambulances or police vehicles”);
  - (e) where the traffic authority for the road has given permission by means of a dispensation issued under paragraph (8) to be displayed in the front or nearside of the vehicle and which includes information to enable the driver to be contacted in an emergency, provided the vehicle is not causing an obstruction by doing so, and that the vehicle can be moved if the driver is requested to do so by a uniformed constable or a civil enforcement officer;
  - (f) where the vehicle is being used in connection with essential work at adjacent premises for the purpose of undertaking emergency glazing repair to those premises; or
  - (g) where the vehicle is being loaded or unloaded while it is in actual use in connection with—
    - (i) the removal of furniture from one office or dwelling to another, or
    - (ii) the removal of furniture from such premises to a depository or to such premises from a depository,if it is not practicable to use the vehicle for such purpose in any other road.
- (8) Upon written application on a form issued by and obtainable from the traffic authority any person duly authorised by the traffic authority may issue a dispensation to exempt that vehicle from a prohibition of waiting on any part of the roads described in paragraph (5).
- (9) No person is to cause or permit any vehicle to wait on any part of the lengths of roads described in paragraph (5) for the purposes of selling or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.
- (10) Nothing in paragraphs (2) and (3) applies to render it unlawful to cause or permit a vehicle to proceed on any of the lengths of roads described in those paragraphs, for so long as may be necessary to enable that vehicle to be used in connection with—
  - (a) the removal of any obstruction to traffic;
  - (b) the maintenance, improvement, reconstruction or operation of the road in question;
  - (c) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road in question of any sewer, main pipe, conduit, wire, cable, or other apparatus for the supply of gas, water, electricity or any electronic communications apparatus as

defined in Schedule 3A (the electronic communications code) to the Communications Act 2003<sup>(24)</sup>; or

(d) any building operation or demolition.

(11) Nothing in paragraph (4) applies to render it unlawful to cause or permit a vehicle to enter a road in contravention of that paragraph, if it is necessary to do so to enable that vehicle to be used in connection with—

(a) the removal of any obstruction to traffic; or

(b) the maintenance, improvement, reconstruction or operation of the road.

(12) Paragraphs (1) to (11) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(13) In this article—

“civil enforcement officer” means an individual employed as a civil enforcement officer under section 76 (civil enforcement officers) of the 2004 Act;

“disabled person’s badge” and “parking disc” have the same meaning as in the Local Authorities’ Traffic Orders (Exemptions for Disabled Persons) (England) Regulations 2000<sup>(25)</sup>;

“in the relevant position”—

(a) in respect of a disabled persons badge or parking ticket, means—

(i) the badge or parking ticket is exhibited on the dashboard or fascia of the vehicle so that the front of the badge or parking ticket is clearly legible from the outside of the vehicle; or

(ii) where the vehicle is not fitted with a dashboard or fascia, the badge or parking ticket is exhibited in a conspicuous position on the vehicle,

so that the front of the badge or parking ticket is clearly legible from the outside of the vehicle;

(b) in respect of a disabled person’s parking disc, means—

(i) the disc is exhibited on the dashboard or fascia of the vehicle; or

(ii) where the vehicle does not have a dashboard or fascia, the disc is exhibited in a conspicuous position on the front near side of the vehicle,

so that when marked to show the quarter hour period during which a period of waiting began, that period is clearly legible from the outside of the vehicle; and

“traffic officer” means an individual designated under section 2 (designation of traffic officers) of the 2004 Act.

## **Traffic Regulation**

**23.**—(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

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<sup>(24)</sup> 2003 c. 21. Schedule 3A was inserted by section 4(2) of, and set out in Schedule 1 to, the Digital Economy Act 2017 (c. 30).  
<sup>(25)</sup> S.I. 2000/683. See regulations 3(1) and 8(5).

- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicles, or vehicles of any class, or pedestrians access to any road, either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraph (2) unless the undertaker has—

- (a) given not less than—
  - (i) 12 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition , restriction or other provision intended to have effect temporarily,
 to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised its intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i) or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (2)—

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act<sup>(26)</sup>
 and the instrument by which it is effected may specify savings and exemptions to which the prohibition restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the 2004 Act.

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers conferred by paragraph (2) the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

(9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

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<sup>(26)</sup> Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51).

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

(12) Any application to which this article applies must include a statement that the provisions of paragraph (11) apply to that application.