

WELSH STATUTORY INSTRUMENTS

2009 No. 1268

The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (Wales) Regulations 2009

Prescribed charges

8.—(1) Subject to paragraphs (2), (12) and (13), an undertaker executing street works in a highway to which these Regulations apply must pay the highway authority a charge to be determined in accordance with paragraphs (3) to (11).

(2) Paragraph (1) does not apply to—

(a) works—

(i) in a street which is not a traffic-sensitive street,

(ii) in the footway of a traffic-sensitive street at a traffic-sensitive time, or

(iii) in a traffic-sensitive street, other than at a traffic-sensitive time,

if the works do not involve breaking up the street or tunnelling or boring under it;

(b) works consisting only of the creation of holes of less than 3 centimetres in diameter, for investigatory purposes;

(c) replacing poles, lamp columns or signs in the same location; or

(d) pole testing.

(3) Subject to paragraphs (5) and (9), the charge will be of an amount calculated in accordance with paragraph (4) and is payable for each day, or part of a day, by which the duration of the works exceeds the longer of—

(a) the prescribed period, or

(b) a reasonable period⁽¹⁾.

(4) In relation to street works of a category set out in column 3 of Table 1, executed in a street of a description referred to in column 2 in relation to that category, the amount of the charge will be the amount set out in column 4.

Table 1

<i>1.</i> <i>Item No.</i>	<i>2.</i> <i>Description of street.</i>	<i>3.</i> <i>Category of street works.</i>	<i>4.</i> <i>Amount of charge (£)</i>
1.	Street not being a street in road category 2, 3, or 4	Major works	2,500
		Standard works	2,500
		Minor works	500

(1) “A reasonable period” is to be construed in accordance with section 74(2) of the New Roads and Street Works Act 1991 (c. 22).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>1. Item No.</i>	<i>2. Description of street.</i>	<i>3. Category of street works.</i>	<i>4. Amount of charge (£)</i>
		Immediate works	500
2.	Street in road category 2.	Major works	2,000
		Standard works	2,000
		Minor works	500
		Immediate works	500
3.	Street in road category 3 or 4, being a traffic-sensitive street.	Major works	750
		Standard works	750
		Minor works	250
		Immediate works	250
4.	Street in road category 3 or 4, not being a traffic-sensitive street.	Major works	250
		Standard works	250
		Minor works	100
		Immediate works	100

(5) Subject to paragraph (9), the charge in relation to remedial works will be payable in accordance with paragraph (3) but will be calculated in accordance with paragraph (4) as if those works were, subject to paragraph (7), street works of the same category as the works set out in paragraph (6).

(6) The works referred to in paragraph (5) are those works in respect of which—

- (a) there has been a failure to comply with the undertaker's duties with respect to reinstatement; and
- (b) the street authority has required the undertaker to carry out the remedial works.

(7) Where the works referred to in paragraph (6) were, at the time notice was given in respect of them under section 54(1), 55(1) or 57 of the 1991 Act, works which fell into one of the categories set out in column 2 of Table 2 for the purposes of the 1992 Regulations, those works will be treated, for the purposes of paragraph (5), as if they were in the equivalent category set out in column 3 in relation to that category.

Table 2

<i>1. Item No.</i>	<i>2. Category of street works for the purposes of the 1992 Regulations.</i>	<i>3. Equivalent category of street works.</i>
1.	Major projects	Major works
2.	Standard works	Standard works

<i>1. Item No.</i>	<i>2. Category of street works for the purposes of the 1992 Regulations.</i>	<i>3. Equivalent category of street works.</i>
3.	Minor works	Minor Works
4.	Urgent works	Immediate works
5.	Emergency works	Immediate works

(8) In paragraph (7), the expressions used in items 1 to 4 in column 2 of Table 2 have the meaning given in regulation 2 of the 1992 Regulations.

(9) The charge will consist of a single payment of £100 in respect of any works in the circumstances set out in paragraph (10), if the requirements of paragraph (11) are met.

(10) The circumstances referred to in paragraph (9) are that—

- (a) subject to sub-paragraph (c), the undertaker has—
 - (i) completed interim reinstatement, or as the case may be permanent reinstatement, of a highway,
 - (ii) endeavoured to remove all signing, lighting and guarding, and
 - (iii) removed all remaining spoil, unused materials and other plant;
- (b) but for paragraph (c), the duration of the works would not have exceeded the longer of the prescribed period or a reasonable period; and
- (c) a single item of signing, lighting or guarding remains on the highway.

(11) The requirements referred to in paragraph (9) are that—

- (a) the highway authority has—
 - (i) informed the undertaker of the identity and location of the single item referred to in paragraph (10)(c); and
 - (ii) requested the undertaker to remove it; and
- (b) the undertaker has complied with the request by the end of the next day following the date on which the request was received.

(12) A highway authority may reduce the amount, or waive payment, of a charge—

- (a) in any particular case,
- (b) in such classes of case as they may decide,
- (c) in all cases,
- (d) in all cases other than a particular case, or
- (e) in all cases other than such class of case as they may decide.

(13) Charges are only payable in respect of street works where the highway authority has given the undertaker, not later than three months after receipt of a works clear notice or a works closed notice, an account in writing setting out the charges payable.