
STATUTORY INSTRUMENTS

1992 No. 2984 (C.88)

HIGHWAYS, ENGLAND AND WALES

**The New Roads and Street Works Act 1991 (Commencement
No. 5 and Transitional Provisions and Savings) Order 1992**

Made - - - - 27th November 1992

The Secretary of State for Transport, in exercise of the powers conferred by section 170 of the New Roads and Street Works Act 1991⁽¹⁾ and of all other enabling powers hereby makes the following Order:

**PART I
GENERAL**

Citation and interpretation

1.—(1) This Order may be cited as the New Roads and Street Works Act 1991 (Commencement No. 5 and Transitional Provisions and Savings) Order 1992.

(2) In this Order:—

“the 1950 Act” means the Public Utilities and Street Works Act 1950⁽²⁾;

“the 1980 Act” means the Highways Act 1980⁽³⁾;

“the 1991 Act” means the New Roads and Street Works Act 1991;

“special road authority” has the same meaning as in section 16(4) of the 1980 Act;

“special road” has the same meaning as in the 1980 Act;

“statutory undertaker” means a person entitled by virtue of a statutory right to carry out street works.

⁽¹⁾ 1991 c. 22.
⁽²⁾ 1950 c. 39.
⁽³⁾ 1980 c. 66.

Commencement of certain provisions of the 1991 Act

2.—(1) The provisions of the 1991 Act specified in the first column of Schedule 1 to this Order (which relates to the matters specified in the second column thereof) shall come into force on 28th November 1992.

(2) The provisions of the 1991 Act specified in the first column of Schedule 2 to this Order (which relates to the matters specified in the second column thereof) shall come into force on 1st January 1993.

(3) The provisions of the 1991 Act specified in the first column of Schedule 3 to this Order (which relates to the matters specified in the second column thereof) shall come into force on 1st April 1993.

PART II

TRANSITIONAL PROVISIONS AND SAVINGS

Advance notice of certain works

3.—(1) An undertaker who has submitted a plan and section of works under section 3(1) of the 1950 Act on or before 31st December 1992 shall be deemed to have given an advance notice of works for the purposes of section 54 of the 1991 Act.

(2) An undertaker who has submitted a plan and section of the works under section 3(1) of the 1950 Act on or before 31st December 1992 shall be deemed to have settled a plan and section of the works for the purposes of Schedule 4 to the 1991 Act.

Notice of starting date of works

4. An undertaker who has given a notice under section 6(1)(4) of the 1950 Act on or before 31st December 1992 shall be deemed to have given a notice of starting date of works for the purposes of section 55 of the 1991 Act.

Notice of emergency works

5. An undertaker who has given a notice relating to the execution of emergency works under section 6(5) of the 1950 Act on or before 31st December 1992 shall be deemed to have given a notice of emergency works as required by section 57 of the 1991 Act and the works executed in reliance on such a notice shall be deemed to be emergency works for the purposes of section 57 notwithstanding any of the provisions of section 52 of the 1991 Act.

Restrictions on works following substantial road works

6. A street authority shall not restrict the execution of street works in a highway by notice under section 58 of the 1991 Act during the twelve months following the completion of substantial road works in any case where the highway authority has on or before 31st December 1992 granted consent to an undertaker to break up or open that highway pursuant to section 156(5) of the 1980 Act.

Protected streets

7. Where a special road authority (within the meaning of section 16(4) of the 1980 Act) has on or before 31st December 1992 granted to a statutory undertaker consent to lay down or erect

(4) Section 6(1) was amended by the Telecommunications Act 1984 (c. 12), section 109(1) and Schedule 4, paragraph 29(2).

apparatus in any land comprised in the route of a special road, the consent of the street authority under section 61 of the 1991 Act for placing that apparatus in a protected street shall not be required.

Works likely to affect other apparatus in the street

8. The provisions of section 69 of the 1991 Act shall not apply to any street works which are in hand on 1st January 1993 or in respect of which any action required under section 26(5) of the 1950 Act has been taken before that date.

Duty of undertaker to reinstate

9. An undertaker shall not be subject to the provisions of section 70 of the 1991 Act if—
- (a) the street authority has elected to execute permanent reinstatement in accordance with the provisions of the Third Schedule(6) to the 1950 Act and the undertaker is treated for the purposes of paragraph 5(2) of the said Schedule as having completed his works and such of the permanent reinstatement and making good as by virtue of the 1950 Act he is obliged to execute, provided however that an authority electing to exercise permanent reinstatement as aforesaid may not recover the cost of reinstatement from an undertaker unless the reinstatement has been completed on or before 31st December 1993 and an account has been rendered to the undertaker on or before 31st March 1994; or
 - (b) the undertaker has begun permanent reinstatement on or before 31st December 1992; or
 - (c) the street authority and the undertaker have agreed on or before 31st December 1992 that the street authority should execute permanent reinstatement and the reinstatement is executed in accordance with that agreement.

Measures necessary where apparatus affected by major works

10. The provisions of sections 84(1), (3) and (4) and 85 of the 1991 Act shall not apply in any case where, on or before 31st December 1992, a highway, bridge or transport authority has given to an undertaker a notice of intention to execute works in accordance with paragraph 2(1) of Part I of the Fourth Schedule to the 1950 Act and has accepted that undertaker's notice given under paragraph 3 of that Schedule as a specification of works and measures necessary to protect the undertaker's apparatus.

Reinstatement affected by subsequent works

11. Subsections (5) to (8) of section 73 of the 1991 Act shall apply to reinstatements carried out in accordance with section 7 of and the Third Schedule to the 1950 Act.

Savings

12. Notwithstanding the repeal of the 1950 Act by section 168(2) of and Schedule 9 to the 1991 Act, sections 7, 8, 9 and 10(7) and the Third Schedule to the 1950 Act shall continue to apply to permanent reinstatements begun by an undertaker on or before 31st December 1992 and to permanent reinstatements carried out by a street authority in the circumstances set out in article 9(a) of this Order.

13. Section 10(1) and 12(4) of the 1950 Act shall continue to apply to street works executed by a transport authority or a sewer authority which were begun on or before 31st December 1992.

(5) Section 26 was amended by the Telecommunications Act 1984, section 109(1) and Schedule 4, paragraph 29(1).

(6) The Third Schedule was amended by the Criminal Justice Act 1982 (c. 48), sections 38 and 46 and by the Telecommunications Act 1984, section 109(1) and Schedule 4, paragraph 29(2).

(7) Section 10 was amended by the Telecommunications Act 1984, section 109(1) and Schedule 4, paragraph 29(2).

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14. Section 16 of the 1950 Act shall continue in force in relation to agreements to which that section applies which are made on or before 31st December 1992.

15. Section 8 of the 1950 Act shall continue in force until 31st March 1993 in relation to street works whether or not they were begun before 1st January 1993.

Signed by authority of the Secretary of State for Transport

27th November 1992

Kenneth Carlisle
Parliamentary Under Secretary of State,
Department of Transport

SCHEDULE 1

Article 2(1)

Provisions of the 1991 Act which come into force on 28th November 1992.

Section 53(1), (2) and (3)	The street works register and Regulations in relation thereto
Section 55 (for the purpose of making regulations)	Notice of starting date of works
Section 57	Notice of emergency works
Section 58	Restriction on works following substantial road works

SCHEDULE 2

Article 2(2)

Provisions of the 1991 Act which come into force on 1st January 1993.

Section 50	Street works licences
Section 51	Prohibition of unauthorised street works
Section 55 (for all purposes other than the making of regulations)	Notice of starting date of works
Section 59(1), (2), (4), (5) and (6)	General duty of street authority to co-ordinate works
Section 60 (1) and (3)	General duty of undertakers to co-operate
Section 61	Protected streets
Section 66	Avoidance of unnecessary delay or obstruction
Section 68	Facilities to be afforded to street authority
Section 69	Works likely to affect other apparatus in the street
Section 70(1), (2), (3), (5), (6) and (7)	Duty of undertaker to reinstate
Section 72	Powers of street authority in relation to reinstatement
Section 73	Reinstatement affected by subsequent works
Section 74	Charge for occupation of the highway where works unreasonably prolonged
Section 76	Liability for cost of temporary traffic regulation
Section 77	Liability for cost of use of alternative route
Section 78	Contributions to costs of making good longterm damage
Section 81(1), (2), (5), (6) and (7)	Duty to maintain apparatus
Section 82	Liability for damage or loss caused

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Section 83	Works for road purposes likely to affect apparatus in the street
Section 84(1), (3) and (4)	Measures necessary where apparatus affected by major works
Section 88	Bridges, bridge authorities and related matters
Section 89	Public sewers, sewer authorities and related matters
Section 90	Provisions as to reinstatement of sewers, drains or tunnels
Section 91	Transport authorities, transport undertakings and related matters
Section 92	Special precautions as to displaying of lights
Section 93	Works affecting level crossings or tramways
Section 94	Power of street authority or district council to undertake street works
Section 95	Offences
Section 96	Recovery of costs or expenses
Section 100	Agreements inconsistent with Part III of the 1991 Act
Section 101	Effect of Part III of the 1991 Act on certain existing special enactments or instruments
Section 102	Effect of Part III of the 1991 Act on other existing enactments or instruments
Section 103	Former controlled land
Section 168 in so far as it relates to the provisions of Schedules 8 and 9 of the 1991 Act referred to in this Schedule	Minor and consequential amendments and repeals
Schedule 3	Street works licences
Schedule 5	Procedure for making certain orders under Part III of the 1991 Act
Schedule 8 in so far as it relates to England and Wales and has not already been commenced	Minor and consequential amendments
Schedule 9 in so far as it relates to England and Wales and has not already been commenced	Repeals

SCHEDULE 3

Article 2(3)

Provisions of the 1991 Act which come into force on 1st April 1993.

Provisions of that Act

Subject Matter

Section 65(1), (2), (4), (5) and (6)

Safety measures

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2(1) brings into force on 28th November 1992 those provisions of the New Roads and Street Works Act 1991 (“the 1991 Act”) which are specified in Schedule 1. Article 2(2) brings into force on 1st January 1993 those provisions of the 1991 Act specified in Schedule 2 and article 2(3) brings into force on 1st April 1993 those provisions of the 1991 Act specified in Schedule 3.

The remaining articles of the Order make transitional provisions and keep in force for limited purposes certain provisions of the Public Utilities Street Works Act 1950, which is repealed by section 168 of and Schedule 9 to the 1991 Act as from 1st January 1993.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the New Roads and Street Works Act 1991 have been brought into force by commencement orders made before the date of this Order.

Provision	Date of Commencement	S.I. No.
Part II (except sections 43 and 44)	21st October 1991	1991/2286
Section 166 (partially) (Scotland)		
Section 167 (partially) (Scotland)		
Section 168 (partially) (Scotland)		
Schedule 8 (partially) (Scotland)		
Schedule 9 (partially) (Scotland)		
Sections 43 and 44	1st November 1991	
Section 168 (partially) (Scotland)		
Schedule 8 (partially) (Scotland)		
Schedule 9 (partially) (Scotland)		

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Provision	Date of Commencement	S.I. No.
Part I	1st November 1991	1991/2288
Section 166(1) (England and Wales)		
Section 167(1), (2), (3) and (6) (England and Wales)		
Section 168 (partially)		
Sections 169(1), 170 and 171		
Schedule 8, Part II (England and Wales)		
Schedule 8, Part IV (partially)		
Schedule 9 (partially) (England and Wales)		
Sections 107 and 108	14th July 1992	1992/1671
Section 111		
Section 112 (partially)		
Section 113		
Section 115		
Section 118 (partially)		
Section 119 (partially)		
Sections 121 to 123		
Section 124 (partially)		
Section 126		
Section 129 (partially)		
Section 130		
Section 134		
Section 140 (partially)		
Section 143 (partially)		
Sections 144 to 146		
Sections 156 to 158		
Sections 163 to 165		
Section 167 (partially) (Scotland)		
Section 169 (partially) (Scotland)		
Schedule 6		
Sections 48 and 49	14th July 1992	1992/1686

Provision	Date of Commencement	S.I. No.
Section 52		
Section 53 (partially)		
Section 54		
Section 56		
Section 59 (partially)		
Section 60 (partially)		
Sections 62 to 64		
Section 65 (partially)		
Section 67		
Section 70 (partially)		
Section 71		
Section 75		
Section 81 (partially)		
Section 84 (partially)		
Sections 85 to 87		
Sections 97 to 99		
Sections 104 to 106		
Section 167 (partially) (England and Wales)		
Schedule 4		