WELSH STATUTORY INSTRUMENTS

2009 No. 1267 (W.114)

HIGHWAYS, WALES

The Traffic Management Permit Scheme (Wales) Regulations 2009

Made - - - -	*19 May 2009*
Laid before the National Assembly for Wales - -	*21 April 2009*
Coming into force - -	*1 June 2009*

The Welsh Ministers in exercise of the powers conferred upon the National Assembly for Wales by sections 37, 39(2) and 39(4) of the Traffic Management Act 2004(**1**) and now vested in them(**2**), make the following Regulations:

PART 1

Introduction

Title, commencement, and application

1. The title of these Regulations is the Traffic Management Permit Scheme (Wales) Regulations 2009,they apply in relation to Wales and come into force on 1 June 2009.

Interpretation

2.—(1) In these Regulations —

"the 1991 Act" ("*Deddf 1991*") means the New Roads and Street Works Act 1991(**3**);

"the 2004 Act" ("*Deddf 2004*") means the Traffic Management Act 2004;

except where the context otherwise requires, "apparatus" ("*offer*") includes a sewer, drain or tunnel as well as any structure for the lodging therein of apparatus or for gaining access to apparatus;

(**1**) 2004 c. 18.
(**2**) The powers of the National Assembly for Wales under the Traffic Management Act 2004 were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c. 32).
(**3**) 1991 c. 22.

"duration" ("*cyfnod amser*" a "*parhad*") means a continuous period of time and includes a period of time capable of being assessed by reference to the provision of a start time and an end time;

"electronic communication" ("*cyfathrebiad electronig*") has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(**4**);

"emergency services" ("*gwasanaethau brys*") include —

(a) police, fire, rescue and ambulance services; and

(b) Her Majesty's Coastguard;

"local authority" ("*awdurdod lleol*") means a local county or county borough council in Wales;

"permit" ("*trwydded*") means an authorisation from the Permit Authority which permits certain specified works to be carried out on a single specified street for a specified duration;

"Permit Authority" ("*Awdurdod Trwyddedau*"), in relation to a permit scheme, means the relevant local highway authority or authorities which have submitted, or intend to submit, that permit scheme to the Welsh Ministers under section 33(1) or (2) of the 2004 Act (preparation of permit schemes);

"permit condition" ("*amod trwydded*") means a condition attached to a permit by virtue of provision made in a permit scheme under regulation 10 or a condition specified in a permit scheme under regulation 13;

"permit works" ("*gwaith trwydded*") means works authorised by a permit;

"phase" ("*is-gyfnod*"), in relation to specified works, means a period of uninterrupted occupation of the street during which part of those works will be carried out;

"provisional advance authorisation" ("*blaenawdurdodiad dros dro*") means an indication of the likely future issue by the Permit Authority of a permit for certain proposed works;

"relevant authority" ("*awdurdod perthnasol*") has the same meaning as in section 49(6) of the 1991 Act;

"specified area" ("*ardal benodedig*") has the meaning given in regulation 7;

"specified streets" ("*strydoedd penodedig*") has the meaning given in regulation 8;

"specified works" ("*gwaith penodedig*") has the meaning given in regulation 6;

"statutory undertaker" ("*ymgymerwr statudol*") means a person entitled by virtue of a statutory right to carry out street works;

"street authority" ("*awdurdod strydoedd*") has the meaning given in section 49(1) of the 1991 Act (definition of the street authority and other relevant authorities);

"working day" ("*diwrnod gwaith*") means a day other than a Saturday, Sunday, Christmas Day, Good Friday or any day which, under the Banking and Financial Dealings Act 1971(**5**), is a bank holiday in England and Wales; and

"works for road purposes" ("*gwaith at ddibenion ffyrdd*") has the meaning given in section 86(2) of the 1991 Act (highway authorities, highways and related matters).

(2) The offences set out in regulations 19 and 20 are fixed penalty offences for the purposes of Part 5 of these Regulations.

(**4**) 2000 c. 7. Section 15(1) was amended by the Communications Act 2003 (c. 21), section 406(1) and Schedule 17, paragraph 158.
(**5**) 1971 c. 80.

PART 2

Application for scheme

Consultation for new permit schemes

3.—(1) Prior to submitting a permit scheme to the Welsh Ministers under section 33 of the 2004 Act, the Permit Authority must consult —

(a) every person who carries out works in the proposed specified area from time to time, to the extent the Permit Authority is aware of them doing so;

(b) every local authority other than the Permit Authority in whose area is situated any street to which the proposed permit scheme relates;

(c) the emergency services which operate in the proposed specified area;

(d) the Welsh Ministers;

and such other persons as the Permit Authority considers appropriate.

(2) If, before the day on which these Regulations come into force, the Permit Authority has undertaken any consultation which, had it been undertaken after that day, would to any extent have satisfied the requirements in paragraph (1), those requirements must to that extent be taken to have been satisfied.

Procedural requirements for submitting new permit schemes

4. When submitting a permit scheme under section 33(1) or (2) of the 2004 Act, the Permit Authority must provide the Welsh Ministers with the following information —

(a) the name of every person who is a highway authority for one or more of the specified streets;

(b) what the objectives of the Permit Authority are for that permit scheme;

(c) how the Permit Authority proposes to ensure that it will comply with the obligation set out in regulation 40;

(d) how and when the Permit Authority proposes to evaluate that permit scheme so as to measure whether the objectives for it have been met;

(e) the costs and benefits (whether or not financial) which the Permit Authority anticipates will result from that permit scheme;

(f) the evidence considered by the Permit Authority when it decided to include any provisions in the permit scheme as to the fees which may be charged, and the reasons for its decision;

(g) the date on or after which the Permit Authority proposes that the permit scheme should come into effect;

(h) details of any transitional arrangements which the Permit Authority would wish to apply in relation to the permit scheme coming into effect; and

(i) a summary of the responses received to the consultation undertaken under regulation 3 and of the changes made to the permit scheme following that consultation.

Varying and revoking permit schemes at the Permit Authority's request

5. Before asking the Welsh Ministers to vary or revoke a permit scheme the Permit Authority must consult the persons referred to in regulation 3(1).

PART 3

Permit Scheme Content

Specified works

6.—(1) A permit scheme must specify the works (or types of works) which that permit scheme is designed to control (which must be the "specified works" for the purposes of that permit scheme).

(2) The specified works described in a permit scheme will comprise both street works and works for road purposes.

(3) Specified works for a permit scheme must not include works executed in a street pursuant to a street works licence issued under section 50 of the 1991 Act (street works licences).

Specified area

7. A permit scheme must specify the area within which the carrying out of specified works is to be controlled (which must be the "specified area" for the purposes of that permit scheme).

Specified streets

8.—(1) Subject to the following paragraphs of this regulation, a permit scheme must specify the streets (or types of streets) within its specified area to which controls on the carrying out of specified works are to apply (which must be the "specified streets" for the purposes of that permit scheme).

(2) Subject to paragraph (3), a permit scheme may not specify any streets which are not maintainable highways as being streets to which controls on the carrying out of specified works are to apply.

(3) A permit scheme may specify a street which is not a maintainable highway as being a street to which controls on specified works are to apply if —

(a) the Permit Authority anticipates that the street will become a maintainable highway; and

(b) the permit scheme provides that the controls on specified works apply only in relation to works in that street which are carried out after the street has become a maintainable highway.

(4) A permit scheme may specify streets as being streets to which controls on the carrying out of specified works are to apply notwithstanding that the permit authority is not the highway authority for those streets.

Permits

9.—(1) Subject to paragraph (2), a permit scheme must include provision requiring a permit to be obtained from the Permit Authority before specified works are carried out in a specified street.

(2) A permit scheme must specify persons (or types of persons) to whom and circumstances (or types of circumstances) in which the requirement in paragraph (1) does not apply.

(3) A permit scheme must specify the information which will accompany a permit application, and may specify the manner in which, and the time within which, such applications should be submitted.

(4) A permit scheme must require each application for a permit to be limited to one street.

(5) A permit scheme must require each application for a permit or for a variation of a permit to provide an estimate of the likely duration of the works which are the subject of that application.

(6) A permit scheme must provide for each permit to specify the duration within which the specified works on a specified street are by that permit authorised.

(7) A permit scheme may provide for different classes of permit to be required in relation to different circumstances.

(8) A permit scheme may provide that where it is proposed that the relevant specified works are to be carried out in more than one phase, a separate permit must be obtained in respect of each phase.

(9) A permit scheme must include provision requiring a copy of each application for a permit to be provided by the applicant upon request to any relevant authority and to any other person having apparatus in the street to which the application relates.

Conditions attached to permits

10.—(1) A permit scheme must include provision for the Permit Authority to attach conditions to permits, and must specify the types of condition which the Permit Authority may attach.

(2) Without prejudice to the generality of paragraph (1), the types of condition which the Permit Authority may attach to permits under that paragraph include conditions relating to —

(a) days on which permit works may not be carried out;

(b) times of day during which permit works may not be carried out;

(c) the area (including areas not forming part of the street) which may be occupied in connection with the permit works;

(d) the prohibition or restriction of traffic pursuant to orders or notices under section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads)(**6**);

(e) traffic management arrangements to be made in connection with the permit works (including arrangements for the particular benefit of persons with a disability);

(f) the manner in which the specified works are to be carried out;

(g) consultation and publicity in relation to the specified works, including the display of information at the location of those works; and

(h) notification of progress in relation to the specified works.

(3) The types of condition which the Permit Authority may attach to a permit in respect of permit works to be carried out by or on behalf of a highway authority may also include conditions —

(a) requiring the highway authority to consult with any person who has apparatus likely to be affected by the permit works; and

(b) requiring the highway authority to take all reasonable practicable steps to comply with any requirement made by that person which is reasonably necessary for the protection of the apparatus or for securing access to it.

(4) A permit scheme must provide that the Permit Authority may revoke a permit where it appears to the Permit authority that a condition attached to that permit has been breached.

(5) In this regulation, "traffic management arrangements" includes signs, signals, road markings, barriers and other measures which are intended to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians).

Provisional advance authorisations

11.—(1) A permit scheme may include provision requiring a provisional advance authorisation for certain specified works in specified streets to be obtained as part of the application for certain classes of permit.

(**6**) 1984 c. 27. Section 14 was substituted by the Road Traffic (Temporary Restrictions) Act 1991 (c. 26) section 1 and Schedule 1.