STATUTORY INSTRUMENTS

2015 No. 378

HIGHWAYS, ENGLAND

The Delegation of Functions (Strategic Highways Companies) (England) Regulations 2015

Made - - - -	*2nd March 2015*
Laid before Parliament	*5th March 2015*
Coming into force - -	*1st April 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 7 of the Infrastructure Act 2015(**1**):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Delegation of Functions (Strategic Highways Companies) (England) Regulations 2015 and shall come into force on 1st April 2015.

(2) These Regulations apply to England.

Interpretation

2.—(1) In these Regulations—

"the 1980 Act" means the Highways Act 1980(**2**);

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

"highway" has the meaning given in section 328 of the 1980 Act;

"highway authority" has the meaning given in section 1(**4**) of the 1980 Act;

(**1**) 2015 c.7.
(**2**) 1980 c.66.
(**3**) 1991 c.22.
(**4**) Section 1(1)(aa) was inserted by the New Roads and Street Works Act 1991 (c.22), section 21(2). Section 1(1) was also amended by the Infrastructure Act 2015 (c.7), section 1(6) and Schedule 1, paragraph 2(1) and (2). Subsection (1A) was inserted by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 2(3). Section 1(2), (3) and (4) were amended by the Local Government Act 1985 (c.51), sections 8 and 102 and Schedule 4, Part I, paragraph 1(a), (b) and (c) and Schedule 17, and the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 2(4). Subsection (3) was also amended by the Greater London Authority Act 1999 (c.29) ("the 1999 Act"), section 259(1) and (3). Subsection (2A) was inserted by the 1999 Act, section 259(1) and (2) and subsection (3A) was inserted by the Local Government (Wales) Act 1994 (c.19) ("the 1994 Act"), section 22(1), and Schedule 7, Part I, paragraph 1(1) and (2). Subsection (5) was inserted by the 1994 Act, section 22(1) and Schedule 7, Part I, paragraph 1(1) and (3).

"highway connected land" means land which does not form part of a highway but which has been acquired by a strategic highways company, in connection with a highway, under section 239(1) or (4)(**5**) or section 246(**6**) of the 1980 Act or otherwise; and

"street works" has the meaning given in section 48(3) of the 1991 Act.

(2) In Schedule 1, any expression used in a reference to a provision of the 1980 Act has the same meaning as it has in that Act.

(3) In Schedule 2, any expression used in a reference to a provision of the 1991 Act has the same meaning as it has in that Act.

Delegation of functions

3. Any function of a strategic highways company which is listed in Schedule 1, 2 or 3 may be exercised by, or by employees of, such person (if any) as may be authorised to do so by the strategic highways company.

Signed by authority of the Secretary of State for Transport

John Hayes
Minister of State
Department for Transport

2nd March 2015

(**5**) Section 239 was amended by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 45.
(**6**) Section 246 was amended by the Planning and Compensation Act 1991 (c.34), sections 68(2) and 70 and Schedule 15, paragraph 26, and the Acquisition of Land Act 1981 (c.67), section 34 and Schedule 4, paragraph 31.

SCHEDULE 1

Regulation 3

FUNCTIONS CONFERRED BY OR UNDER THE 1980 ACT OR REGULATIONS MADE UNDER THAT ACT

1. Subject to paragraph 6, functions conferred on a strategic highways company, as the highway authority(**7**) for a highway, in relation to that highway or to highway connected land, by or under any of the following provisions of the 1980 Act—

(a) section 41(1) and (1A)(**8**) (duty to maintain highways maintainable at public expense);

(b) section 62(**9**) (general power of improvement);

(c) section 64(**10**) (dual carriageways and roundabouts);

(d) section 65 (cycle tracks);

(e) section 66(**11**)(footways and guard-rails etc. for publicly maintainable highways);

(f) section 68 (refuges);

(g) section 69(1)(**12**) (subways);

(h) section 70 (footbridges over highways);

(i) section 71 (margins for horses and livestock);

(j) section 75(1) and (2) (variation of widths of carriageways and footways);

(k) section 76 (levelling of highways);

(l) section 77 (alteration of levels);

(m) section 78 (cutting off of corners);

(n) section 80(1), (2) and (3)(**13**) (power to fence highways);

(o) section 81 (provisions of highway boundary posts);

(p) section 84 (maintenance of cattle-grids and by-passes);

(q) section 90 (protection of bridges and railways);

(r) section 90G(**14**) (powers to carry out traffic calming works);

(s) section 92 (reconstruction of bridge maintainable at public expense);

(t) section 96 (powers of highway and local authorities to plant trees, lay out grass verges etc.);

(u) section 97(**15**) (lighting of highways);

(v) section 99 (metalling of highways);

(**7**) A strategic highways company is the highway authority for certain highways by virtue of the Highways Act 1980 (c.66), section 1(1A) and the terms of its appointment by order under section 1(1) of the Infrastructure Act 2015.

(**8**) Section 41(1A) was inserted by the Railways and Transport Safety Act 2003 (c.20), section 111.

(**9**) Section 62(3)(ff) was inserted by the Transport Act 1981 (c.56), section 32(1) and Schedule 10, Part I, paragraph 1, and section 62(3)(fg) was inserted by the Traffic Calming Act 1992 (c.30), section 1(1). Sub-section (5) was repealed by the Local Government Act 1985, section 102 and Schedule 17.

(**10**) Section 64(4) was repealed by the Local Government Act 1985, section 102 and Schedule 17, and section 64(5) was repealed by the New Roads and Street Works Act 1991, section 168(2) and Schedule 9.

(**11**) Section 66(3) was amended by the Countryside and Rights of Way Act 2000 (c.37), section 70(1), and section 66(6) was amended by the Local Government Act 1985, section 8 and Schedule 4, Part I, paragraph 17.

(**12**) Section 69(2)(b) was repealed by the Local Government Act 1985, section 102 and Schedule 17, and section 69(3) was amended by the Local Government (Wales) Act 1994, section 22(1) and Schedule 7, Part I, paragraph 7.

(**13**) Section 80 is to be read with section 72(12) of the Wildlife and Countryside Act 1981 (c.69). Subsection (3)(c) was amended by the Planning (Consequential Provisions) Act 1990 (c.11), section 4 and Schedule 2, paragraph 45(4). Subsection (4) was amended by the Local Government Act 1985, sections 8 and 102 and Schedule 4, Part I, paragraph 19 and Schedule 17. Subsections (1)(b), (3) and (4) were also amended by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 25.

(**14**) Section 90G was inserted by the Traffic Calming Act 1992, section 1(2) and Schedule 1. Subsections (1) and (2) were amended by the Greater London Authority Act 1999, section 269(1), (2) and (3). Section 90G is to be read with section 90GA.

(**15**) Section 97 was amended by the Infrastructure Act 2015, section 1(6) and paragraph 29 of Schedule 1.

(w) section 100(1) to (5)(**16**) (drainage of highways);

(x) section 101 (power to fill in roadside ditches etc);

(y) section 102 (provision of works for protecting highways against hazards of nature);

(z) section 103 (provision of post to indicate depth of flood water);

(aa) section 104 (mitigating nuisance of dust);

(bb) section 105 (power to improve road-ferries);

(cc) section 115H(1)(**17**) (duties to consult or obtain consent of other authorities);

(dd) section 133 (damage to footways of streets by excavations);

(ee) section 139(1) and (2) (control of builders' skips);

(ff) section 140(2) (removal of builders' skips);

(gg) section 141(2) (restriction on planting trees etc. in or near carriageway);

(hh) section 150(1), (2) and (4) (duty to remove snow, soil etc. from highway), except insofar as they relate to an obstruction in a highway which is the property of any person;

(ii) section 167(2), (5) and (6) (powers relating to retaining walls near streets);

(jj) section 169(1), (2), (3) and (4)(**18**) (control of scaffolding on highways);

(kk) section 171 (control of deposit of building materials and making of excavations in streets), except insofar as the functions conferred by or under section 171(7) relate to the removal of the property of any person; and

(ll) section 178(1) (restriction on placing rails, beams etc. over highway).

2. Subject to paragraph 6, functions conferred on a strategic highways company by or under any of the following provisions of the 1980 Act—

(a) section 63(**19**) (relief of main carriageway of trunk road from local traffic); and

(b) sections 112(3) and (5)(**20**) (provision of picnic sites and public conveniences for users of trunk roads), except insofar as the functions in subsection (5) relate to the provision of public sanitary conveniences.

3. Subject to paragraph 6, functions conferred on a strategic highways company, by or under section 288(**21**) of the 1980 Act (power to require gas and water pipes to be moved), insofar as that provision applies to the exercise of any other function listed in this Schedule.

(**16**) Section 100(5), which, for the purpose of the drainage of a highway, confers on a highway authority certain powers of a sewerage authority under the Water Industry Act 1991 (c.56), was amended by the Water Act 1989 (c.15), section 190(1) and Schedule 25, paragraph 62(4)(a) and by the Water Consolidation (Consequential Provisions) Act 1991 (c.60), section 2(1) and Schedule 1, paragraph 36(1).

(**17**) Section 115H was inserted by the Local Government (Miscellaneous Provisions) Act 1982 (c.30), section 20 and Schedule 5, Part I, paragraph 1. Subsection (1) was amended by the Local Government Act 1985 ("the 1985 Act"), section 8 and Schedule 4, Part I, paragraph 23 and by the Planning (Consequential Provisions) Act 1990, section 4 and Schedule 2, paragraph 45(7). Subsection (2) was repealed by the 1985 Act, section 102 and Schedule 17. Subsection (3) was amended by the 1985 Act, section 8 and Schedule 4, Part I, paragraph 23. Subsection (4) was amended by the Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), article 2 and Schedule 1, Part 1, paragraph 7(1) and (3).

(**18**) Section 169(4) was amended by the Telecommunications Act 1984 (c.12), section 109, Schedule 4, paragraph 76(8) and Schedule 7, Part I, the Water Act 1989, section 190(3) and Schedule 27, Part I, the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22), section 13(1) and Schedule 4, paragraph 3(1) and (7), the New Roads and Street Works Act 1991, section 168(1) and Schedule 8, Part I, paragraph 4, the Postal Services Act 2000 (Consequential Modifications No.1) Order 2001 (S.I. 2001/1149), article 3(1) and Schedule 1, paragraph 49(1) and (3) and the Communications Act 2003 (c.21), section 406(1) and Schedule 17, paragraph 56(1)(b) and (2)(a).

(**19**) Section 63 was amended by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 22.

(**20**) Section 112(3) and (5) were amended by the Road Safety Act 2006 (c.49), sections 55(b) and (d) and 59 and Schedule 7, and the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 37.

(**21**) In relation to section 288, the Public Utilities Street Works Act 1950 (c.39) was repealed by the New Roads and Street Works Act 1991, section 168(2) and Schedule 9. Provisions relating to relations between an authority carrying out road alterations and undertakers whose apparatus is affected are now contained in sections 83 to 85 of that Act.