Draft regulations laid before Parliament under section 74(8) of the New Roads and Street Works Act 1991, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2001 No.

HIGHWAYS, ENGLAND

The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2001

Made - - - -	*2001*
Coming into force - -	*1st April 2001*

The Secretary of State for the Environment, Transport and the Regions, in exercise of his powers under sections 74 and 104(3) of the New Roads and Street Works Act 1991(**1**), and of all other powers enabling him in that behalf, hereby makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2001 and shall come into force on 1st April 2001.

(2) These Regulations extend to England only.

Interpretation

2. In these Regulations:

"the Act" means the New Roads and Street Works Act 1991;

"bridleway" has the meaning given by section 329(1) of the Highways Act 1980(**2**);

"the Co-Ordination Code" means the Code of Practice for the Co-Ordination of Streetworks and Works for Road Purposes and Related Matters dated November 1992 and approved by the Secretary of State for Transport on 8th March 1993, as revised and re-issued from time to time;

"day" means a working day;

"footpath" has the meaning given by section 329(1) of the Highways Act 1980;

(**1**) 1991 c. 22; section 74 was amended by the Transport Act 2000 (c. 38), section 256. The functions of the Secretary of State under sections 74 and 104 are transferred, so far as exercisable in relation to Wales, to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), article 2(a).

(**2**) 1980 c. 66.

"minor works" means street works (not being emergency works or urgent works), whether in the footway, verge or carriageway, which are of a planned duration of not more than 3 days, do not form part of a rolling programme of works and do not involve at any one time more than 30 metres of works or leave less than 3 metres width of carriageway available for traffic or less than 2.5 metres where the traffic is expected to consist only of motor cars and light locomotives within the meaning of section 185(1) of the Road Traffic Act 1988(**3**);

"the National Street Gazetteer" means the national computer database of streets which is provided by the concessionaire for the time being appointed by the Local Government Information House Limited;

"pedestrian planning order" means an order made under section 249(2) or (2A) of the Town and Country Planning Act 1990(**4**);

"road category" means one of the road categories specified in the code of practice entitled "Specification for the Reinstatement of Openings in Highways" dated June 1992 and approved by the Secretary of State for Transport on 30th June 1992, as revised and re-issued from time to time;

"standard works" means all works which are not emergency works, urgent works or minor works;

"traffic order" means an order made under section 1, 6 or 9 of the Road Traffic Regulation Act 1984(**5**);

"urgent works" means street works (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required)

(a) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker,

(b) to avoid substantial loss to the undertaker in relation to an existing service, or

(c) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period,

and includes works which cannot reasonably be severed from such works.

Application of Regulations

3. These Regulations apply to every maintainable highway other than a footpath, a bridleway, a highway in relation to which a pedestrian planning order is in force, and a highway whose use by vehicular traffic is prohibited by a traffic order unless that prohibition is only at particular times.

Notices

4.—(1) An undertaker executing street works (other than minor works) in a highway to which these Regulations apply shall give the highway authority notice in writing of the beginning of those works specifying by reference to the National Street Gazetteer the street or streets in which the works

(**3**) 1988 c. 52.
(**4**) 1990 c. 8; section 249(2) was amended and section 249(2A) was inserted by the Greater London Authority Act 1999 (c. 29), Schedule 22, paragraph 5.
(**5**) 1984 c. 27; section 1 was amended by the New Roads and Street Works Act 1991, Schedule 8, paragraph 17 and by the Environment Act 1995 (c. 25), section 120 and Schedule 22; section 6 was amended by the Local Government Act 1985 (c. 51), section 8 and Schedule 5, by the New Roads and Street Works Act 1991, Schedule 8, paragraph 21 and by the Environment Act 1995, section 120 and Schedule 22; and section 9 was amended by the Local Government Act 1985, section 8 and Schedule 5, by the New Roads and Street Works Act 1991, Schedule 8, paragraph 23 and by the Road Traffic Act 1991 (c. 27), section 48 and Schedule 4, paragraph 24.

are to be carried out ("actual start of works notice") not later than the end of the day following the day on which the works begin.

(2) An undertaker executing minor works in a highway to which these Regulations apply shall give the highway authority a daily notice in writing of those works in the form of the daily whereabouts for minor works notice in Appendix D or Appendix E to the Co-Ordination Code specifying by reference to the National Street Gazetteer the street or streets in which the works are being carried out ("daily whereabouts notice"), the first such notice to be given not later than the end of the day before the day on which the works begin.

(3) When an undertaker has completed interim reinstatement of a highway and has removed all remaining spoil and unused materials together with all signing, lighting and guarding, and has returned the highway fully to public use he shall give the highway authority notice thereof in writing ("works clear notice") not later than the end of the day following the day on which the highway was returned fully to public use.

(4) When an undertaker has completed permanent reinstatement of a highway and has removed all remaining spoil and unused materials together with all signing, lighting and guarding, and has returned the highway fully to public use he shall give the highway authority notice thereof in writing ("works closed notice") not later than the end of the day following the day on which the highway was returned fully to public use.

Prescribed charges and prescribed periods

5.—(1) A highway authority shall, subject to paragraph (8), require an undertaker to pay the prescribed charge where the duration of street works carried out by the undertaker in a maintainable highway to which these Regulations apply exceeds the prescribed period or a reasonable period, whichever is the longer.

(2) Paragraph (1) does not apply to the following works—

(a) works which do not require breaking up the street,

(b) repairing, resetting or replacing manhole or chamber covers or frames,

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

(d) pole testing.

(3) The duration of street works includes any period during which an undertaker is carrying out remedial works required by an authority pursuant to section 72(3) of the Act.

(4) The prescribed charge shall be a charge as set out in this paragraph for each day (or part of a day) during which the street works in each and every street mentioned in the actual start of works notice, or, in the case of minor works, in the first daily whereabouts notice, continue beyond the prescribed period or a reasonable period, whichever is the longer:

(a) for minor works, emergency works and urgent works in road category Types 3 and 4, £100;

(b) for standard works in road category Types 3 and 4, £250;

(c) for minor works, emergency works and urgent works in road category types other than Types 3 and 4, £500, and

(d) for standard works in road category types other than Types 3 and 4, £2,000.

(5) Works shall be treated as beginning, for the purposes of paragraphs (4) and (7), on the date given in the actual start of works notice or the first daily whereabouts notice, as the case may be.

(6) Works shall be deemed to continue for the purposes of paragraph (3) until a works clear notice or a works closed notice (as the case may be) has been given in respect of those works.

(7) The prescribed period shall be 3 days starting on the day on which the works begin.