

2012 No. 425

HIGHWAYS, ENGLAND

**The Street Works (Charges for Occupation of the Highway)
(England) Regulations 2012**

<i>Made</i> - - - -	<i>20th February 2012</i>
<i>Laid before Parliament</i>	<i>21st February 2012</i>
<i>Coming into force</i> - -	<i>14th March 2012</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by sections 74A and 104 of the New Roads and Street Works Act 1991(a).

Citation, commencement, expiry and application

1.—(1) These Regulations may be cited as the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012.

(2) They come into force on 14th March 2012.

(3) They cease to have effect on 13th March 2019 unless revoked with effect from an earlier date.

(4) These Regulations apply to England only.

Interpretation

2. In these Regulations—

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

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

“the 2009 Regulations” means the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009(c);

“actual start of works notice”, “works clear notice” and “works closed notice” mean notices given in accordance with regulation 6 of the 2009 Regulations;

“Approved Authority” means a local highway authority approved by an order made by the Secretary of State under section 74A(2) of the 1991 Act;

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- (a) 1991 c.22. Section 74A was inserted by the Transport Act 2000 (c.38), section 255 and amended by the Traffic Management Act 2004 (c.18), section 40. The functions of the Secretary of State under sections 74A and 104 are, so far as exercisable in relation to Wales vested in the Welsh Ministers. Those functions were transferred to the National Assembly for Wales, by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2, Schedule 1. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.
- (b) 1980 c.66. The definition of “cycle track” was amended by the Cycle Tracks Act 1984 (c.38) and by the Road Traffic (Consequential Provisions) Act 1988 (c.54), Schedule 3. There are other amendments which are not relevant to these Regulations.
- (c) S.I. 2009/303.

“traffic-sensitive street” means a street designated as traffic-sensitive under section 64 of the 1991 Act; and

“traffic-sensitive time” in relation to a traffic-sensitive street has the meaning given in the 2009 Regulations.

Application of Regulations

3.—(1) Subject to paragraph (2), these Regulations apply to every maintainable highway which is—

- (a) a protected street; or
- (b) a traffic-sensitive street,

in respect of which the highway authority is an Approved Authority.

(2) These Regulations do not apply to a footpath or a bridleway.

(3) In this regulation—

- (a) “bridleway” and “footpath” have the meaning given by section 329(1) of the 1980 Act; and
- (b) “protected street” has the same meaning as it does for the purpose of section 61(1) of the 1991 Act.

Prescribed Charges

4.—(1) Subject to paragraphs (4) and (5), an undertaker executing street works in a highway to which these Regulations apply must pay the Approved Authority a charge determined in accordance with paragraph (2).

(2) Subject to paragraph (4), the charge is £2500 multiplied by the number of days, including part days, comprising the duration of the street works.

(3) In addition, and subject to paragraph (4), the undertaker must pay the Approved Authority a charge of £100 if the circumstances in regulation 5(5) apply and the undertaker has complied with the request made under regulation 5(6)(b) within the time limit set out in regulation 5(7).

(4) An Approved Authority may reduce the amount, or waive payment, of a charge—

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

(5) Charges do not apply to street works—

- (a) in a verge;
- (b) in a traffic-sensitive street, other than at a traffic-sensitive time;
- (c) in the footway of a traffic-sensitive street, at a traffic-sensitive time, so long as the street works do not involve breaking up the street, or tunnelling or boring under it.

(6) In this regulation—

- (a) “cycle track” has the meaning given in section 329(1) of the 1980 Act; and
- (b) “verge” means any part of the highway which is not a carriageway, footway or cycle track.

Duration of Works

5.—(1) This regulation makes provision for the determination of the duration of street works.

(2) Subject to paragraphs (3) to (5), the street works are to be treated as beginning on the date stated in the actual start of works notice and ending on the date stated in the works clear notice or works closed notice.

(3) If it can be proved that the date stated in the actual start of works notice is incorrect, or the undertaker is not required by the 2009 Regulations to give such a notice, the street works are to be treated as beginning on the date the works actually began.

(4) If it can be proved that the date stated in the works clear notice or works closed notice is incorrect, or the undertaker is not required by the 2009 Regulations to give such a notice, the street works are to be treated as ending on the date that the steps set out in regulation 6(3)(a) to (c) or 6(4)(a) to (c) of the 2009 Regulations were carried out.

(5) An undertaker is deemed to have carried out the steps in regulation 6(3)(b)(i) or 6(4)(b)(i) of the 2009 Regulations if the undertaker has endeavoured to remove all signing, lighting and guarding and not more than five items of signing, lighting or guarding remain on the highway.

(6) If paragraph (5) applies the Approved Authority may—

- (a) notify the undertaker of the identity and location of the items of signing, lighting or guarding; and
- (b) request the undertaker to remove them.

(7) If the undertaker has not complied with the request by the end of the next working day following the day on which the request was received, the duration of street works is to be treated as re-commencing on the date the request was received and ending on the day that the undertaker complies fully with the request.

Payment

6.—(1) An undertaker must, on receipt of a request in writing, pay to the Approved Authority the amount of charges calculated in accordance with regulation 4.

(2) Charges are payable in respect of street works only where the Approved Authority has given the undertaker, not later than three months after receipt of a works clear notice or a works closed notice in respect of those works, a request in writing setting out the charges payable.

(3) A request in writing under paragraph (2) may be given by electronic communication, by post or by hand delivery to the undertaker.

Application of charges and keeping of accounts

7.—(1) An Approved Authority may deduct from charges received from undertakers pursuant to these Regulations, its reasonable costs of operating and evaluating the effectiveness of the scheme under which they are paid.

(2) An Approved Authority must apply the net proceeds for purposes intended to reduce the disruption and other adverse effects caused by street works.

(3) An Approved Authority must keep and publish yearly accounts of sums received by way of charges.

(4) The accounts published in accordance with paragraph (3) must include details as to how the Approved Authority has applied any net proceeds in accordance with paragraph (2).

Revocation

8. The Street Works (Charges for Occupation of the Highway) (England) Regulations 2001(a) are revoked.

(a) S.I. 2001/4060.

Signed by authority of the Secretary of State for Transport

20th February 2012

Norman Baker
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Street Works (Charges for Occupation of the Highway) (England) Regulations 2001 (“the 2001 Regulations”). They provide for the payment of charges, by reference to the duration of works, by an undertaker to an approved local highway authority (“an Approved Authority”) when executing certain street works.

These Regulations will cease to have effect on the 13th March 2019.

Regulation 3 provides that the Regulations will apply to protected and traffic-sensitive streets (as defined in the New Roads and Street Works Act 1991) (“1991 Act”). It also exempts footpaths and bridleways from the scope of the Regulations.

Regulation 4 prescribes the daily charge of £2500. Provision is made for the Approved Authority to reduce or waive a charge in various cases. The daily rate of charge therefore represents a maximum charge.

Regulation 5 defines the duration of street works for the purposes of calculating any charges. It provides that the street works begin on the date stated in the actual start of works notice and end on the date in the works clear notice or works closed notice. Further provisions are made where it can be proved that the notices are incorrect or are not required to be served. In addition, where the works would have ended, but for the presence of no more than five items of signing, lighting or guarding, the street works will be deemed to have come to an end. In these circumstances, the Approved Authority may request the undertaker to remove the remaining items and if the undertaker fails to remove them within the time limits specified, the street works will be regarded as re-commencing.

Regulation 6 requires the charge to be paid by the undertaker on receipt of a request in writing from the Approved Authority and sets a time limit of three months by which such a request may be made.

Regulation 7 describes how the Approved Authority may deduct the reasonable costs of operating and evaluating the effectiveness of the scheme under which they are paid and provides how it must apply the proceeds. It also provides for the keeping of accounts.

Regulation 8 revokes the 2001 Regulations.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Transport, zone 3/26, Great Minster House, 33 Horseferry Road, London SW1P 4DR and will be published alongside the Explanatory Memorandum which is available on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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