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STATUTORY INSTRUMENTS

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**2015 No. 91**

**HIGHWAYS, ENGLAND**

**The Traffic Management (Milton Keynes Council) Permit Scheme Order 2015**

*Made* - - - - 21st January 2015

*Coming into force* - - 30th March 2015

The Secretary of State for Transport having approved the Milton Keynes Council Permit Scheme under section 34(2) of the Traffic Management Act 2004<sup>(1)</sup> makes this Order in exercise of the powers conferred by sections 34(4) and (5) and 39(2) of that Act.

**Citation and commencement**

1. This Order may be cited as the Traffic Management (Milton Keynes Council) Permit Scheme Order 2015 and comes into force on 30th March 2015.

**Interpretation**

2. In this Order—

“the Milton Keynes Council Permit Scheme” means the permit scheme set out in the Schedule to this Order which was prepared and submitted to the Secretary of State by Milton Keynes Council and has been approved by the Secretary of State; and

“specified streets” has the meaning given by regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007<sup>(2)</sup>.

**Commencement of Permit Scheme**

3. The Milton Keynes Council Permit Scheme comes into effect on 30th March 2015.

**Application of Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007**

4. Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 shall apply to the specified streets within the Milton Keynes Council Permit Scheme.

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(1) 2004, c.18.  
(2) S.I. 2007/3372.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Signed by authority of the Secretary of State for Transport

21st January 2015

*Robert Goodwill*  
Parliamentary Under Secretary of State  
Department for Transport

SCHEDULE

Article 2

THE MILTON KEYNES COUNCIL PERMIT SCHEME

**Milton Keynes Permit Scheme**

Document Information	
Date:	November 2014
Project Name:	Milton Keynes Permit Scheme (MKPS)
Service Area:	Milton Keynes Council
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Version:	V2.5 – FINAL DfT Approved Version

**CONTENTS**

1	FOREWORD.....	3
2	INTRODUCTION TO THE PERMIT SCHEME .....	3
3	OBJECTIVES OF THE MILTON KEYNES PERMIT SCHEME.....	5
4	SCOPE OF THE PERMIT SCHEME .....	6
5	ACTIVITIES COVERED BY THE PERMIT SCHEME .....	6
6	EXEMPT ACTIVITIES .....	7
7	PERMITS – GENERAL .....	8
8	PERMITS - TYPES .....	11
9	PERMITS – CLASSES .....	12
10	PERMIT APPLICATIONS.....	14
11	INFORMATION REQUIRED IN A PERMIT APPLICATION.....	16
12	USRN.....	17
13	PERMIT CONDITIONS.....	18
14	GRANTING OF PERMITS.....	19
15	REVIEW, VARIATION AND REVOCATION OF PERMITS AND PERMIT CONDITIONS 20	
16	CANCELLATION OF A PERMIT .....	23
17	FEES.....	23
18	SANCTIONS.....	24
19	DISPUTE RESOLUTION.....	25
20	REGISTERS .....	26
21	TRANSITIONAL ARRANGEMENTS .....	26
22	PERMIT SCHEME MONITORING.....	27
23	APPENDIX A: DEFINITION OF TERMS.....	29

## **Milton Keynes Permit Scheme**

### **1 FOREWORD**

- 1.1.1 The Milton Keynes Permit Scheme is a Single Permit Scheme for the purposes of Part 3 of the Traffic Management Act 2004 (TMA) and the Traffic Management Permit Scheme (England) Regulations 2007 (the Permit Regulations).

### **2 INTRODUCTION TO THE PERMIT SCHEME**

#### **2.1 Background**

- 2.1.1 Part 3 of the Traffic Management Act 2004 (TMA) introduced Permit Schemes as a new way in which activities in the public highway could be better managed and to improve Authorities' abilities to minimise disruption from street and road works.

#### **2.2 The Permit Scheme**

- 2.2.1 This Permit Scheme, to be known as the **Milton Keynes Permit Scheme (MKPS)**, and hereinafter referred to as the 'Permit Scheme', is made under on Part 3 of the TMA and the Traffic Management Permit Scheme (England) Regulations 2007, (the Regulations), and has been prepared with regard to the Statutory Guidance issued by the Secretary of State to assist Highway Authorities wishing to become Permit Authorities and in accordance with the requirements set out in the Regulations.
- 2.2.2 The Permit Scheme will be operated solely by Milton Keynes Council as a Single Permit Scheme.
- 2.2.3 Promoters should make themselves aware of the content of these documents and also the Code of Practice for Permits (Department for Transport) alongside which the Permit Scheme will be operated.
- 2.2.4 All current NRSWA and TMA legislation, codes of practice, etc. and any future amendments to that legislation, that may apply to this Permit Scheme.
- 2.2.5 The scheme has taken into account any major known projects such as Cross Rail, Olympics, TIF projects, Thames Gateway projects etc.
- 2.2.6 In accordance with Regulation 4 (g) it is intended that the Permit Scheme is going to start operation in mid-March 2015.

#### **2.3 The Permit Authority**

- 2.3.1 The Permit Scheme will be operated as a Single Permit Scheme by Milton Keynes Council, as the Highway Authority for Milton Keynes, hereinafter referred to as the 'Permit Authority'.

#### **2.4 Activities**

- 2.4.1 For consistency, the generic term 'activities' has been used rather than "works" to reflect the fact that the Scheme may eventually cover more than street and road works in subsequent Regulations. These are the specified works as set out in the Regulations.
- 2.4.2 The term 'Promoters' will be used for both Statutory Undertakers (including Utility companies) and the Highway Authority.
- 2.4.3 A glossary of the main terms contained within this document is provided in Appendix A.

#### **2.5 Relationship to NRSWA**

- 2.5.1 Permit Schemes provide an alternative to the existing notification system of the New Roads and Street Works Act 1991 (NRSWA), whereby instead of informing a Highway

## **Milton Keynes Permit Scheme**

Authority about its intention to carry out works in its area, a Statutory Undertaker has to book time on the highway by obtaining a Permit from the Permit Authority.

- 2.5.2 Under a Permit Scheme, the activities undertaken by the Highway Authority, its partners or agents are also treated in exactly the same way as a Statutory Undertaker.
- 2.5.3 The Permit Authority may apply conditions which impose constraints on the dates and times of activities and the way that work is carried out can be attached to Permits.
- 2.5.4 The Permit Authority's control over variations to Permit conditions, particularly time extensions, gives a greater incentive to complete activities on time.
- 2.5.5 A Highway Authority may choose to implement a Permit Scheme on all or some of the roads under its control.

## **2.6 Equivalent definitions**

- 2.6.1 As the Permit Scheme will operate alongside the NRSWA noticing system, the same or equivalent definitions and requirements are used as in the NRSWA notice system, namely:
  - Registerable activities/works
  - Categories of activities/works, (major, standard, minor and immediate activities/works)
  - Street gazetteers, including street referencing by means of a Unique Street Reference Number (USRN) and Associated Street Data (ASD)
  - Street reinstatement categories as defined in the NRSWA Reinstatement Specification
  - The distinction between main roads and minor roads where such distinctions are relevant
  - Streets designated as Protected Streets, streets having Special Engineering Difficulties, (SED), or a Traffic Sensitive Street

## **2.7 Changes to NRSWA legislation**

- 2.7.1 Where it is implemented on the specified streets, (See 4.3 below), and in accordance with the Regulations, the Permit Scheme will result in the disapplication and modification of the following sections of the NRSWA:
  - Sections of NRSWA disappplied: s53; s54; s55; s56; s57; s66
  - Sections of NRSWA modified: s58; s58A; s64; s69; s73A; s74; s88; s89; s90; s93; s105; Schedule 3A
  - Regulations modified: The Street Works (Registers, Notices, Directions and Designations)(England) Regulations 2007 SI 2007/1951
- 2.7.2 Changes to Section 58 (restrictions on works following substantial road works) and Section 74 (charges for occupation of the highway where works are unreasonably prolonged) apply only to Statutory Undertakers activities.
- 2.7.3 The Permit Scheme makes arrangements so that similar procedures are followed for Highway Authority Promoter activities in relation to timing and duration, in order to facilitate the operation of the Permit Scheme.
- 2.7.4 To ensure parity of treatment for all Promoters, reports will be produced for both Statutory Undertakers and Highways Authority works so direct comparisons of applied procedures can be made.

## Milton Keynes Permit Scheme

### 3 OBJECTIVES OF THE MILTON KEYNES PERMIT SCHEME

#### KEEPING MILTON KEYNES MOVING – USING BETTER CO-ORDINATION TO MAXIMISE THE SAFE AND EFFICIENT USE OF THE HIGHWAY AND PROVIDE RELIABLE JOURNEY TIMES

- 3.1.1 All activities on highways can reduce the width of the street available to traffic, pedestrians and other users and can also inconvenience businesses and local residents. The scale of disruption caused is relative to the type of activities being undertaken and the capacity of the street. Activities where the traffic flow is close to, or exceeds, the physical capacity of the street will have the potential to cause congestion, disruption and delays.
- 3.1.2 The objective of the Milton Keynes Permit Scheme is to improve the strategic and operational management of the highway network through better planning, scheduling and management of activities to minimise disruption to any road user.
- 3.1.3 The Milton Keynes Permit Scheme will enable better co-ordination of activities throughout the highway network, ensuring those competing for space or time in the street, including traffic, to be resolved in a positive and constructive way.
- 3.1.4 The objectives and benefits of the Milton Keynes Permit Scheme are:
- Reduced disruption on the road network
  - Improvements to overall network management
  - A reduction in delays to the travelling public
  - A reduction in costs to businesses caused by delays
  - Promotion of sustainable communities and businesses
  - Promotion of a safer environment
  - Reduced carbon emissions
- 3.1.5 The Permit Scheme objective will be facilitated by improving performance in line with the Authorities' Network Management Duty in relation to the following key factors:
- Enhanced coordination and cooperation
  - Encouragement of partnership working between the Permit Authority, all Promoters and key stakeholders
  - Provision of more accurate and timely information to be communicated between all stakeholders including members of the public
  - Promotion and encouragement of collaborative working
  - Improvement in timing and duration of activities particularly in relation to the busiest streets within the network
  - Promotion of dialogue with regard to the way activities are to be carried out
  - Enhanced programming of activities and better forward planning by all Promoters

### 3.2 Aligned Objectives

## **Milton Keynes Permit Scheme**

3.2.1 The Permit Scheme objectives align with the strategic objectives contained within the Transport Vision and Strategy for Milton Keynes:

1. Provide real and attractive transport choices to encourage more sustainable travel behaviour as Milton Keynes grows.
2. Support the economic growth of the borough through the fast, efficient and reliable movement of people and goods
3. Reduce transport based CO2 emissions to help tackle climate change.
4. Provide access for all key services and amenities in Milton Keynes, including employment, education, health, retail, and leisure.
5. Improve safety, security and health.
6. Contribute to quality of life for all Milton Keynes residents, strengthening linkages between communities.
7. Establish a development framework that embraces technological change, in which Milton Keynes can continue to grow, pioneer and develop."

## **4 SCOPE OF THE PERMIT SCHEME**

### **4.1 Area covered by The Permit Scheme**

4.1.1 The Permit Scheme applies within the Council boundaries of Milton Keynes.

### **4.2 Definition of the term "Street"**

4.2.1 For the purposes of the Permit Scheme, the term "street" refers to that length of road associated with a single Unique Street Reference Number (USRN). Where a single street on the ground has more than one USRN, separate Permits will be required for each USRN to which an activity relates (activities being the specified works as set out in the Regulations).

### **4.3 Streets covered by the Permit Scheme**

4.3.1 The Permit Scheme will apply to all streets identified on the National Street Gazetteer (NSG).

4.3.2 The Permit Authority will create, maintain and publish the Street Gazetteer to Level 3.

4.3.3 The Street Gazetteer will be available to all Promoters via the National Street Gazetteer Concessionaire's website.

### **4.4 Motorways and Trunk Roads**

4.4.1 Motorways and trunk roads in Milton Keynes for which the Highways Agency is the Highway Authority are excluded from the Permit Scheme.

### **4.5 Non-maintainable highways**

4.5.1 Privately maintained streets and other roads not maintained by the Highway Authority are not included in the scheme, but will be added if they are subsequently adopted by the Highway Authority and shown as such in the Street Gazetteer.

### **4.6 Streets to be adopted as a maintainable highway**

4.6.1 Where a street is expected to become a maintainable highway, controls on specified activities under the Permit Scheme will only apply after the street has become a maintainable highway.

## **5 ACTIVITIES COVERED BY THE PERMIT SCHEME**

### **5.1 Activities requiring a Permit**

### **Milton Keynes Permit Scheme**

- 5.1.1 The Permit Scheme controls the following activities undertaken on the public highway and as defined as Registerable Activities in Chapter 9 of The Code of Practice for Permits:
- i. Street works as in Part 3 of NRSWA, as defined by s48, except for works by licensees under section 50 of NRSWA
  - ii. Works for road purposes as defined by section 86 of NRSWA – maintenance and improvement works to the road itself, carried out by, or on behalf of, the Highways Authority
  - iii. Major Highway Works (including Developer activities under Section 278 of the Highways Act 1980)
  - iv. Other activities that may be introduced under future regulations
- 5.1.2 The following activities defined in the Regulations as specified works are Registerable for all Promoters and information related to them has to be recorded on the register (See section 20):
- (a) Involve the breaking up or resurfacing any street
  - (b) Involve opening the carriageway or cycleway of traffic-sensitive streets at traffic-sensitive times.
  - (c) Require any form of temporary traffic control as defined in the Code of Practice for Safety at Street Works and Road Works.
  - (d) Reduce the lanes available on a carriageway of three or more lanes.
  - (e) Require a temporary traffic regulation order or notice, or the suspension of pedestrian facilities.
  - (f) Require a reduction in the width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time

### **5.2 Works for Road Purposes**

- 5.2.1 The requirements of the Permit Scheme apply equally to both works undertaken by the Highway Authority and Statutory Undertakers with the one exception that fees will not be charged for Permits issued for the Highway Authority's own works for road purposes.
- 5.2.2 To demonstrate parity of treatment for all Promoters, particularly between the Highway Authority and Statutory Undertakers, Key Performance Indicators will be used.
- 5.2.3 Highway Authorities and Promoters of works for road purposes must ensure that they have followed the equivalent PAA and Permit application processes for activities and declare that they have fulfilled these requirements in their applications.

### **5.3 Street lighting**

- 5.3.1 The definition of works for road purposes may include some works carried out by Undertakers, such as street lighting. It is for Promoters to ensure that Permit applications for such activities are made and that the activity is registered, as appropriate.

## **6 EXEMPT ACTIVITIES**

- 6.1.1 Certain types of activities are exempt from requiring a Permit.

### **6.2 Non Registerable activities**

- 6.2.1 The following activities are non Registerable and do not require a Permit:
1. Traffic Census Surveys



## **Milton Keynes Permit Scheme**

Traffic census surveys have deliberately not been included as disclosure of this information prior to a census taking place can encourage a change to the normal pattern of traffic flows.

### **2. Pole testing**

Pole testing involving excavation requires registration and therefore needs a permit; as would be the case with other excavations, when one or more of rules 2 – 6 above apply. However, in all circumstances the work must be registered using section 70 (3) under NRSWA for the purpose of reinstatement inspections within 10 days of completion.

### **3. Fire service vehicles**

Fire service vehicles occasionally need to be parked adjacent to fire hydrants when these are being tested. These operations are exempt from the requirement to obtain a Permit, provided the work is done outside traffic-sensitive periods.

#### **6.2.2 Other activities that do not require a Permit:**

- Replacing manhole or chamber covers - that do not involve breaking up the street
- Replacing poles, lamps, columns or signs in the same location where that does not involve breaking up the street
- Bar holes

### **6.3 Activities not requiring a Permit before they start**

6.3.1 Immediate activities do require a Permit but as such works are concerned with emergency or urgent situations, a Promoter can start work before applying for a Permit provided they apply for a Permit within 2 hours of the works commencing.

6.3.2 If the work commences out of working hours, then a Permit must be applied for by 10am the next working day (See section 9.5)

### **6.4 Activities for which no Permit is required**

6.4.1 Activities executed in a street pursuant to a street works licence issued under section 50 of the NRSWA are not included in the Permit Scheme but will have to follow the normal NRSWA procedures.

## **7 PERMITS – GENERAL**

### **7.1 Requirement to obtain a Permit**

7.1.1 Any Promoter of specified activities who wishes to carry out such an activity on a specified street must obtain a Permit from the Permit Authority. The Permit will allow the Promoter to:

- Carry out the specified activity
- At the specified location
- Between the dates shown and for the duration shown
- Subject to any conditions that may be attached or required.

### **7.2 Application requirements**

7.2.1 Each application for a Permit must include the information indicated in section 11.

### **7.3 Activities covering several streets**

7.3.1 An application can only be for one street.

7.3.2 Where the specified activity involves a number of specified streets, a separate PAA or Permit will be required for each street.

### **Milton Keynes Permit Scheme**

7.3.3 Permit applications for specified activities covering more than one specified street shall be cross-referenced to all related applications.

7.3.4 Fees for specified activities which involve several Permits will be discounted where the applications are submitted together on the same day.

### **7.4 Phasing of Activities**

7.4.1 One permit can only relate to one phase of an activity. A phase of an activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of the works, for example a separate permit would be required for interim, permanent and remedial reinstatements.

7.4.2 The dates given in a permit application and in the issued permit will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site and the highway is returned to full use.

7.4.3 A Promoter must clarify when an activity is to be carried out in phases on the application. Each phase will require a separate permit and, if a major activity involving asset activity also a PAA, which will be cross referenced to the other permits.

7.4.4 Phased activities must relate to the same works, with applications submitted using the same works reference.

### **7.5 Linked activities**

7.5.1 Linked activities carried out at separate locations in the same street must be treated as belonging to the same set of works.

7.5.2 If an activity involving more than one street forms part of one project in management and contractual terms, separate Permits and Provisional Advance Authorisations must be obtained for each street.

7.5.3 Customer connections associated with the installation of a new main or cable run or the replacement or renewal of existing assets will be considered to be linked activities when the work is completed as a single occupancy of a single street. If an activity relating to the installation of customer connections is undertaken at a later date than the Promoter shall apply for a separate Permit.

### **7.6 Interrupted activities**

7.6.1 In the event of an activity being interrupted and delayed, for instance due to damage to a third party's plant or while missing apparatus is acquired. It is the responsibility of the Promoter to contact the Permit Authority to agree what action should be taken.

7.6.2 Where the Permit Authority is satisfied that the excavation can remain open while the repairs are implemented or the equipment obtained, then a variation will be required and an extension to the Permit will be granted.

7.6.3 However, where the Permit Authority considers that the opening should be reinstated and the road returned to full traffic use then the Promoter will need to apply for a further Permit to complete the work at a later date. A Permit fee may be charged for the new Permit.

### **7.7 Cross Boundary Activities**

7.7.1 Where a project with activities in more than one street straddles the boundary between the Permit Authority and an adjacent Permit Authority, separate Permit applications, including any PAA, should be submitted to both Authorities.

### **Milton Keynes Permit Scheme**

- 7.7.2 If a cross boundary project involves activities on a street of a Street Authority operating a notice system under NRSWA, then the Permit application to the Permit Authority must identify the activity in the other Authority area so that the Permit Authority can liaise with them.
- 7.7.3 A single project reference should be included on applications and all notices so that both Authorities can consider the impact and co-ordinate the activities together.

### **7.8 Collaborative working**

- 7.8.1 The Permit Authority encourages collaborative working between Promoters for both street works and works for road purposes. It is accepted that there are often issues in such arrangements, particularly contractual complications. Nevertheless, every opportunity should be sought to minimise the disruption to users of the highway.
- 7.8.2 Where two or more Promoters decide to enter into such arrangements, one must take on the role of the Primary Promoter with the overall responsibility for the activities and will be the point of contact with the Permit Authority. While the Secondary Promoter(s) will be required to make a Permit application for the activity for which they are responsible, only the Permit application made by the Primary Promoter will need to show the number of estimated inspection units.
- 7.8.3 The Primary Promoter's Permit application must give details of the other Promoter(s) involved and the extent of the collaborative working.
- 7.8.4 The Primary Promoter must also ensure that the estimates of works duration are agreed and confirmed with the Secondary Promoter(s) when submitting the PAA and/or Permit applications. This is necessary in order to comply with the overrun charging requirements in the Permit and NRSWA Regulations.
- 7.8.5 While the Permit Authority will issue Permits to all the Promoters involved, not just the Primary Promoter, the fees will be discounted to reflect the collaborative approach.
- 7.8.6 The Primary Promoter will backfill and reinstate the trench unless it has previously been agreed with the Permit Authority and the Secondary Promoter(s) that the Secondary Promoter(s) will carry out the reinstatement. In which case, the responsibility for the reinstatement will rest with the Promoter who undertook this work; however, the primary promoter will still be required to submit all the EToN Notices for the works, including Registration of the reinstatement details.

### **7.9 Remedial works**

- 7.9.1 In the event of remedial works being required after the expiry of a Permit, an application must be made for a new Permit. This Permit must be cross referenced to the Permit using the Works Reference Number for the original activity.

### **7.10 Start and end dates**

- 7.10.1 In relation to category 0, 1, 2, and traffic-sensitive streets the planned commencement date and finishing date for the activity are the start date and end dates respectively on the permit. The permit will not be valid before the start date on the permit and will cease to be valid once the end date has passed unless a variation is granted.
- 7.10.2 In category 3 and 4 streets that are not traffic-sensitive, the permit will be issued with a start and end date and duration for the activity which is set as a condition. The start date of the permit will be the proposed start date of the activity. However, because both competition for space and the expected level of disruption is likely to be lower on less busy streets, there will be flexibility on the start of the activity - a "starting window" - equivalent to the validity period on a NRSWA notice. The starting windows are:
- 5 days for major and standard activities
  - 2 days for minor activities.

### **Milton Keynes Permit Scheme**

7.10.3 The permit end date will therefore allow for the set duration to be completed if the activity starts on the last day of the starting window.

#### **7.11 Early start**

7.11.1 The Permit Authority will consider a Promoter's request for an early start before or after applying for a Provisional Advance Authorisation or a Permit application.

7.11.2 Where this is agreed, the Promoter shall submit a variation to a Permit, or in the case of a Provisional Advance Authorisation, include the revised dates on the application for the Permit. If the Permit has already been granted or deemed, a variation charge will apply.

7.11.3 A reference number will be issued by the Permit Authority, and must be quoted on the Permit application or Permit variation application.

7.11.4 Requests for early starts may or may not be agreed by the Permit Authority at their discretion but will not be unreasonably refused, and it is the responsibility of the Promoter to satisfy the Permit Authority as to the necessity for any proposed early start.

#### **7.12 Charges for over running street works**

7.12.1 Charges for over running street works, under section 74 of the NRSWA, will be made alongside the Permit Scheme although these regulations are modified to incorporate the process of setting and modifying the duration of the activity through the Permit application, approval and variation processes.

#### **7.13 Working without a Permit**

7.13.1 It is an offence for a Statutory Undertaker or a person contracted to act on its behalf to undertake activities without a Permit, except to the extent that the Permit Scheme provides that this requirement does not apply.

7.13.2 Where it is believed that such an offence is being committed, the Permit Authority may impose a fixed penalty notice and require the party concerned to remove the works and return the street to full use.

## **8 PERMITS - TYPES**

### **8.1 Types covered by the Permit Scheme**

8.1.1 There are two types of Permit covered by the Permit Scheme: Provisional Advance Authorisation (PAA) and Permits.

#### **8.2 Provisional Advance Authorisation (PAA)**

8.2.1 A PAA replaces the Advance Notice under section 54 of NRSWA.

8.2.2 PAAs are a means of enabling Major activities to be identified, co-ordinated and programmed in advance by allowing activities to be provisionally reserved by the Permit Authority pending the Authority's subsequent decision on whether, and with what conditions, to issue a Permit for the activities.

8.2.3 A Promoter who wishes to undertake Major activities, on a specified street **must** apply for a PAA at least 3 months in advance of those activities starting on the highway, or as agreed with the Permit Authority.

8.2.4 Subsequent applications for Permits for Major activities that have not been preceded by a PAA, will not, except in exceptional circumstances, be accepted by the Permit Authority.

8.2.5 Each application for a PAA will be limited to one street.

### **Milton Keynes Permit Scheme**

- 8.2.6 An application for a PAA must include a full description of the activity and specify start and end dates, although the start date may be considered as provisional and can be amended in the application for a final Permit.
- 8.2.7 A fee will be charged for the granting of a PAA in addition to the fee which is charged for the granting of the Permit.
- 8.2.8 The granting of a PAA does not prevent the Permit Authority from subsequently refusing to grant a Permit to which the PAA relates.
- 8.2.9 A copy of each application for a PAA is to be provided by the applicant upon request by a relevant Authority and by any person having apparatus in the street to which the application relates.

### **8.3 Permits**

- 8.3.1 These are full Permits with complete details of the Registerable activities on a specified street.
- 8.3.2 The information required to support an application for a PAA should be equivalent to, but should not exceed, that required in support of an application for a Permit.
- 8.3.3 The timing of Permit applications to the Permit Authority will depend on the proposed activity.
- 8.3.4 A copy of each application for a Permit is to be provided by the applicant upon request by a relevant Authority and by any person having apparatus in the street to which the application relates.

## **9 PERMITS – CLASSES**

### **9.1 Classes covered by the Permit Scheme**

- 9.1.1 There are four classes of Permit covered by the Permit Scheme: Major, Standard, Minor and Immediate.

### **9.2 Permits for Major Activities**

- 9.2.1 Major activities are those which:
- Have been identified in an organisation's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the proposed date of the activity
  - Other than immediate activities, require a temporary traffic regulation order, (i.e. not a temporary traffic notice), under the Road Traffic Regulation Act 1984 for any other activities
- 9.2.2 Major activities are split into 3 sub-categories:
- Over 10 days and all major works requiring a traffic regulation order
  - Works 4 to 10 days and meeting the requirement detailed in 9.2.1 above
  - Up to 3 days and meeting the requirement detailed in 9.2.1 above
- 9.2.3 Major Activity Permits are required for the most significant activities on the Highway and require the Promoter to obtain a Provisional Advance Authorisation as part of the application process for a Major Activity Permit. (See 8.2 above)
- 9.2.4 An application for a Major Activity Permit shall be submitted to the Permit Authority in accordance with the timescales given in Table 1 (section 10.7 below) and must include a description of the proposed activity together with the proposed start and end dates of the activity. Where these differ from those given in the PAA application, the applicant must explain the reasons for any variation.

### **Milton Keynes Permit Scheme**

9.2.5 Major activities will be subject to conditions.

#### **9.3 Permits for Standard Activities**

9.3.1 Standard Activities are those activities that have a planned duration of between 4 and 10 days inclusive. Activities lasting less than 10 days but which require a traffic regulation order, such as a temporary road closure, will be classified as a Major Activity and will be subject to the requirements in 9.2 above.

9.3.2 An application for a Standard Activity Permit shall be submitted to the Permit Authority in accordance with the timescales given in Table 1 (*section 10.7*) below and must include a description of the proposed activity together with the proposed start and end dates of the activity.

9.3.3 Standard activities will be subject to conditions.

#### **9.4 Permits for Minor Activities**

9.4.1 Minor Activities are those activities, where the planned working is 3 days or less. Activities lasting less than 3 days but which require a traffic regulation order, such as a temporary road closure, will be classified as a Major Activity and will be subject to the requirements in 9.2 above.

9.4.2 An application for a Minor Activity Permit shall be submitted to the Permit Authority in accordance with the timescales given in Table 1 (*section 10.7 below*) and must include a description of the proposed activity together with the proposed start and end dates of the activity.

9.4.3 Minor activities will be subject to conditions.

#### **9.5 Permits for Immediate Activities**

9.5.1 Immediate Activities are either:

- Emergency works as defined in section 52 of NRSWA; or
- Urgent Activities,
  - a) (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):
    - i. To prevent or put an end to an unplanned interruption of any supply or service provided by the Promoter
    - ii. To avoid substantial loss to the Promoter in relation to an existing service
    - iii. To reconnect supplies or services where the Promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period
  - b) Including works that cannot reasonably be separated or severed from such works.

9.5.2 Given the nature of immediate activities, work may commence without a Permit. However, where it is necessary to carry out excavation in the Highway, Promoters of such activities must contact the Permit Authority by telephone immediately if identified on the NSG.

9.5.3 Where the activity is identified within the normal working day (i.e. after 08.00 hours and before 16.30 hours), a Permit application must be made as soon as reasonably practicable and in any event, within two hours of the activity starting.

9.5.4 If work starts outside of working hours, an application for a Permit must be submitted by 10am the next working day.

### **Milton Keynes Permit Scheme**

9.5.5 If the Permit Authority disputes whether an activity, or part of an activity, is immediate, the Promoter must demonstrate conclusively that it is.

9.5.6 Immediate activities will be subject to conditions.

## **10 PERMIT APPLICATIONS**

### **10.1 Application Timing and Response Times**

10.1.1 The timing of applications for Permits and PAAs and the Permit Authority's response will vary according to the proposed activity. The **minimum** times are given in Table 1 Section 10.7 below and Promoters should give as much notice as possible to ensure that the co-ordination process can be facilitated effectively.

10.1.2 Where the activity is dependent on a Temporary Traffic Regulation Order (TTRO), temporary traffic signal approval, or the suspension of parking regulations, the relevant timescales should be taken into account by the Promoter, and applicants are advised to submit their requests for TTROs and/or temporary traffic signal approval when applying for a PAA.

10.1.3 The application process will begin at the time of receipt of the application by the Permit Authority. The EToN system will provide an auditable record of when an application was received.

10.1.4 The Permit Scheme sets down the application and response times for dealing with Permit applications and variation applications in Table 1 below.

10.1.5 In all cases given in Table 1 Section 10.7 below, the time period is measured from the time of receipt of the application by the Permit Authority.

10.1.6 A "response" means a decision to grant, refuse or request a modification to a Permit. Where there are reasons why the Permit cannot be granted in the terms applied for, the response indicating that a Permit will not be granted in those terms will explain the reasons to the applicant.

### **10.2 Submitting an application**

10.2.1 Permit and PAA applications must be made electronically, as set down in the Technical Specification for the Electronic Transfer of Notices, (EToN), unless there is a failure in the electronic system or the Promoter does not have access to electronic systems in which case a paper application will be acceptable.

### **10.3 System failure**

10.3.1 In the event of a system failure, Promoters shall adopt the following procedure:

- Where after three attempts to give an application or a notice by EToN (duly recorded by the person serving the application or notice), the application or notice cannot be given, notification should be given by telephone, email or fax for immediate activities with formal EToN application or notice following as soon as reasonably practicable
- Other applications or notices may be given by other electronic means, (e.g. e-mail or fax), or may be sent by post or delivered by any other method agreed with the Permit Authority
- Following recovery of the service a copy of the application or notice should be sent through EToN to ensure information on the works is correctly recorded in the register
- Where applications or notices are sent by post, Promoters should take into account that there is no guarantee that they will be delivered to the Permit Authority the next day

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Milton Keynes Permit Scheme**

- A delivery mechanism that includes a delivery receipt is recommended

10.3.2 In regards to variations during a system failure, Promoters should make contact with the Permit Authority by telephone.

10.3.3 The Permit Authority will issue an individual reference number. This number must be included in the NotificationComments on an electronic application through EToN following recovery of service to ensure correct cross-referencing.

**10.4 Compliance with EToN**

10.4.1 All applications must comply with the definitive format and content given in the current Technical Specification for EToN.

**10.5 Notification to interested parties**

10.5.1 Where the NSG indicates other interested parties, Permit applications will be copied to those parties by the Permit Authority.

10.5.2 Promoters are required to check whether any parties have registered such an interest prior to submitting an application for a Permit or PAA.

**10.6 Consultation requirements**

10.6.1 Promoters must carry out the necessary consultations as set down in sections 88, 89 and 93 (as amended) and sections 90 and 91 of the NRSWA.

**10.7 Table 1 – Application timings**

Activity Type	Minimum application periods ahead of proposed start date		Minimum period before Permit expires for application for variation (including extension)	Response times for issuing a Permit or seeking further information or discussion		Response times for responding to applications for Permit variations
	Provisional Advance Authorisation	Application		Provisional Advance Authorisation	Application	
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longer	1 calendar month	5 days	2 days
Standard	N/A	10 days		N/A	5 days	
Minor	N/A	3 days		N/A	2 days	
Immediate	N/A	2 hours after		N/A	2 days	

**10.8 Refusal of application**

10.8.1 The Permit Authority reserves the right to refuse or request a modification to an application for a Permit or PAA where it considers that elements of the application (e.g. timing, location or conditions) are not acceptable.

10.8.2 If the Permit Authority decides to refuse the application or request a modification, it will contact the Promoter within the response time given in Table 1 above to explain why the application is not satisfactory and what amendments are needed in order to achieve a successful application.

**10.9 Restrictions on further activities**

10.9.1 Where a Promoter wishes to apply for a Permit to carry out specified activities on a specified street where a Section 58 or 58A Notice under NRSWA is in force, and the



## **Milton Keynes Permit Scheme**

activities are not covered by the specific exemptions of that notice, the Promoter must make an application for the Permit Authority's consent specifying the grounds on which the consent is sought.

### **10.10 Error correction**

- 10.10.1 Where the Permit Authority identifies an error in data recorded in, or submitted for recording in, the Permit register, it will contact the Promoter to discuss and agree the corrections to be made.
- 10.10.2 Where the Promoter identifies an error, they will contact the Permit Authority to discuss and agree the corrections to be made. If an error has been identified on an application, the Promoter shall submit a Permit variation request by the end of the next working day following the agreement of the correction.
- 10.10.3 This Permit variation request should include the corrected data and the name of the person in the Permit Authority who agreed that the correction should be made.
- 10.10.4 The error correction process is described in the Technical Specification for EToN.
- 10.10.5 This procedure cannot be used without the prior agreement of both parties.
- 10.10.6 A variation fee will be payable where the identified error has been caused by the Promoter.

## **11 INFORMATION REQUIRED IN A PERMIT APPLICATION**

### **11.1 Permit Authority requirements**

- 11.1.1 To enable the Permit Authority to determine the granting of a Permit and any conditions that may be attached to the Permit, Promoters may be required to supply the following information which is covered in more detail below:
- Contact details
  - USRN
  - Description of activity
  - Location
  - Timing and duration
  - Illustration
  - Technique to be used for underground activities
  - Traffic management and traffic regulation orders
  - Depth
  - Reinstatement type
  - Inspection units
- 11.1.2 In the case of Provisional Advance Authorisation applications, the Promoter should provide the most accurate information available at the time of making the application.
- 11.1.3 Quality of the information provided will allow the Permit Authority to make an informed decision and co-ordinate the activity effectively.

### **11.2 Contact person**

- 11.2.1 All Permit applications must include the contact details, if different from the normal contact number, of the person appointed by the Promoter to deal with any problems that may occur during the activity, including any provision made for out-of-hours contact of the Promoter.
- 11.2.2 This must include details for Secondary Promoters if collaborative working is in place.

## **Milton Keynes Permit Scheme**

### **12 USRN**

12.1.1 Where a single street has more than one USRN, separate Permit applications will be required for each USRN to which an activity relates.

#### **12.2 Description of activity**

12.2.1 A sufficiently detailed description of the activity, in plain English, must be provided to allow the Permit Authority to assess the impact of the activity.

12.2.2 In regards to collaborative working, all Promoters must be identified and details of the scheme must be provided.

#### **12.3 Location**

12.3.1 The Promoter must give an accurate location based on National Grid References, (NGR).

12.3.2 In the case of Major works, start and end NGRs must be supplied as a minimum. If the proposed works deviates from a straight line, for example, follow the curvature of a street, a poly line (line centre of site) will be preferred.

12.3.3 For Standard, Minor and Immediate works, a centre point NGR must be supplied as a minimum. As with Major works, a poly line will be preferred when:

- The activity or trenches are expected to be over 10 metres in length
- Activity locations on the application in the same street are separated
- Activity areas or trenches deviate from a straight line.

12.3.4 In addition and if required, dimensions should be given of the space that will be taken up by the activity in the street including space for the storage of materials, working space, safety zone, provision for pedestrians and traffic management.

#### **12.4 Timing and duration**

12.4.1 Each Permit application must include the proposed start and end dates of the activity and the times of the day when the activity is to be carried out. The applicant must also indicate if it is intended for work to continue over weekends and bank holidays and if night working is required.

#### **12.5 Illustration**

12.5.1 It is particularly important that an illustration is provided for PAA applications and Major Activity Permit applications on Traffic Sensitive Streets.

12.5.2 Illustration(s) of the works should include details of the activity and the extent of Highway occupancy. The illustration will comprise plans, sections, digital photographs and similar material as appropriate.

12.5.3 Illustrations must also be submitted with the application for Non Traffic Sensitive Major Standard and Minor activities where the activity is significant in terms of potential disruption due to the position and size of the activity, or where the Permit Authority consider an illustration is necessary.

#### **12.6 Technique to be used for activities**

12.6.1 Details of the planned techniques, including open cut, trench share, minimum dig technique or no dig must be provided. This information should be provided in the ExcavationType field within EToN.

#### **12.7 Traffic management and Traffic Regulation Orders**

12.7.1 The Promoter must supply full details of their traffic management proposals including any requirement for action by the Highway Authority such as the need for Temporary

## **Milton Keynes Permit Scheme**

Traffic Regulation Orders (TTROs) and approval for portable light signals. Evidence of application/agreement for a TTRO must be provided with the PAA/Permit application.

12.7.2 In the case of the suspension of a parking bay being required, an application by the Promoter must be made to the Highway or Permit Authority as Parking Authority. This must be separate from any Permit application and evidence of the agreement by the relevant Parking Authority must be included in the Permit application.

12.7.3 Applicants should be aware that such action by the Highway Authority may involve additional costs and Promoters should familiarise themselves with the timescales relating to TTRO and parking applications.

### **12.8 Depth**

12.8.1 Promoters must provide their best estimate of the excavation depth of the activity. This may be expressed as a range where appropriate.

### **12.9 Reinstatement type**

12.9.1 Where the activity is completed with an interim reinstatement, a separate Permit application will be required for the permanent reinstatement where this is to be undertaken outside the duration of the Permit.

### **12.10 Inspection units**

12.10.1 The Promoter is required to indicate the provisional number of inspection units appropriate to the activity in accordance with the rules laid down in the Inspections Code of Practice and in The Street Works (Inspection Fees)(England)(Amendment) Regulations 2004.

12.10.2 Where there is trench sharing, only the Primary Promoter is required to give the inspection units.

## **13 PERMIT CONDITIONS**

### **13.1 Applying Conditions**

13.1.1 The Permit Scheme allows for the attaching of conditions to Permits. These will be specified in detail on the Permit and will reflect any constraints on the original application.

13.1.2 Not all types of conditions will necessarily be applied to all Permits or PAA's.

13.1.3 In general, conditions will be varied for each Permit, as each set of circumstances will be different. The detailed 'Standard' wording of all conditions will be made available to all Promoters as a separate document.

13.1.4 However, the Permit Authority can define conditions that will be applied to all Permits.

13.1.5 The Promoter should endeavour to have a copy, either electronic or hard copy, of the current Permit on site for inspection.

### **13.2 Conditions applied to ALL Permits**

13.2.1 Milton Keynes Council will adopt solely the nationally agreed conditions text developed and approved by HAUC (England) as our standard conditions, including referencing. We recognise that these conditions may be subject to change and may develop over time. Any future changes to the conditions text ratified through HAUC (England) formal approval process will automatically be incorporated into this scheme. Any changes will have been consulted on and agreed by the sector and we will not undertake further consultation on those agreed changes, but will inform stakeholders of their implementation date for use within our permit scheme.

### **13.3 Requirements for Immediate Activities**

### **Milton Keynes Permit Scheme**

- 13.3.1 Promoters of such activities must contact the Permit Authority by telephone immediately if identified in the NSG.
- 13.3.2 The Promoter shall submit an application for a Permit within two hours of beginning work. If work starts outside of working hours, an application for a Permit must be submitted by 10am the next working day.
- 13.3.3 A full description of works being carried out must justify why the activity has been categorised as immediate works.
- 13.3.4 The Permit Authority may impose further conditions prior to the granting of a Permit where this is required. Imposing such conditions will be in discussion with the Promoter of the activity and will be included in the subsequent granted Permit.  
The promoter must submit an amended application with the required conditions, which can then be granted.
- 13.3.5 Once granted, the Permit reference number must be prominently displayed on the site information board for each set of works.

### **13.4 Breach of conditions**

- 13.4.1 If the Permit Authority considers that a Promoter is failing to comply with the conditions of a Permit then it may revoke the Permit. Before revoking a Permit, the Permit Authority will contact the Promoter to warn them of its intention and allow the situation to be discussed.
- 13.4.2 Where it appears to the Permit Authority that a condition has been breached and that the Promoter or a person contracted to act on its behalf has therefore committed an offence it will take action as described in 18.3.

### **13.5 Avoidance of conflict with other legislation**

- 13.5.1 The Promoter should bring such conflicts to the attention of the Permit Authority who will then be responsible for resolving the issue with the other legislative bodies or groups that may be involved and amending the Permit conditions accordingly.
- 13.5.2 If the Promoter has safety concerns about conditions set by the Permit Authority it should raise these concerns with the Permit Authority and if necessary challenge the condition.
- 13.5.3 It is a criminal offence for a Statutory Undertaker or a person contracted to act on its behalf to breach a Permit Condition.
- 13.5.4 Any person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **14 GRANTING OF PERMITS**

### **14.1 Timing of Permit issue**

- 14.1.1 Where the Permit Authority is content with the proposal, it will Grant a Permit within the response times detailed in Table 1 Section 10.7 above via EToN.

### **14.2 Issuing of Permit**

- 14.2.1 A Granted Permit will be issued electronically in accordance with the formats given in the Technical Specification for EToN with the details placed on the Permit register and copies supplied to any Promoter, Authority or other relevant body that has asked to be informed about activities on a particular street.
- 14.2.2 The Permit will specify in detail the activity it allows and its duration. The start and end dates will be in calendar days to prevent any ambiguity over the duration of the Permit.

## **Milton Keynes Permit Scheme**

### **14.3 Permit refusal**

- 14.3.1 If, after careful consideration, the Permit Authority decides to refuse the PAA or Permit application, the refusal will be issued electronically via EToN and where possible using sector agreed refusal codes as approved by HAUC England. An explanation of refusal will be given and discussions with the Promoter may be held regarding amendment to the application.

### **14.4 Right of appeal**

- 14.4.1 The Promoter has a right of appeal, in accordance with the Dispute Resolution process set down in Section 19 if it is unable to reach agreement with the Permit Authority over the terms it requested or the conditions attached. In the case of immediate activities it may be that the work has to stop, subject to safety and legal considerations, such as Health and Safety legislation, until the issues are resolved.

### **14.5 Permit application deemed to be approved**

- 14.5.1 If the Permit Authority fails to reply to an application for a Permit or PAA within the designated response times, the Permit or PAA is deemed to be granted under the terms of the application.
- 14.5.2 The proposed start and end dates, description, location, duration, traffic management, etc. will be included in the Permit and associated conditions for the activity. This detail will then be binding on the Promoter as it would have had the Permit been issued within the timescale. Breaching the conditions will constitute an offence.
- 14.5.3 No fee will apply to deemed Permits.

## **15 REVIEW, VARIATION AND REVOCATION OF PERMITS AND PERMIT CONDITIONS**

- 15.1.1 Once a Permit has been issued, the Promoter should have reasonable confidence that the road space will be available for them. However, circumstances beyond the Permit Authority's control may occur which may cause the Authority to review the Permit and as a result, may lead to the conclusion that the Permit or its conditions need to be changed or revoked.
- 15.1.2 The Permit Authority's policy is to avoid making such changes other than in exceptional circumstances which could not reasonably have been predicted or where the impact is significant. Such events may include floods and other adverse weather conditions, burst mains, dangerous buildings, etc. which may result in traffic being diverted onto the road where the activity was underway or about to start.
- 15.1.3 As soon as the Permit Authority is aware that it may be necessary to vary or revoke a Permit, it will contact the Promoter to discuss the best way of dealing with the situation.

### **15.2 Permit Authority powers**

- 15.2.1 Within the Permit Scheme, the Permit Authority has the power, under Regulation 15 of the Traffic Management Permit Scheme (England) Regulations 2007, to review, vary or revoke Permits and Permit conditions on its own or a Promoter's initiative. However, the Permit Authority is under no obligation to let activities run beyond the Permitted period.
- 15.2.2 Any activities that exceed the Permitted duration will be committing an offence and could be subject to section 74 overrun charges.

### **15.3 Promoter Revocation**

### **Milton Keynes Permit Scheme**

15.3.1 If a Promoter wishes to cancel a Permit or withdraw a Permit application for which they have no further use or seeks a revocation of a Permit condition, they should use the voluntary cancellation notice detailed within the relevant EToN specification.

### **15.4 Changes to a Provisional Advance Authorisation**

15.4.1 A PAA cannot be varied once granted.

15.4.2 Where a PAA has been given but a full Permit has not been issued and the proposals change, the Promoter must inform the Permit Authority immediately of the proposed changes and a revised application for a PAA or Permit should be made.

### **15.5 Changes to Permits**

15.5.1 If the Permit Authority considers a variation necessary then it should contact the Promoter to discuss the best way of dealing with the situation whilst meeting the co-ordination duties and other Statutory Requirements of those involved. Good co-ordination and co-operation between Promoter and the Permit Authority will minimise the time that the Authority needs to vary Permits or their conditions. This will be in the interests of all parties.

15.5.2 This discussion may lead to an agreement on the variation required. In that case, the Permit Authority will then issue a revised Permit on those terms unless, by agreement, the Promoter applies for a Permit variation. The latter may be more appropriate if the Promoter needs to reconsider elements of its plans within the parameters agreed with the Permit Authority.

15.5.3 Any application must include, in all cases, the proposed dates and duration and any other conditions of the activity.

### **15.6 Avoidance of criminal offence**

15.6.1 Variations should be sought as soon as changes are identified to avoid a criminal offence being committed by work being undertaken without a Permit or outside of the conditions associated with that Permit.

### **15.7 Suspending or Postponing an activity**

15.7.1 If a Promoter would like to start an activity at a later date after a Permit has been approved, a Permit variation will need to be applied for and a new Permit be issued, unless the promoter can still complete the activity by the existing permit end date. There is no option to suspend or postpone an activity.

### **15.8 Review of Permit by Permit Authority due to circumstances outside its control**

15.8.1 The Permit Authority may review the Permit and associated conditions in the event of circumstances beyond its control having a significant disruptive effect at the location of the activity.

15.8.2 No fee will apply for Permit variations initiated by the Permit Authority unless, at the same time, the Promoter applies for variations which are not the result of the circumstances causing the Permit Authority's action.

### **15.9 Timing of variations**

15.9.1 Applications for variations may be made a minimum of two days before the permit end date and the Promoter must telephone before submission of a variation if after that date.

15.9.2 If a variation is to be made a minimum of two days before the permit end date, the Promoter is encouraged to telephone the Permit Authority to discuss prior to submitting a variation and only apply, again electronically, if the Authority is so prepared.

## **Milton Keynes Permit Scheme**

### **15.10 Variations for Immediate Activities**

- 15.10.1 In the event of immediate activities requiring a series of fault finding excavations or openings, for example locating a gas leak, the following procedure shall apply where it is necessary to undertake works beyond the initial excavation or opening covered by the first application.
- 15.10.2 As they are immediate works, the Promoter will submit the first Permit application within two hours of starting work. That first application will contain the location of the initial excavation or opening:
- i. For any further excavations or openings on the same street within 50 metres of the original hole, the Promoter is encouraged to telephone the Permit Authority with the new location. No Permit variation will be needed and no variation charge will apply
  - ii. The Promoter will have to apply for a Permit variation for the first excavation in each new 50 metre band away from the original hole in the same street, i.e. 50-100 metres, 100-150 metres, etc. Standard variation charges will apply, however the Permit Authority may use their discretion to waive these charges.
  - iii. For additional excavations within each band, the Promoter is encouraged to telephone the Permit Authority with the new location. No Permit variation will be needed and no variation charge will apply
  - iv. If the search carries into a different street or a new USRN, (including if the street changes to a different Authority), then a separate Permit application will be needed
- 15.10.3 Conditions for these activities may be varied to take into account the fact that a new location, even within the permissive bands, can be more disruptive

### **15.11 Information required for variation applications**

- 15.11.1 Applications for Permit variations must contain the following information as applicable:
- i. The Works reference number
  - ii. The revised timescale
  - iii. Any change to the description of the activity
  - iv. A revised illustration
  - v. Any change to the method of excavation
  - vi. Any variation to the depth of the excavation
  - vii. Any changes to the reinstatement method
  - viii. Any changes to the conditions
  - ix. Any changes to Traffic Management including TTROs

### **15.12 If an Agreement cannot be made**

- 15.12.1 If agreement cannot be reached regarding a variation, the Permit Authority may refuse the variation application and, if appropriate, issue an Authority imposed variation on the terms it considers reasonable. If the Promoter disagrees with the decision, it will have the option to invoke the dispute resolution procedure (See Section 19)

### **15.13 Review of Permit due to non-compliance by the Promoter**

- 15.13.1 If the Permit Authority considers that a Promoter is failing to comply with the conditions of a Permit then it may revoke the Permit or issue a Fixed Penalty Notice (FPN).

## **Milton Keynes Permit Scheme**

15.13.2 Before revoking a Permit, the Permit Authority will contact the Promoter to warn them of its intention and allow the situation to be discussed.

### **15.14 Working after a Permit has been revoked**

15.14.1 A Promoter will be committing an offence if it continues to work after a Permit has been revoked.

## **16 CANCELLATION OF A PERMIT**

### **16.1 Cancellation Notice**

16.1.1 If a Promoter wishes to cancel a Permit for which it has no further use, or to cancel or withdraw an application that has been submitted but for which a Permit has not yet been granted, it should use the cancellation notice containing the relevant Permit number – see the *Technical Specification for EToN*. There is no fee payable for this process, however Permits already granted will still be charged.

## **17 FEES**

### **17.1 Permit Authority power to charge fees**

17.1.1 To meet the additional costs of introducing and operating the Scheme, Regulation 30 gives the Permit Authority the power to charge a fee in respect of the following:

- i. The application for a PAA in respect of Major activities
- ii. The issuing of a Permit
- iii. Each occasion where there is a variation of a Permit or the conditions attached
- iv. Where a Permit variation would move an activity into a higher category, the Promoter will be required to pay the difference between the Permit fee for the two categories as well as the Permit variation fee

### **17.2 Fee Policy**

17.2.1 The Permit Authority will charge Statutory Undertakers for the actions detailed in 17.1.

17.2.2 Fees will not be payable in the following circumstances:

- i. By the Highway Authority in respect of its own works for road purposes, however a record of the Permit and fee will be used for reporting purposes and fee reviews.
- ii. Any work undertaken on a fire hydrant.
- iii. Where a Permit is deemed to be granted because the Permit Authority failed to respond to an application within the time set down in Table 1 (*section 10.7*) above
- iv. If a Permit variation is initiated by the Permit Authority or the Authority has to revoke a Permit through no fault of the Promoter
- v. Where a Promoter wishes to cancel a Permit for which it has no further use, or to cancel or withdraw an application that has been submitted but for which a Permit has not yet been granted

17.2.3 Fee discounts will be given in the following circumstances:

- i. Where several Permit applications for works that are of part of the same project but which are carried out on more than one street, but on a scale comparative to one street, are submitted at the same time.
- ii. Where several Promoters are working within the same site and submit applications on the same day. Where the Highway Authority Promoter is collaborating with Statutory Undertakers, those Undertakers will be eligible for the discount.



## **Milton Keynes Permit Scheme**

- iii. Where works are undertaken wholly outside of traffic sensitive times on Traffic Sensitive Streets.

### **17.3 Rate of discount**

- 17.3.1 A discount of 30% will be applied in the above circumstances.

### **17.4 Option to waive or reduce fees**

- 17.4.1 The Permit Authority retains the option to waive or reduce fees at its discretion.

### **17.5 Review of fees**

- 17.5.1 The Permit Authority will review its scale of fees annually to ensure that the overall fee income does not exceed the allowable costs.
- 17.5.2 The outcome of the annual fee reviews will be published and open to public scrutiny.
- 17.5.3 As far as possible the fees and costs should be matched over a financial year. However, it is recognised that estimating the fee levels will involve incorporating the effect of various factors that will inevitably have a degree of uncertainty around them. In the event that fees and costs do not match the actual outturn for the year in question, adjustments may be made to fee levels for the subsequent years so that across a number of years fees do not exceed the allowable costs.

### **17.6 Approved scale of fees**

- 17.6.1 The current approved scale of fees is included in the order made by the Secretary of State for the Permit Authority to operate the Permit Scheme.

### **17.7 Processing of fees**

- 17.7.1 Monthly invoices will be issued to each Promoter with all Permits referenced.
- 17.7.2 A summary may be issued to each Promoter every two weeks so amounts can be confirmed prior to the invoice being raised.

## **18 SANCTIONS**

### **18.1 Permit Authority's Policy**

- 18.1.1 The Permit Authority's policy of how it will employ sanctions is as follows:

### **18.2 Undertaking activities without a Permit**

- 18.2.1 It is a criminal offence for a Statutory Undertaker, or a person contracted to act on its behalf, to undertake specified activities in a specified street in the absence of a Permit, except as set down in section 6.
- 18.2.2 Any person guilty of an offence under this Regulation is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **18.3 Action by Permit Authority**

- 18.3.1 Where a Statutory Undertaker or a person contracted to act on its behalf undertakes without a Permit, works for which a Permit is required, or breaches a Permit condition, the Permit Authority may take one or more of the following courses of action depending on the seriousness and persistence of the offences:
  - i. Serve a notice requiring that Statutory Undertaker to take such reasonable steps as detailed in the notice to remedy the situation within a specified timescale
  - ii. Where a Statutory Undertaker fails to comply with the requirements of such a notice within the timescale the Permit Authority may undertake the specified steps and recover the costs that are reasonably incurred from the Statutory Undertaker

### **Milton Keynes Permit Scheme**

19.3.5 The review would normally take place within ten working days from the date on which the issue is referred to HAUC (UK). Milton Keynes Council will accept the conclusions of the review panel as binding.

#### **19.4 Adjudication**

19.4.1 If agreement cannot be reached by the procedure above, the dispute can be referred to independent adjudication.

19.4.2 Adjudication within the Milton Keynes Permit Scheme will only be used if Milton Keynes Council and the Promoter(s) agree in relation to the matter under dispute, that

- the decision of the adjudicator is deemed to be final; and
- the costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them.

19.4.3 Where the adjudication route is followed, Milton Keynes Council and the Promoter(s) will apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from a suitable recognised professional body.

## **20 REGISTERS**

### **20.1 Register of Permits**

20.1.1 The Permit Authority will maintain a register of Permits in connection with the Permit Scheme and in accordance with regulation 33 and 34, Part 7 of the Regulations.

20.1.2 The register will contain information about current and planned activities and will be available electronically to Promoters to assist them in planning and co-ordinating their own works at the earliest possible stage

### **20.2 Referencing of information**

20.2.1 All information held in the register of Permits will be referenced to the USRN and the Permit register will be Geographic Information System (GIS) based.

## **21 TRANSITIONAL ARRANGEMENTS**

21.1.1 Once an Order has been made, the Authority will provide at least four weeks notice of its intention to operate a Permit Scheme from a given date.

21.1.2 The Permit Authority will liaise closely with all Promoters during the transition period so that any issues are identified early and appropriate action taken to resolve them.

21.1.3 The Permit Scheme will apply to all activities where the administrative processes, such as an application for a Permit or Provisional Advance Authorisation, start after the commencement date of the Permit Scheme stated in the order.

21.1.4 Activities which are planned to start on site more than one month after the changeover date, (for standard, minor and immediate activities), or three months after the changeover date, (for major activities), shall operate under the Permit Scheme. This means that even if the relevant section 54, 55 or 57 NRSWA notice has been sent before the changeover, the Promoter will have to apply for a Permit.

21.1.5 If the Promoter has not substantially begun the activity (or phase of activity) one month after the changeover date (for standard, minor and immediate activities) or three months after the changeover date (for major activities), then the Promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a Permit.

21.1.6 Any activity which started under the notices regime will continue under that regime until completed.

### **Milton Keynes Permit Scheme**

21.1.7 The issue of FPNs will be suspended for the first month of operation of the Scheme to allow a settling in period.

## **22 PERMIT SCHEME MONITORING**

### **22.1 Monitoring and evaluating the Permit Scheme**

22.1.1 The Permit Authority will establish a monitoring group to include representatives of the regional HAUC to monitor and evaluate the Permit Scheme to ensure that it demonstrates parity of treatment for all Promoters, particularly between Statutory Undertakers and the Highway Authority's own Promoters.

### **22.2 Use of Key Performance Indicators**

22.2.1 Parity will be measured through Key Performance Indicators (KPIs). The following KPIs are mandatory and in addition, the Permit Authority will produce an annual set of KPIs identifying the treatment of individual Promoters.

22.2.2 As experience with operating the Permit Scheme is obtained, these additional KPIs will be developed in conjunction with the monitoring group referred to in 22.1

### **22.3 Mandatory KPIs**

<b>KPI 1</b>
<i>The number of Permit and Permit variation applications received, the number granted and the number refused</i>
This will be measured by Promoter and shown as: <ul style="list-style-type: none"> <li>the total number of Permit and Permit variation applications received, excluding any applications that are subsequently withdrawn</li> <li>the number granted as a percentage of the total applications made</li> <li>the number refused as a percentage of the total applications made.</li> </ul>

<b>KPI 2</b>
<i>The number of conditions applied by condition type</i>
This will be measured by Promoter and shown as: <ul style="list-style-type: none"> <li>the number of Permits issued</li> <li>the number of conditions applied, broken down into condition types. The number of each type being shown as a percentage of the total Permits issued.</li> </ul>

### **22.4 Additional KPI's**

<b>KPI 3</b>
<i>The number of approved extensions</i>
This will be measured by promoter and shown as: <ul style="list-style-type: none"> <li>the total number of permits issued</li> <li>the number of requests for extensions shown as a percentage of permits issued</li> <li>the number of agreed extensions as a percentage of extensions applied for.</li> </ul>

<b>KPI 7</b>
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### Milton Keynes Permit Scheme

<b><i>Number of inspections carried out to monitor conditions</i></b>
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This will be broken down by promoter and shown as:
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- |   |
|---|
| <ul style="list-style-type: none"><li>• the number of sample permit condition checks carried out as a percentage of the number of permits issued</li><li>• the percentage of sample inspections by promoter should also be shown.</li></ul> |
|---|

### **22.5 Presentation of KPIs to co-ordination meetings**

22.5.1 The KPIs will be discussed at the local co-ordination meetings and at other meetings with Promoters. In addition, the KPIs will be made available to any other person on request or via the Authority's website.

## Milton Keynes Permit Scheme

### 23 APPENDIX A: Definition of terms.

Activity	Any works undertaken by Statutory Undertakers and the Highway Authority (or their agents/contractors) and any other works that maybe covered in future regulations.
Additional Street Data	Additional Street Data (ASD) refers to other information about streets held on the NSG concessionaire's website alongside the NSG
Apparatus	As defined in section 105(1) of NRSWA "apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus"
Appeal	If there is an unresolved disagreement between the Promoter and the Permit Authority about the terms and conditions of the Permit or PAA, the Promoter may appeal against the Permit Authority's decision to either NW HAUC or HAUC (UK).
Bank Holiday	As defined in section 98(3) of NRSWA, "Bank Holiday means a day which is a Bank Holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated"
Bar holes	Bar holes are used to detect and monitor gas leaks.
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street)
Bridge	As provided in section 88(1)(a) of NRSWA, "references to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street"
Bridge Authority	As defined in section 88(1)(b) of NRSWA, "Bridge Authority means the Authority, body or person in whom a bridge is vested"
Carriageway	As defined in section 329 of HA 1980, "carriageway means a way constituting or comprised in a Highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles"
Code of Practice for Permits	As published by the Department for Transport March 2008
Collaborative working	Includes trench sharing, multi-utility working, utility/works for road purposes situations and compliance testing.
Cycle track	As defined in section 329 of the HA 1980, "cycle track means a way constituting or comprised in a Highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot"
Day	A calendar day, unless explicitly stated otherwise
DfT	Department for Transport
Emergency works	As defined in section 52 of NRSWA, "emergency works means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence

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### Milton Keynes Permit Scheme

	of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property"
EToN	Electronic Transfer of Notices, the system defined in the Technical Specification for EToN for passing notices. Permit applications, Permits and other information between Promoters and the Permit Authority.
Excavation	"Breaking up" (as defined above)
Fixed Penalty Notice	As defined in schedule 4B to NRSWA, "fixed penalty notice means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty"
Footway	As defined in section 329 of the HA 1980, "footway means a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only"
Geographical Information system (GIS)	A computer system for capturing, storing, checking, integrating, manipulating, analysing and displaying data related to positions on the Earth's surface
HA 1980	The Highways Act 1980
Highway	As defined in section 328 of the HA 1980, "Highway means the whole or part of a highway other than a ferry or waterway"
Highway Authority	As defined in sections 1 and 329 of the HA 1980
Highway works	"Works for road purposes" or "major highway works"
Immediate activities	As stated in section 8.5, immediate activities are either emergency works as defined in section 52 of NRSWA or urgent works as defined in <i>The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007</i>
In	As defined in section 105(1) of NRSWA, "in, in a context referring to works, apparatus or other property in a street or other place includes a reference to works, apparatus or other property under, over, along or upon it"
Local Authority	As defined in section 270(1) of the Local Government Act 1972(a) and includes the Common Council of the City of London.
Local Highway Authority	As defined in section 329 of HA 1980, "Local Highway Authority means a Highway Authority other than the Minister"
Main roads	All streets in reinstatement categories 0, 1 and 2 and those streets in categories 3 and 4 which are traffic sensitive for all or part of the time
Maintainable Highway	As defined in section 329 of HA 1980, a "Highway maintainable at the public expense means a highway which by virtue of section 36 above or of any other enactment (whether contained in this Act or not) is a highway which for the purposes of this Act is a highway maintainable at the public expense"

### Milton Keynes Permit Scheme

Maintenance	As defined in section 329 of HA 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly"
Major activities	As stated in section 9.2, Major activities are those which: <ul style="list-style-type: none"> <li>• Have been identified in an organisation's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the proposed date of the activity</li> <li>• Other than immediate activities, require a temporary traffic regulation order, (i.e. not a temporary traffic notice), under the Road Traffic Regulation Act 1984 for any other activities</li> <li>• Other than immediate activities, have a duration of 11 working days or more</li> </ul>
Major Highway works	As defined in section 86(3) of NRSWA, "major highway works means works of any of the following descriptions executed by the Highway Authority in relation to a highway which consists of or includes a carriageway – <ol style="list-style-type: none"> <li>a) a reconstruction or widening of the highway;</li> <li>b) works carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts);</li> <li>c) substantial alteration of the level of the highway;</li> <li>d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the Highway;</li> <li>e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980;</li> <li>f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges);</li> <li>g) provision of a cattle-grid in the highway or works ancillary thereto; or</li> <li>h) tunnelling or boring under the highway"</li> </ol>
Minor activities	As stated in section 9.4, minor activities are those activities other than immediate activities where the planned duration is 3 days or less.
Minor roads	Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time.
National grid reference	Location reference using nationally defined eastings and northings.
Nationally consistent Street gazetteer (NSG)	A database defined as an "index of streets and their geographical locations created and maintained by the local Highway Authorities" based on BS 7666 standard.
NRSWA	New Roads and Street Works Act 1991.
NSG Concessionaire	The body appointed to manage the NSG on behalf of the local

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### Milton Keynes Permit Scheme

	Highway Authorities.
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any "breaking up" of the street.
Permit	The approval of a Permit Authority for a Promoter to carry out activity in the highway subject to conditions.
Permit application	See Section 10. The application that is made by a Promoter to the Authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (section 55 of NRSWA) given under the Co-ordination regime.
Permit Authority	See Section 1.4. A local Authority or other "Highway Authority" which has been given approval by the Secretary of State to operate a Permit Scheme on all or some of its road network.
Permit Scheme	See Section 1. A Scheme approved by the Secretary of State under which Permits for activities are sought and given.
Promoter	A person or organisation responsible for commissioning activities in the streets covered by the Permit Scheme. The Promoter will usually be a Statutory Undertaker or the Highway or Traffic Authority.
Protected Street	See Section 1.6. A street that has been designated as a protected street. It serves a specific strategic major traffic need and therefore needs to be protected from unnecessary excavation and works and providing there is a reasonable alternative route in which Statutory Undertakers can place the equipment that would otherwise lawfully have been placed in the protected street.
Provisional Advance Authorisation	See Section 8.2. The early approval of activities in the highway, equivalent to the advance notice given under s 54 of NRSWA.
Registerable activities	See Section 5.1. Registerable activities are as listed in Chapter 9 of The Code of Practice for Permits.
Reinstatement	As defined in section 105(1) of NRSWA, "reinstatement includes making good".
Relevant Authority	As defined in section 49(6) of NRSWA, "references in this Part to the relevant Authorities in relation to any works in a street are to the Highway Authority and also: <ul style="list-style-type: none"> <li>a) where the works include the breaking up or opening of a public sewer in the street, the Sewer Authority;</li> <li>b) where the street is carried or crossed by a bridge vested in a Transport Authority, or crosses or is crossed by any other property held or used for the purposes of a Transport Authority, that Authority; and</li> <li>c) where in any other case the street is carried or crossed by a bridge, the Bridge Authority"</li> </ul>
Remedial work	Remedial works are those required to put right defects identified and in accordance with the provisions of the Code of Practice for Inspections and regulations.
Road	See "Street".



### Milton Keynes Permit Scheme

Road Categories: <ul style="list-style-type: none"> <li>• Type 0</li> <li>• Type 1</li> <li>• Type 2</li> <li>• Type 3</li> <li>• Type 4</li> </ul>	Roads carrying over: <ul style="list-style-type: none"> <li>• 30 to 125 msa*</li> <li>• 10 to 30 msa</li> <li>• 2.5 to 10 msa</li> <li>• 0.5 to 2.5 msa</li> <li>• Up to 0.5 msa</li> </ul> *millions of standard axles
Road works	See "Works for road purposes" definition below.
Special Engineering Difficulties (SED)	See Section 1.6. By virtue of section 63 of NRSWA, the term special engineering difficulties relates to streets or, more commonly, parts of streets associated with structures, or streets of extraordinary construction where street works must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure with attendant danger to person or property.
Specified Area	That geographical area to which the Permit Scheme applies.
Specified Street	Those streets to which the Permit Scheme applies.
SROH	Specification for Reinstatement of Openings in the Highway.
Standard activities	Standard activities are those activities, other than immediate activities, that have a planned duration of between 4 and 10 days inclusive.
Statutory Undertaker	As defined in section 48(4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be".
Street	As defined in section 48(1) of NRSWA, "street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare: <ol style="list-style-type: none"> <li>a) any highway, road, lane, footway, alley or passage;</li> <li>b) any square or court;</li> <li>c) any land laid out as a way whether it is for the time being formed as a way or not".</li> </ol>
Street Authority	As defined in section 49(1) of NRSWA, "the Street Authority in relation to a street means, subject to the following provisions: <ol style="list-style-type: none"> <li>a) if the street is a maintainable highway, the Highway Authority, and</li> <li>b) if the street is not a maintainable highway, the street managers".</li> </ol>
Street works	As defined in section 48(3) of NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: <ol style="list-style-type: none"> <li>a) placing apparatus; or</li> <li>b) inspecting, maintaining, adjusting, repairing, altering or</li> </ol>

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### Milton Keynes Permit Scheme

	renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street".
Street works licence	As stated in section 50(1) of NRSWA, "the Highway Authority may grant a licence (a "street works licence") Permitting a person: a) to place, or to retain, apparatus in the street, and b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).
TMA	The Traffic Management Act 2004.
Traffic	As defined in section 105(1) of NRSWA, "traffic includes pedestrians and animals"
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works"
Traffic regulation order	This means an order made under section 1, 6 or 9 of the Road Traffic Regulation Act 1984.
Traffic sensitive street	See section 1.6. This means a street designated by a Highway Authority as traffic sensitive pursuant to section 64 of NRSWA.
Transport Authority	As defined in section 91(1)(a) of NRSWA, "Transport Authority means the Authority, body or person having the control or management of a transport undertaking".
Temporary Traffic Regulation Order (TTRO)	This means an order made under section 14 of the Road Traffic Regulation Act 1984.
Trunk road	As defined in section 329 of the HA 1980, "trunk road means a highway, or a proposed highway, which is a trunk road by virtue of section 10(1) or section 19 above or by virtue of an order or direction under section 10 above or under any other enactment".
Unique Street Reference Number (USRN)	As defined in the British Standard BS7666.
Urgent activities	Urgent activities are: a) activities (not being emergency activities) whose execution at the time they are executed is required (or which the person responsible for the activity believes on reasonable grounds to be required) (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker; (ii) to avoid substantial loss to the undertaker in relation to an existing service; or (iii) to reconnect supplies or services where the

**Milton Keynes Permit Scheme**

	undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and b) Includes activity that cannot reasonably be separated or severed from such activities.
Working day	As defined in section 98(2) of NRSWA, "for the purposes of this Part a working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a Bank Holiday; and a notice given after 4.30 p.m. on a working day shall be treated as given on the next working day".
Works	Street works or Works for road purposes.
Works for road purposes	As defined in section 86(2) of NRSWA, "works for road purposes means works of any of the following descriptions executed in relation to a highway: a) works for the maintenance of the highway; b) any works under powers conferred by Part V of the Highways Act 1980 (improvement); c) the erection, maintenance, alteration or removal of traffic signs on or near the highway; or d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles".

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order gives effect to the Milton Keynes Council Permit Scheme.

The Milton Keynes Council Permit Scheme is designed to control the carrying out of works in specified streets in Milton Keynes by imposing an obligation to obtain a permit from Milton Keynes Council before undertaking the works.

*Article 3* gives effect to the permit scheme, which will come into effect on 30th March 2015. The permit scheme referred to in this article is set out in the Schedule to the Order.

*Article 4* applies Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (which makes provision for the disapplication and modification of enactments in relation to specified works in specified streets) to the specified works and specified streets within the Milton Keynes Council Permit Scheme.

A copy of the Milton Keynes Council Permit Scheme is deposited and can be inspected at Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ and is available to inspect on the Council's website [www.milton-keynes.gov.uk](http://www.milton-keynes.gov.uk).