



Department  
for Transport

# **Permit schemes: statutory guidance for highway authorities**

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Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR



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# Preface to this statutory guidance

The Department for Transport considers that well-designed, outcome-focused, and reasonably implemented permit schemes provide the best method of managing a highway authority's road network and the works that take place in or on the public highway. The main aim of a permit scheme should be to minimise disruption to the authority's network.

Permit schemes affect everyone who uses roads in that area, but they particularly affect those who are responsible for installing and maintaining highways' and utilities' infrastructure, and their contractors. Permit schemes provide for better co-ordination of all works, and closer monitoring can be used to drive behavioural change and to ensure that disruption to local communities and road users is reduced.

The statutory guidance for permit schemes has been updated from that last issued in 2020. The updated information in this document relates to amendments made by The Street and Road Works (Miscellaneous Amendments) (England) Regulations 2022. It also reflects the fact that almost every authority in England now operates a permit scheme.

Highway authorities (which will normally also be the "permit authority") must comply with primary (acts of parliament) and secondary (regulations) legislation. They must, in addition, have regard to this statutory guidance, and to the permit scheme condition statutory guidance document. This document is provided to support highway authorities in the operation of their permit schemes to ensure they operate in accordance with legislation.

Both this statutory guidance and the associated statutory guidance on the national conditions issued in 2022 are the only 2 documents related to permit schemes that can be considered as statutory guidance. They supersede and replace all other documents, information and guidance related to permit schemes whenever issued (other than advice notes which may still provide background information). They are in force from 3rd April 2023.

# 1. Part 1 - Framework for permit scheme development or variation

## Section 1: Legal framework

- 1.1 Highway authority permit schemes were introduced by Part 3 (sections 32 to 39) of the Traffic Management Act 2004 (TMA) and are regulated in England by the Traffic Management Permit Scheme (England) Regulations 2007 (the 2007 regulations) as amended.
- 1.2 The Deregulation Act 2015 removed, in England, the requirement for permit schemes to be approved by the Secretary of State. It amended the TMA, enabling authorities in England to make their own schemes and to vary or revoke existing schemes. Amendments made by the Deregulation Act 2015 and the Infrastructure Act 2015 also enable National Highways to make permit schemes in relation to the highways for which it is responsible.
- 1.3 The 2007 regulations were amended by the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015 ([S.I. 2015/958](#)) to reflect changes made by the Deregulation Act 2015 and other changes to the operation of permit schemes. The amended regulations applied to all new schemes from 30 June 2015 and to all existing schemes from 1 October 2015. The Street and Road Works (Amendments Relating to Electronic Communications) (England) Regulations 2020 ([S.I. 2020/122](#)) amended legislation relating to street and road works, including the 2007 regulations, to support the implementation of Street Manager - the Department for Transport's (DfT) digital service for planning, managing and communicating street and road works. The Street and Road Works (Miscellaneous Amendments) (England) Regulations 2022 will come into force on 3rd April 2023 and will introduce further reforms to the operation and management of permit schemes.
- 1.4 Under section 33(5)(b) of the TMA, authorities preparing a permit scheme are also required to have regard to statutory guidance issued by the Secretary of State.

- 1.5 In this statutory guidance, “must” has been used to refer to a statutory requirement. “Should” is used where the DfT strongly recommends specific action is taken. Where “may” is used, it refers to those matters a highway authority will want to consider in the development of a scheme and as part of its own approval process.
- 1.6 In developing and operating a permit scheme, an authority must comply with the TMA and the 2007 regulations and must have regard to this guidance.
- 1.7 Where a permit scheme is in place, a number of provisions of the ‘notice system’ under NRSWA are disapplied and replaced by equivalent duties imposed under Part 3 of the TMA and the 2007 regulations (see, for example, regulations 36 and 37 of the 2007 regulations). Other sections of the NRSWA continue to apply where a permit scheme is in place, such as those relating to safety, reinstatements and some penalties. The authority also continues to have a wide range of powers available to it through other legislation such as the powers contained in the TMA; the Highways Act 1980; and the Road Traffic Regulation Act 1984. It may also have powers granted by local acts, particularly in London.
- 1.8 There are additional duties on authorities (Equality Act 2010), which gives disabled people a right of access to goods, facilities, services and premises.
- 1.9 Statutory undertakers, or those granted a street works licence under section 50 of NRSWA, have a legal right to carry out street works. Authority duties are balanced against the statutory obligations (or licensed conditions) of statutory undertakers. The utility companies have statutory obligations to provide a supply or service, and these are closely monitored by the utility regulators to ensure that the required level of service is maintained.
- 1.10 All authorities should note that a permit scheme does not alter or reduce the duties to cooperate and coordinate works set out in sections 59 and 60 of NRSWA.

### **Traffic authorities - network management duty and duties under NRSWA**

- 1.11 Section 16 of the TMA introduced a network management duty (NMD) on traffic authorities. A permit scheme does not remove the requirements on each authority to perform those duties.

### **Status of this document**

- 1.12 This document is statutory guidance. This document and the statutory guidance on national conditions issued in July 2022 replace all previous documents from 3rd April 2023. Statutory guidance related to permit schemes is issued by the Secretary of State under section 33(5)(b) of the TMA.
- 1.13 Further [guidance](#) on the development and operation of permit schemes is provided by The Highway Authorities and Utility Committee – HAUC (England).



### **Direction to vary or revoke an operational permit scheme**

- 1.14 Although the Secretary of State no longer approves permit schemes, s/he retains the power to direct an authority to prepare a scheme (section 33(2)(b)) and to direct that a scheme is modified or revoked. Where the Secretary of State makes such a direction, or the authority seeks to cease the operation of a scheme, the authority should notify all works promoters at least four weeks in advance.

## Section 2: Processes for developing or varying a permit scheme

- 1.15 An authority must ensure that all aspects of the proposed scheme or variation to an existing scheme comply with the 2007 regulations (as amended) before making the order giving effect to the scheme. Notice of such an order should be provided to statutory undertakers at least four weeks before the order comes into effect. Authorities may wish to consider the checklist at Annex A.

### Types of permit scheme

- 1.16 All permit schemes will be approved by a single highway authority and will cover roads managed by an individual highway authority (unless exceptionally agreed to with the DfT). Any changes to each authority scheme will need to be achieved by an order from each individual authority.
- 1.17 Where economies of scale can be achieved, there are likely to be benefits in schemes being developed cross boundary, so sharing methodology of operation. They may also share aspects of scheme administration. Each permit must be approved by its individual authority or its delegated processes.

### Scheme objectives

- 1.18 It is expected that, whilst the key objective of the development or variation of any scheme will be to help minimise delays to road users, they can also be used to deliver a range of other highway authority objectives. It is recommended that scheme objectives are supported by targeted specific financial incentives, such as the application or disapplication of permit fees and fee discounts.
- 1.19 Although a set method will need to be followed to the approach for assessing permit applications, it is recommended that the level of scrutiny carried out is in proportion to the level of disruption that works in each type of location would cause. The question of how to minimise congestion while applying a reasonable duration and requesting specific conditions are added should be considered. For example, we would expect to see a more rigorous approach to the assessment of roads in reinstatement category 0, 1 and 2 and traffic-sensitive locations than those categorised as 3 and 4 roads. This approach enables lower fees to be applied (or waived) in specific cases.

### Extent of a permit scheme

- 1.20 It is most likely that schemes will apply permits to 100% of the network, with fees being waived or discounted on lower priority roads. Schemes may also choose to operate permits only across the areas largely defined by its strategically significant streets.

- 1.21 Strategically significant streets (SSS) are defined as including streets which have been designated as traffic sensitive in accordance with the criteria set out in regulation 16 of The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 as amended, as well as streets which fall into reinstatement categories 0, 1 or 2 as defined in the [Specification](#) for the Reinstatement of Openings in Highways (SROH). We would expect a greater level of scrutiny to be applied to those higher priority parts of the network. Long term planning through improved co-ordination with, and co-operation from, works promoters should also deliver benefits.

### Highway authority activities

- 1.22 Permit schemes must apply to an authority's own works in exactly the same way as other works (see regulations 6(2) and 40).

## Section 3: Permit scheme essentials

### Electronic Communication

- 1.23 Authorities operating or varying a permit scheme must be able to receive applications, issue notifications and otherwise communicate electronically – see regulation 39. Schemes should comply with the requirements to use the Street Manager digital service.
- 1.24 It should also be noted that permit regulations and permit schemes enable promoters to seek a permit variation, for which a permit fee may be payable. For use within Street Manager, a permit variation is shown as a permit change but is the same function and would attract a similar fee. The word 'change' is used in relation to permits in this document and refers to a permit variation.

### Creating and updating the National Street Gazetteer (NSG)

- 1.25 Authorities are required to indicate in the Additional Street Data (ASD) as part of the National Street Gazetteer which streets are subject to the permit scheme. The NSG is already used under NRSWA whereby each street has a Unique Street Reference Number (USRN).
- 1.26 USRNs can refer to a whole street or, if the street is long, to part of a street between significant junctions. Permit schemes should provide that a “street” refers to that length of road associated with a single USRN, that is, to a street or part of a whole street where a street is subdivided. Each highway authority (which will normally also be the permit authority) must create, maintain and publish street gazetteer data for all streets within their geographical area, whether or not they are the street authority for any particular street.
- 1.27 The specification for street gazetteers is set out in British Standard BS 7666. It is important that permit schemes make sure their street gazetteer is upgraded at least to level 3 of that standard.

- 1.28 At regular intervals, the authority should carry out a thorough review of their NSG, in particular of those designated as traffic-sensitive streets. Given the requirement in the 2007 Regulations (see regulation 4 and regulation 16A) to evaluate schemes, it would be reasonable to review the NSG every three years. Any proposed updates identified from that process will be subject to the requirement to consult on any changes (regulation 3). Keeping this information current will ensure that cost benefit analysis also remains current.

## Discounts

- 1.29 It is expected that schemes are used to encourage behaviours aimed at minimising disruption. Specific discounts are available and must be made available to help achieve that aim. Other discounts can be developed and used to support and reward achieving this aim and may include: sites fully compliant with the SROH and the [Safety Code](#) (the Red Book); and first-time reinstatements. Use of such discounts can help reduce additional disruption caused by remedial works. Planning for discounts should form part of the initial business case but can also be developed when a scheme is varied.

## Section 4: Preparing information to introduce an order

- 1.30 Each authority will need to prepare information and evidence (including information from the consultation exercise) to support the decision of each chief executive (or similar) to bring the scheme into operation. They may wish to refer to the checklist in the Annex.

## 2. Part 2 - Developing a permit scheme

### Introduction

- 2.1 It is essential that scheme developers involve stakeholders from the earliest stages of developing or varying a permit scheme. Engagement with stakeholders and consultation should be used to make sure the permit scheme is the best one possible for the area. It will also help achieve 'buy-in' from those affected and maximise value for money.

### Regulation 3. Consultation for permit schemes

- 2.2 There is a statutory requirement for authorities to carry out a full consultation of stakeholders when developing, varying or revoking a scheme. The Secretary of State is listed as a consultee and will consider on a case-by-case basis whether to make representations.
- 2.3 Regulation 3 of the 2007 regulations provides details of those to be consulted. Authorities must consult those specified within regulation 3 and any other persons the authority considers appropriate.
- 2.4 Consultation should be sufficiently detailed to enable an adequate response to be considered and provided. This means that, where a variation is proposed, the consultation should be proportionate to the nature of that variation, and that consultees should have the detail they need to make a fully-informed response.

### Regulation 4. Procedural requirements for commencing permit schemes

- 2.5 There is a requirement under regulation 4(d) as amended by the 2015 regulations that, before developing a permit scheme, the authority must consider how it proposes to evaluate the scheme and to demonstrate whether its objectives have been met. Under regulation 16A, authorities must evaluate their scheme every 12 months of operation for the first 3 years of operation and then every three years thereafter.

- 2.6 The evaluation of the scheme should cover the costs and benefits of the scheme (whether or not financial) and review the level of fees.
- 2.7 Under regulation 4(2), authorities are required to confirm in the permit scheme that they have prepared the scheme in accordance with the 2007 regulations as amended, and regard has been given to this statutory guidance.

### **Key Performance Indicators (KPIs) for permit schemes**

- 2.8 It is recommended that authorities develop and monitor a set of Key Performance Indicators (KPIs) in line with HAUC England guidance. Data is available from Street Manager to help authorities do this.
- 2.9 It is recommended that the KPIs are discussed at quarterly co-ordination meetings and other regular meetings with promoters.

### **Regulation 5. Varying and revoking permit schemes**

- 2.10 An authority can vary or revoke its own scheme. Before doing so, the authority must consult those identified in regulation 3(1). When consulting, the reasons for any variation or revocation should be explained.
- 2.11 Where the scheme is to be varied, the consultation can be in proportion to the variation proposed. For example, if, after say three years of operation, it is decided that the scheme fees should be reduced, it is unlikely that a detailed consultation will be required but it is recommended that the in-depth reasons for the fee reduction be set out in the three-year evaluation.

## 3. Part 3 – Permit scheme content

### Regulation 6. Specified works

- 3.1 This regulation requires permit schemes to set out the works or types of works which the scheme has been designed to control. A list of works and related information for which a permit will be required is set out in Annex C.
- 3.2 No scheme can include works carried out under section 50 of NRSWA (street works licences).
- 3.3 Specified works must include works by undertakers and the authority alike and regulation 40 (non-discrimination) must be complied with.

### Regulation 7. Specified area

- 3.4 Regulation 7 requires the permit scheme to specify the area within which works' promoters will need to apply for a permit.

### Regulation 8. Specified streets

- 3.5 Regulation 8 requires the permit scheme to specify the streets (or types of streets) to which it applies. These streets should be specified within the NSG. A permit scheme can only be applied to roads that are maintained at the public expense.

### Regulation 9. Permit scheme provision

- 3.6 The authority should give all promoters working in their area, or who may potentially work in their area, the name and contact details of those who will be dealing with permit applications, or the details of a fully monitored generic email account. It is suggested that this should be done through a dedicated section on their website rather than the permit scheme itself, so that it is more straightforward to amend if the details change.

- 3.7 Regulation 9 states that, where a permit scheme is in operation, the scheme must require any promoter of “specified works” wishing to carry out such works to first obtain a permit from the authority unless it is a specific exception. The permit allows the promoter to:
- carry out the specified activity
  - at the specified location
  - between the dates shown and for the duration shown, and
  - subject to any conditions that may be attached
- 3.8 Regulation 9(2) allows the exceptions to be defined so that certain activities can take place without requiring a permit. To allow for activities for emergency or urgent reasons, authorities should provide for the initial stage of immediate activities to be exempt from requiring a permit, but promoters should be required to apply for a permit within 2 hours (or by 10 a.m. on the next working day where the authorities' contact line is not staffed out-of-hours).
- 3.9 The definition of “permit” in regulation 2 indicates that a permit must contain details of the duration for which the activity is authorised. That duration may coincide with the validity of the permit, that is, the time between the start and end dates (inclusive) on the permit. The duration may also coincide with the “reasonable period” for the purposes of section 74 of NRSWA but, again, does not necessarily do so.
- 3.10 Regulation 3A requires permit schemes to specify that applicants provide such supplementary information as is known by the applicant at the time of application. This supplementary information should cover activities the applicant is aware of and which are ancillary to the works to which the permit application relates, and which it would be helpful for the authority to be aware of for network management and coordination purposes. Examples of the type of supplementary information applicants should provide about activities on adjacent streets include, for example, the
- placement of portable traffic signals or other traffic control
  - placement of site welfare facilities
  - placement of site compound or material storage
  - placement of spoil compound for the works

Supplementary information is defined in regulation 9(12).

- 3.11 National condition (NCT03 ancillary information on adjacent streets) will apply if there are changes to ancillary information on activities on adjacent streets related to those permitted that become known about within the duration of the permit. In these cases, the authority must be notified of changes via Street Manager.
- 3.12 Under regulation 9(4), permit schemes must require each application for a permit to be limited to a single street. For consistency with NRSWA, permit schemes should provide that a “street” relates to a single USRN. This means that, where a single street has more than one USRN, separate permits would be needed for each USRN where the activity will take place. Permit schemes should also provide that, where activities



are carried out in more than one phase (for example, separate interim and permanent reinstatements), each phase will need a separate permit.

3.13 Permits will only be valid from the start date to the end date of the permit. The start and end dates should be in calendar days, even though many aspects of permit schemes will operate in working days. This should eliminate ambiguity about whether the permit is valid or not, even at weekends or on Bank Holidays. That will be important for the operation and enforcement of a permit scheme.

3.14 For consistency, authorities should design their schemes so that:

- for 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;
- on category\* 3 and 4 streets that are not traffic-sensitive, permit start and end dates should allow for flexibility in the start of the activity but, once the activity is started, it must be completed within the duration period specified in the permit. The starting date will be the planned start date for the activity but the end date must allow for the activity starting on the last day of the starting window, noting that the last day of the starting window would then be day 1 of the activity duration. If the permit allows working at weekends or on bank holidays, then the permit start and end dates should accommodate that.

\* As defined in the current [SROH](#)

3.15 Regulation 9(7) provides for permit schemes to provide for different classes of permit to be required in relation to different circumstances. The intention is for these classes to mirror the approach defined in the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 as amended so four classes of permits should apply reflecting the work categories in these regulations.

3.16 In line with regulation 9(9), authorities must ensure that their schemes require promoters applying for permits or Provisional Advance Authorisations to copy their applications to an enquirer (usually an authority or statutory undertaker) that has requested to see permit applications on certain streets. This requirement can, however, be discharged via Street Manager if the other authority or undertaker has access to it. There may be other organisations, for example, British Waterways, who may need to be sent copies. Regulation 37(7) imposes the equivalent requirement (through modifying the application of section 93 of NRSWA) for copying such an application to the relevant transport authority for activities in the vicinity of a level crossing and tramways.

3.17 Regulation 9(10) requires that the permit scheme sets out the grounds for refusing a permit. It is expected that reasons for permit refusal will be considered with works' promoters in appropriate meetings and on-going scheme evaluation.

3.18 Regulation 9(11) requires that an authority must issue a permit where the permit application meets the requirements of the permit scheme on the merits of that permit

application alone. This ensures that, once a works promoter has met all the requirements for a permit, and the authority has no 'co-ordination' issues with the works taking place, they must issue the permit for works to take place.

## Permits for major activities

3.19 Major activities are those that:

- other than immediate activities, require a temporary traffic regulation order (that is, not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities
- other than immediate activities, have a duration of 11 working days or more

3.20 Major activity permits are usually required for the most significant activities on the highway, as authorities will generally need the most advance notice for such activities. This is why it is expected that authorities will choose to incorporate the requirement to obtain a provisional advance authorisation (PAA) as part of the application process for a major activity permit. This should incorporate a minimum of three months' advance notice of the proposed activity to enable appropriate planning and co-ordination. The application for a PAA should include a description of the proposed activity and the proposed start and end dates.<sup>1</sup>

3.21 The promoter should be required to provide the final detailed information in support of its application for a permit nearer the time of the proposed start of the activity - at least 10 working days before the activity is due to commence. Such information will need to include the proposed start and end dates for the activity, which may differ from those in the PAA application and, if so, the applicant should be required to explain the change in their application.

## Permit for standard activities

3.22 Standard activities are those activities, other than immediate or major activities, that have a planned duration of between 4 and 10 working days inclusive. (Activities lasting less than 10 working days will be classified as major activities if they require a temporary traffic regulation order, for example, to close a street or to prevent vehicles from turning left or right.)

3.23 When the promoter of the activity applies for this class of permit, it should do so at least 10 working days before the activity is due to commence. Such an application should include a description of the proposed activity and the proposed start and end dates.

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<sup>1</sup> It should be noted that a category 'and which are known about at least six months in advance' was removed from the 2007 regulations from August 2022.

## Permit for minor activities

- 3.24 Minor activities are those activities, other than immediate or major activities, where the planned duration is 3 working days or less.
- 3.25 The promoter of the minor activity should be required to apply for a permit at least 3 working days before the proposed start of the activity. The application should include a description of the proposed activity and the proposed start and end dates.

## Permit for immediate activities

3.26 Immediate activities comprise:

- emergency works as defined in section 52 of NRSWA
- activities (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)
  - to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter
  - to avoid substantial loss to the promoter in relation to an existing service
  - 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; including works that cannot reasonably be severed from such works

3.27 These are the equivalent of “urgent works” as defined in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.

3.28 Promoters of immediate activities should be required to apply for a permit within two hours of the activity starting (or by 10 a.m. on the next working day where the authority's contact line is not staffed out-of-hours). As mentioned above, the permit scheme should provide that activities of this nature may proceed without a permit, given their emergency or urgent nature. However, authorities should consider making such activities subject to conditions (this is specifically provided for in regulation 13).

3.29 The permit conditions imposed will depend on the specific activity to which the permit relates, but must be of a type specified in the permit scheme under regulation 10(1) to (3) and are required to only use the wording and numbering set out in the [statutory guidance](#) for highway authority permit schemes - permit scheme conditions issued 2022.

## Description of activity

3.30 Permit schemes should require applications to include a sufficiently detailed description of the activities to be provided to allow the authority to assess the likely impact of the activity.

## Location

- 3.31 Permit schemes should require promoters to include an accurate location in their application based on National Grid References (NGRs), one in the centre of the excavation for small excavations, and the provision of sufficient points to clearly identify trenches. These NGRs should be provided together with the dimensions of the space taken up by all the activities in the street. That space needs to cover the entire area being used to undertake the activity, including areas used for storage of materials, working space, safety zone, provision for pedestrians and traffic management.

## Timing and duration

- 3.32 Permit schemes should require each application for a permit to include proposed start and end dates, and to indicate whether the permit should allow for work at weekends and on Bank Holidays (where applicable). It is also suggested that details of the times of day the activity is to be carried out should be required, including any proposal to work at night.
- 3.33 Permit schemes should require the applicant to provide an illustration of the works (including, for example, plans, digital photographs) where appropriate. Such a requirement places an added burden on the works' promoter, so should only be applied where it will provide additional necessary information. This may not only apply to major activities, as a small, short duration excavation at a critical junction may be very disruptive. This should include details of the nature of the works and whether they are likely to affect more than one lane of the street. A numerical measure of estimated disruption may also be required if available.

## Traffic management and traffic regulation orders

- 3.34 Permit schemes may require applicants to supply details of their traffic management proposals, including any requirement for action by the authority, such as the need for traffic regulation orders (TROs), lifting of parking restrictions and approval for portable light signals. It may be worth making it clear that TROs have to be applied for in the usual way and to the usual timescales, so that applicants do not think that an application for a permit automatically incorporates an application for associated TROs, or that the timescales applicable to permits apply also to the TRO process. These processes need to be clarified with the authority concerned.

## Depth

- 3.35 Permit schemes should require that activity promoters provide their best estimate of the excavation depth as part of the application. While this might be expressed as a range, it should nonetheless provide a meaningful indication of the nature and extent of activity involved. The processes that may need to be followed should be clarified with the authority concerned. Street Manager allows for the exact depth, where known, to be added.

## Reinstatement type

- 3.36 Permit schemes should require applicants to indicate whether the activity is intended to be completed with interim or permanent reinstatement. Permanent reinstatements should be encouraged, and the authority may consider offering a discount by way of an incentive.

## Inspection units

- 3.37 Permit schemes should require applications to include the estimated number of inspection units for the activity, in accordance with the current regulations and guidance.

## Contact person

- 3.38 Permit schemes should require all applications to include the contact details of the person who will deal with any problems that may occur during the activity, including provision for out of hours contact by the promoter.

## Issuing permits

- 3.39 The permit scheme should provide that a permit is issued to the promoter for every permit that is granted. The permit should be sent electronically through Street Manager. The issued permit should contain all the conditions attached to the permit so that there is no ambiguity about the validity and terms of the permit. Street Manager now acts as the permit register.

## Regulation 9A. Permit scheme provision: restriction on works following substantial road works or street works

- 3.40 Regulation 9A ensures that the exemptions from the restriction on works following substantial road works (that is, where a section 58 NRSWA notice is in place) or street works (where a direction under paragraph 4 of Schedule 3A of NRSWA is in force) which currently have effect in noticing areas are replicated in permit scheme areas.
- 3.41 Regulation 9A provides that there are exemptions from the effect of a section 58 or 58A restriction where the works fall within one of the categories listed in regulation 9A(2). The listed categories mirror those in section 58(5) of NRSWA and regulations 11(7), 11(8) (section 58 notices) and 12(8) and (10) to (12) (section 58A directions) of the 2007 noticing regulations for noticing areas. They mean that, where a notice/direction is in place, the authority can consider the permit application applying the normal criteria where the proposed works fall within one of the categories listed in regulation 9A(2) and (3). The categories are:
- Immediate works

- Works that do not involve breaking up the street which
 

are required to respond to a request for a new service or supply to a customer which was not received at a time when it was practicable for the works to be done before the date on which the restriction began, and

carried out more than 19 working days from that date.
  - Works carried out
 

under regulation 16(3)(b) of the Gas Safety (Installation and Use) Regulations 1998 (primary meters)

to comply with an improvement notice under section 21 of the Health and Safety at Work etc Act 1974 (improvement notices), or

as a consequence of a prohibition note under section 22 of that Act (prohibition notices)
  - Works that
 

are required to comply with a programme approved under regulation 13A of the Pipelines Safety Regulations 1966 (iron pipelines), and

could not have been identified before the restriction began.
- 3.42 Under regulation 5 of the 2007 noticing regulations (service of notices: maintainable highways), notices under section 58 and 58A must be submitted via Street Manager.

## **Regulation 9B. Permit scheme provision - highway authority notices**

- 3.43 Regulation 9B requires permit schemes to include provision requiring authorities undertaking works for road purposes to submit notices when those works start and stop. This brings authorities' works for road purposes into line with the start/stop notice requirements in place for statutory undertakers' street works.
- 3.44 Start notices must be sent not later than:
- in the case of works starting with the period beginning with 12am and ending with 7:59am, 10am on the same day
  - in the case of works starting within the period beginning with 8am and ending with 4:30pm, two hours after the start of the works
  - in the case of works starting within the period beginning with 4:31pm and ending with 11:59pm, 10am on the next day
- 3.45 Stop notices must be sent not later than:

- in the case of a highway returned fully to public use within the period beginning with 12am and ending with 7:59am, 10am on the same day
- in the case of a highway returned fully to public use within the period beginning with 8am and ending with 4:31pm, two hours after that full return
- in the case of a highway returned full to public use within the period beginning with 4:31pm and ending with 11:59pm, 10am on the next day

3.46 In line with regulation 39 (see below), an authority's start/stop notices must be sent via Street Manager.

## **Regulation 10. Conditions attached to permits**

3.47 Regulation 10 requires that a permit scheme must include provision allowing for conditions to be attached to permits. Where conditions are attached to permits, they must be of a type specified in the permit scheme under regulation 10(1) to (3), and use the wording and numbering set out in the statutory guidance for highway authority permit schemes - permit scheme conditions - issued in 2022. Authorities may not impose any additional or locally amended conditions not described by the statutory guidance when granting a permit. No authority permit scheme document or other related document can make or incorporate requirements that require adherence before a permit is approved unless it is covered within the conditions set out in that statutory guidance.

3.48 Where the wording enables discretion (for example, for times) these should be reasonable; deliverable and aimed at effective network management; and the effective monitoring and management of activities. Conditions should be applied following due consideration only where they contribute to meeting the scheme objectives.

## **Conflict with other legislation and legal liability**

3.49 The condition text has been developed with the Highway Authorities and Utilities Committee (HAUC) (England). All authorities must ensure that no requirement within a permit condition conflicts with the activity promoter's statutory obligations.

3.50 It is a requirement of regulation 10(6) that the wording of all conditions must conform to the text set out in the statutory guidance – permit scheme conditions. Only those conditions, that numbering and that text may be used.

3.51 From time to time, HAUC (England) may suggest changes to the conditions, after completion of its consultation processes. After due consideration, the DfT may make the suggested changes by updating the statutory guidance – permit scheme conditions. Alternatively, the DfT may itself wish to make changes, on which it will consult.

3.52 The authority may, in certain circumstances, wish to vary or impose other conditions for a permit that has already been granted (see regulation 15), having regard to the potential of that activity to cause disruption on its network. Such changes must still conform to the condition text in statutory guidance – permit scheme conditions. The



authority should first discuss these with the works promoter unless there are exceptional circumstances.

- 3.53 To ensure that works are carried out to comply with the permit conditions, works promoters should ensure that site operatives are made aware of the conditions and of the traffic management agreements that are in place.

## **Regulation 11. Provisional Advance Authorisations**

- 3.54 A permit scheme may include provision requiring a provisional advance authorisation (PAA) to be obtained in certain cases.

- 3.55 A PAA lets the promoter know that the proposed activity is approved and enables them to provisionally reserve occupation of the highway. However, as it may be difficult to be certain of the start date three months before the event, the proposed start date is regarded as provisional and may be amended in the application for a final permit.

- 3.56 An application for a PAA should include the following

- location of activity
- proposed start and end dates
- an outline description
- times of working, including hours of the day and any weekend provisions
- the road space occupancy
- method of working and
- traffic management (which may include conditions)

### **Permit application for major activities**

- 3.57 The promoter should apply for a permit at least ten days before the activity is due to commence, as set out in the table at 11.3. This application will need to include the proposed start and end dates. If these are different from those in the PAA, the application should explain the reasons for the change.

## **Regulation 12. Permit reference numbers**

- 3.58 Under regulation 12, all permits must be given a unique reference number, to provide a quick means of cross-referencing and assist in the compilation of the register. Street Manager will generate a reference number as well as a change request reference number for variations.

- 3.59 Authorities should cross references any linked permits. A condition requires the permit reference number to be prominently displayed on the site of each set of works.



## **Regulation 13. Conditions on works to which requirement to obtain permit does not apply**

- 3.60 Regulation 13 allows permit schemes to impose national conditions on activities for which the scheme does not require a permit to be obtained before works are begun. In practice, this means an immediate activity can commence before a permit is issued.
- 3.61 Authorities should ensure that their schemes enable them to link immediate activities and the conditions attached to them prior to a permit being issued.

## **Regulation 14 and 14A. Criteria to be taken into account by an authority where a section 58(1) notice has been issued or a Schedule 3A direction has effect**

- 3.62 Regulation 14 applies to works where a notice under section 58(1) of NRSWA has been issued (restriction of works following substantial road works) in respect of a specified street, and an application for a permit or a PAA is made in respect of certain works to be carried out during the prescribed period. Regulation 14A applies to applications for a permit or PAA for certain works where a direction under Schedule 3A of NRSWA has effect (restriction of works following substantial street works).
- 3.63 The regulations set out the criteria an authority should have regard to when considering such applications. An authority should have regard to these criteria unless the application is for works which are subject to an exemption under regulation 9A(1) or (2) - where the works fall within the cases listed in that regulation, the authority should consider the application as though the section 58/58A restriction was not in place. Both authorities and statutory undertakers should have in mind regulation 37 (modification of enactments) as it relates to section 58 of NRSWA and the application of this regulation.

## **Regulation 15. Review, variation and revocation of permits and permit conditions**

- 3.64 Regulation 15 provides that permit schemes must include provision for the permit authority to vary or revoke permits and permit conditions.
- 3.65 This is important as it allows the authority to actively manage activities on the network in the light of changing circumstances. Changes can take place at any time after the permit has been issued and before or during the activity itself, but must be done before the permit end date has passed. The permit scheme must set out clearly how applications for changes to permits must be made in accordance with the latest version of Street Manager.
- 3.66 A PAA cannot be varied. Permit schemes should be designed so that, in circumstances where a PAA has been given but a full permit not yet been issued, the

authority should be informed of any proposed changes and a revised application for PAA.

3.67 Regulation 15(3) provides that the permit scheme must include a statement of the authority's policy as to the circumstances in which it will review, vary or revoke permits on its own initiative.

3.68 The policy statement should include an explanation of the procedures which will apply when the authority decides to initiate a change. Advance consultation with the permit holder affected will be appropriate in most cases and, wherever possible, changes should be agreed with them. Under regulation 31(2), no fee may be charged for variations initiated by the authority.

## Regulation 16 and 16A. Time limits on the authority and the evaluation of permit schemes

### Timing of applications and authority response

3.69 While it is crucial that applications for permits and permit changes are made in a timely manner, it is equally essential that authorities are proactive in responding to permit applications. Regulation 16 requires time limits to be set out in a permit scheme committing the authority to respond to applications within set periods.

3.70 For reasons of consistency, schemes should use the time periods set out in Street Manager but can still be guided by the following table. It should be noted that this includes timings for the application for a permit.

| 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      |   |

3.71 Regulation 30(7) provides that where a permit is granted but subsequently revoked by the authority prior to commencement of the specified works, the authority must refund in full the permit fee, where the revocation is no fault of the permit holder.

## **Regulation 16A. Evaluation of permit scheme**

- 3.72 A scheme must contain information on how the authority will evaluate that scheme. Regulation 16A prescribes how this evaluation will take place. As a minimum, authorities must evaluate the scheme after every 12 months of operation for the first three years and then every three years.
- 3.73 This evaluation must include (regulation 16A(2)) consideration of whether the fee structure needs to be updated in light of any scheme surplus or deficit as well as the costs and benefits of operating the permit scheme. Each scheme should state the schemes objectives and reported on how these and the cost/benefits are being achieved. Evaluation may also consider whether the scheme is meeting any KPIs.
- 3.74 Each scheme evaluation must be made available to stakeholders (those consulted at the scheme development stage, as set out in regulation 3) within three months of the date on which the evaluation was due.

## 4. Part 4 - Notification

### **Regulation 17. Notification prior to commencing a permit scheme**

- 4.1 The authority gives effect to a scheme (or a variation to an existing scheme) by making an order.
- 4.2 The authority must notify those set out in regulation 3(1) that the order has been made and provide them with a copy of the order and scheme at least four weeks before the scheme is to come into effect.
- 4.3 Provision of the information to stakeholders should be in a suitable format and conform to the authority's own policy on communication with stakeholders should be followed. Regulation sets out the requirements with regard to the service<sup>39A</sup> of documents under regulation 17.
- 4.4 Section 36(2) of the TMA allows the Secretary of State to direct an authority to vary or revoke a scheme. Under regulation 17(2), where such a direction is made, the authority must notify those persons set out in regulation 3(1) that such a direction has been made at least four weeks before the variation or revocation comes into effect.
- 4.5 A direction may be given where there is evidence that a scheme is failing. A direction may require all authorities to vary their schemes where there is evidence that this would be an advantage to the management of the whole highway network.

## 5. Part 5 – Sanctions

### Introduction

- 5.1 The regulations provide authorities with specific sanctions in relation to the operation of a scheme, which they may use with their schemes.
- 5.2 There are two offences relating to permit schemes – working without a required permit (regulation 19) and breaching a permit condition (regulation 20). These offences can be dealt with by a Fixed Penalty Notice (FPN), although prosecution through the Magistrates' Courts remains an option for authorities. Authorities and statutory undertakers are strongly encouraged to resolve issues locally, or through the HAUC (England) mediation procedure, using court action only as a last resort.

### Use of permit scheme Fixed Penalty Notices

- 5.3 The following points should help clarify the purpose for which those offences are intended.
- Time periods - time periods (unless otherwise stated) are in days.
  - Time limits – an FPN may not be given more than 91 calendar days after the offence, beginning with the day on which the offence is committed.
  - Payment - if the undertaker pays either the full penalty or the discounted amount within the required period, then no further proceedings can be taken against that undertaker for that offence.
  - Non-payment - if the undertaker does not pay the penalty within 36 days, then the authority may bring proceedings in the Magistrates' Court for the original offence. Under section 127 of the Magistrates' Court Act 1980, an authority must bring the case within six months of the commission of the offence. This should provide sufficient time for an authority to prepare their case and take legal action even if the FPN was not given for some time after the offence was committed.
  - Application of money by the authority - regulation 28 states that the authority may deduct costs of operating the FPN scheme from the fixed penalties received under section 37(6) of the TMA. The authority must then apply the net proceeds to promoting

and encouraging safe, integrated, efficient and economic transport facilities and services to, from and within the area covered by the scheme.

- 5.4 Authorities should be able to demonstrate that the costs of running the FPN scheme are reasonable and that the net proceeds after deducting these costs are being correctly applied. Although separate accounts do not have to be kept for the FPN scheme, it should be possible to follow the audit trail to check income and expenditure for this scheme.
- 5.5 The introduction of a FPN scheme is intended to drive improvements and is NOT intended to be an additional source of income for authorities, although some income may be generated. The authority should therefore not expect or set income targets for any net proceeds emerging from this scheme.

## **Regulation 18. Action which may be taken for unauthorised works**

- 5.6 Regulation 18(1) enables authorities to issue notices in respect of non-compliance requiring remedial action which must be undertaken within the timeframe set in the notice.
- 5.7 Regulation 18(3) provides that, where an undertaker has not taken the remedial action required within the timeframe, the authority may take such steps as it considers appropriate, at the cost of the undertaker.

## **Regulation 19. Offence to undertake works without a required permit (see also statutory guidance for permit scheme conditions issued in 2022)**

- 5.8 This regulation makes it a criminal offence for an undertaker, or someone acting on its behalf, to undertake works without a permit. The offence carries a maximum fine of level 5 on the standard scale, but may also be discharged by a FPN.
- 5.9 Regulation 19 only applies where a specific 'work' has been commenced without a permit except to the extent that a permit scheme provides that this requirement does not apply (for example, for immediate works where the 2-hour rule applies).
- 5.10 The offence under regulation 19 does not apply where a valid permit has been obtained for the works but they continue beyond the permitted duration. In such circumstances, the undertaker may have committed an offence of breaching a permit condition under regulation 20.
- 5.11 Where an offence is committed under regulation 19, it would not be appropriate to impose "overrun" charges on the undertaker under the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009 as amended. This is because there can be no overrun of a non-existent permit.

## **Regulation 20. Offence to breach a permit condition (see also statutory guidance for permit scheme condition issued in 2022)**

- 5.12 This regulation makes it a criminal offence for an undertaker or someone acting on its behalf to undertake works in breach of a permit condition. The only conditions that an authority can apply to a permit are those set out in the statutory guidance (issued in 2022).
- 5.13 An offence under regulation 20 is intended as a single offence. It may only be committed once in relation to each permit condition breached. The offence carries a maximum fine of level 4 on the standard scale but may also be discharged by a FPN.
- 5.14 The undertaker may also be liable to pay an “overrun” charge to the authority under the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009 as amended.
- 5.15 When applying penalties for these offences, authorities should be mindful that the purpose of regulations 19 and 20 is to drive improved behaviour and ensure the occupation of the highway is as short as possible and causes the least disruption.

## **Regulations 21 to 28. Fixed penalties**

- 5.16 Regulations 21 to 28 allow authorities to issue FPNs in respect of the criminal offences.
- 5.17 FPNs offer the offender an opportunity to discharge liability for an offence by paying a penalty and regulation 25 provides for a discount for early payment. The FPN amount is £500 for working without a permit, but a discounted amount of £300 is available if payment is made within 29 days. For working in breach of a condition, the FPN is £120 and the discounted amount £80.
- 5.18 Where a FPN has been issued for an offence, but the authority forms the view that it would be more appropriate to prosecute the offender, the authority must withdraw the FPN under regulation 27 before bringing the proceedings. Once the FPN has been paid, however, no prosecution in relation to the offence can be brought.
- 5.19 The Street Works (Fixed Penalty) (England) Regulations 2007 were amended by The Street and Road Works (Amendments Relating to Electronic Communications) (England) Regulations 2020. Street Manager should be used to serve FPNs. Where this is not possible, other provisions are made, for example, by email. The previous form at Schedule 1 of the 2007 regulations was removed.

## 6. Part 6 – Fees

### Introduction

- 6.1 Authorities may charge fees in relation to the issuing of permits and must justify those fee levels. The fee levels should be available to those consulted under regulation 3 and may not exceed those set out in regulation 29.
- 6.2 The TMA, section 37(7), allows charging for the work resulting in the issuing of permits (and variations to permits). However, authorities may not use their permit schemes to generate surplus revenue, only to cover costs.

### Regulation 29. Prescribed costs

- 6.3 The regulation sets out the costs which fees may recover.
- 6.4 Regulations 30 to 32 cover fees that can be recovered within a permit scheme, setting the maximum amount that can be charged for a single permit, when they are payable and when not, discounts and the use of the income.
- 6.5 The income from fees must not exceed the total allowable costs prescribed in the permit regulations. This balance can be achieved over several years. Allowable costs are limited to the proportion of direct costs and overheads attributable to operating the scheme for undertakers, which are over and above the cost of the authority's co-ordination duty under NRSWA. This may include the costs related to permits which may not always lead to a permit being granted. Overheads can include non-salary staff-related costs such as pensions and benefits, proportionate allocation of accommodation, central services and IT costs, as well as general administration and management for monitoring the permit system, KPIs and invoicing.
- 6.6 In the event that fees and costs do not match the actual outturn for any year, adjustments should be considered. Transparent information on this should be provided to all stakeholders as part of the published evaluation of the scheme. It is essential that, at least over a three-year period, fees do not exceed the allowable



costs, and that fees must not exceed the proportion of costs for operating the permit scheme incurred in relation to statutory undertakers.

- 6.7 Regulations must be complied with and due regard must be given to this statutory guidance when developing a scheme's fee structure and considering which costs can be included.

## **Regulation 30. Power to charge a fee and discounts.**

- 6.8 An authority is not required to charge a fee for its own works, but it can use a shadow charging arrangement to show the cost of issuing permits to its own works promoters both to help understand its own costs, and to set those alongside the costs to other promoters.
- 6.9 The fees are structured to reflect the greater work involved in handling larger activities and busier roads. See Table at 6.24
- 6.10 The permit scheme must include provision as to the circumstances in which fees may be discounted. This should cover discounts where applications for a number of permits are submitted together and form a wider project, and where undertakers collaborate to carry out their works in the same location simultaneously.
- 6.11 All schemes must provide for a discount for works on traffic-sensitive streets undertaken wholly outside of traffic-sensitive times.

### **Maximum fees**

- 6.12 The regulations set maximum fees that authorities may charge. These are set out in regulation 30(4), (5) and (6).

### **Recommended fees**

- 6.13 The DfT recommends that authorities set fees within the limits set out in the fees table in respect of each class of permit.
- 6.14 Where a permit change or extension to the works would move an activity into higher category, the permit scheme should require the promoter to pay the difference between the permit fee for the two categories as well as the permit variation fee.
- 6.15 These fee levels are intended as maximum fee levels, and it may be appropriate for lower fees to be set.

### **Discounts from permit fees**

- 6.16 Regulation 30(1A) requires that where a permit authority is an approved authority for 'Lane Rental' under the Street Works (Charges for Occupation of the Highway)

England Regulations 2012, permit fees may not be charged as well as lane rental charges.

## **Regulation 31. Savings from the payment of fees and discounts**

- 6.17 Regulations 31(1), 31(2) and 31(3) prescribe circumstances when no fee is payable or a fee discount applies. In addition, there may be circumstances where, through no action, failing or fault on the part of the promoter, the authority revokes the promoter's permit. This might arise as a result of third-party activity. This should be incorporated in authorities' schemes. In such cases, any fee received should be refunded or carried forward when works go forward.
- 6.18 Regulation 31(4) sets out the circumstances in which the 30% discount as specified in regulation 31(5) applies. In regulation 31(5), an undertaker should be eligible for a discount where an activity involves more than one promoter collaborating in a single coordinated set of works. This should include coordinating with authority promoters. It is not intended that this covers area wide activities and the applications should be submitted at the same time – it is recommended that such opportunities are identified at coordination meetings. The primary promoter will require a permit with full information about the activities, and the other promoters will require a permit, with full information, so that the authority knows who is working there. The minimum discount is 30 per cent for all qualifying permits. Authorities can give greater (and other) discounts if they wish to encourage particular behaviour change.
- 6.19 Authorities are encouraged to ensure their schemes offer a range of discounts as stated in 1.29, in order to reward behaviour change, reduce road occupation and the impact on the traveling public. When the scheme is varied, discounts should be reviewed and updated to take account technical developments.
- 6.20 An authority may set out specific circumstances when it would always waive or reduce fees. It is recommended that, when developing a scheme, the authority includes provision for waiving or reducing fees in other circumstances, such as when methods are used to speed up the work or reduce the footprint of the works.

## **Regulation 32. Application of sums received as fees**

- 6.21 Regulation 32 stipulates that fee income must be applied 'towards the costs of operating the permit scheme which are prescribed costs'. This is defined in regulation 29 as the costs of the scheme relating to the activities of statutory undertakers. In the event that there is a surplus in a given year, the money should be applied towards the costs of the scheme in the next year and the fee levels adjusted accordingly.
- 6.22 A sustained surplus where the income was regularly exceeding the prescribed costs would indicate that the fee levels should be adjusted. The Secretary of State may also direct the authority to do this using his powers under section 36 of TMA.
- 6.23 A scheme's staff costs should only include those staff costs over and above the staff costs already being incurred by the authority when running an effective NWSRA noticing system. The income from fees shall not exceed the total allowable costs

prescribed in the permit regulations. The allowable costs of the complete scheme and its overall income have to be balanced – not each subsection, such as each activity type. This balance can be achieved over several years – but clarity should have emerged after 3 years of operation.

## Fee structure

6.24 The regulations set maximum fees that may not be exceeded in any circumstances. This statutory guidance sets out the recommended fee structure for each category of permit. The fee structure is arranged to reflect the greater work involved in handling larger activities and busier roads. The table of fees is set out below:

| <b>Maximum fee structure for each category of works and for a hierarchy of main and minor roads - Road category refers to the reinstatement category of the street under the New Roads and Street Works Act 1991</b> |      |  |
|--|------|--|
| <b>Road Category 0, 1 &amp; 2 or Traffic-sensitive</b>   |      | <b>Road Category 3 &amp; 4 and non-Traffic-sensitive</b> |
| Provisional Advance<br><br>(It is suggested this fee applies only where value has been added in processing the works)  | £105 | £75  |
| Major activities – over 10 days and all major activities requiring a traffic regulation order  | £240 | £150   |
| Major activities – 4 to 10 days  | £130 | £75  |
| Major activities – up to 3 days  | £65  | £45  |
| Activity standard  | £130 | £75  |
| Activity minor   | £65  | £45  |
| Immediate activity   | £60  | £40  |
| Permit change  | £45  | £35  |

## Circumstances where no fee is payable

6.25 A promoter cannot be charged a fee where:

- the promoter is a highway authority

- a permit is deemed to be granted because the authority failed to respond to an application in the time required
- a permit change is initiated by the authority

### **Use of income**

6.26 Permit schemes must not be used with the intention of generating surplus revenue. Income must only be used to meet the costs of the scheme.

### **Keeping accounts**

6.27 Permit scheme costs and income should be kept separately from other income streams, such as overruns and fixed penalties. This meets the industry regulators' requirements to see a clear separation between costs to undertakers that are avoidable and costs that are not.

## 7. Part 8 - Other Enactments

### Introduction to this part

- 7.1 Part 8 of the 2007 regulations relates to the relationship with other legislation, especially as they relate to the dis-application or modification to NRSWA, principally as they provide for the operation of a permit scheme.

### Regulation 35. Application of part

- 7.2 This regulation applies to the specified streets within a permit scheme.

### Regulation 36. Disapplication of enactments

- 7.3 The permit regulations dis-apply or modify certain sections of NRSWA. In permit areas the duties of activity promoters and street authorities under the following sections of NRSWA are replaced by equivalent duties imposed under Part 3 of the TMA and the 2007 regulations as amended:

| Promoters' duties – Disapplied sections of NRSWA |                                 |  |   |
|--|---------------------------------|--|---|
| NRSWA section                                    |                                 | Regulation 36 - (paragraph provided at end)  | Permit regulations – revised arrangements                       |
| S 54   | Advance notice of certain works | Section 54 (advance notice of certain works); Section 54 was amended by the Traffic Management Act 2004, sections 40 and 49 and Schedule 1. [36(b)]      | Replaced by applications for provisional advance authorisation. |
| S 55   | Notice of starting date         | Section 55 (notice of starting date of works). Section 55 was amended by the Traffic Management Act 2004, sections 40, 49 and 51 and Schedule 1. [36(c)] | Replaced by applications for permits.                           |

|      |   |  |   |
|------|---|--|---|
| S 56 | Power to direct timing of street works        | Section 56 (power to give directions as to timing of street works); Section 56 was amended by the Traffic Management Act 2004, sections 40 and 43(3) and Schedule 1. [36(d)] | Replaced by permit variations including those initiated by the permit authority and standard conditions.  |
| S 57 | Notice of emergency works                     | Section 57 (notice of emergency works); Section 57 was amended by the Traffic Management Act 2004, sections 40 and 52(3) and Schedule 1 [36(e)]                              | Replaced by applications for immediate activities.  |
| S 66 | Avoidance of unnecessary delay or obstruction | Section 66 (avoidance of unnecessary delay or obstruction); Section 66 was amended by the Traffic Management Act 2004, section 40 and Schedule 1. [(36(f)]                   | Replaced by equivalent provisions for permit authorities to require promoters in breach of the permit requirements to take remedial action and failing that for the authority to act. 24-hour compliance period to be replaced with a requirement for promoters to comply within a reasonable specified period determined by the circumstances. |

## Regulation 37. Modification of enactments

- 7.4 The 2007 regulations modify the sections of NRSWA to accommodate the issuing of permits rather than the exchange of notices. Some modifications to NRSWA affect both undertakers' and authorities' activities but others do not. It should be noted that promoters should refer to the legislation in relation to the application of any such modification.
- 7.5 In particular, paragraphs (2) and (4) of regulation 37 referring to section 58 (restrictions on works following substantial road works) and section 74 (charge for occupation of the highway where works unreasonably prolonged) apply only to undertakers' activities. It is recommended that the permit authority considers carefully the relevant undertaker's industry responsibilities to connect its customers, and to maintain customer connections, and we would not expect that emergency works, subsequently evidenced, attract any penalty.
- 7.6 The modifications are listed below:

| Modifications to NRSWA |   |  |
|------------------------|---|--|
| NRSWA Section          |   | Permit regulations - revised arrangements  |
| S58                    | Restriction on works following substantial road works.<br>Reference is also made to S54 (advance notice of certain works) | The authority's ability to issue permits with start and end dates replaces directions to start work. Section 58(5) to (7A) (works exempt from section 58 restrictions etc) are disapplied by regulation 37(2)(b) (but see section 58/58A exemptions in regulation 9A of the Permit Regulations).<br>The regulations (see regulation 14) provide the equivalent of S 58A powers by allowing authorities to take into account whether promoters responded to the S58 notice by submitting an application for works not falling within the cases listed in regulation 9A. |
| S58A and Schedule 3A   | Restriction on works following substantial street works   | Schedule 3A NWSRA (as added by Schedule 4 of the TMA) is modified to work in conjunction with permits and the modifications should be read in conjunction with new regulations 9A and 14A.   |
| S64                    | Traffic-sensitive streets   | Permit regulations provide that permit applicants are notified of proposals to designate streets as traffic-sensitive streets. See also the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015 (S.I. 2015/958)  |
| S69                    | Works likely to affect other apparatus in the street  | Permit regulations create an equivalent requirement on authority promoters.  |
| S74                    | Charge for occupation of the highway where works are unreasonably prolonged   | Permit regulations make provision to operate in parallel with permits.   |
| S88                    | Bridge, bridge authorities and related matters  | Modified to work in conjunction with permits.  |
| S89                    | Public sewers, sewer authorities and related matters  | Modified to work in conjunction with permits.  |
| S90                    | Provisions as to reinstatement of sewers, drains or tunnels   | Modified to work in conjunction with permits.  |
| S93                    | Works affecting level crossings or tramways   | Modified to work in conjunction with permits.  |
| S105                   | Minor definitions   | Modified to work in conjunction with permits.  |

## **Regulation 38. Modification of regulations**

- 7.7 It should be noted that the wording for paragraph 7(a) of the Schedule to the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 has been modified.
- 7.8 NRSWA imposes various restrictions on all undertakers, such as procedures for working on streets with special engineering difficulties or near to level crossings. Authorities should ensure they apply equal treatment to all works promoters.
- 7.9 All restrictions, as in all other aspects of permit schemes, other than the imposition of permit fees, must include an authority's own works – see also regulation 40.



## 8. Part 8A. Modifications to section 53 of the 1991 Act

### Introduction

- 8.1 Part 8A of the 2007 regulations was inserted by the Street and Road Works (Amendments Relating to Electronic Communications) (England) Regulations 2020 to enable the Secretary of State to charge authorities and statutory undertakers for use of Street Manager and to require use of it by authorities and statutory undertakers.
- 8.2 Regulation 38A applies the modifications to section 53 of NRSWA set out in regulation 38B to specified streets within permit areas and requires authorities to maintain a register of each street covered by their scheme containing information with respect to all specified works on those streets. (Authorities still need to run a street works register required under section 53 of NRSWA for any private streets and for any publicly maintained streets that are not included in the permit scheme).
- 8.3 Authorities must use Street Manager as the register for the information set out in the 2007 regulations and section 53 as amended in NWSRA.
- 8.4 Both authorities and statutory undertakers are joint data controllers with the DfT under the Street Manager terms and conditions and as set out in the Data Privacy Impact Assessment.

### Public access to information contained in street manager

- 8.5 Street Manager publishes a sub-set of the data included within it via open data. This data includes information about the work, its location, its type, the promoter and the expected duration. Actual start and stop data is also provided. This data can then be used by external companies, app developers and other technology companies to provide information to the general public. This may now satisfy the requirement for access to the register in the case of permit schemes, alongside the authority's scheme information about the roads that are included in the scheme. Statutory undertakers and other authorities will have access to information across England about other works that are planned or underway.

- 8.6 It is essential that both authorities and works promoters ensure the information included in Street Manager is accurate and up to date for the benefit of all users, including the open data customers. It is also essential that information on major, large-scale works, or potentially very disruptive activities is included in the permits register on Street Manager at the earliest opportunity (using the forward planning feature). The entry should give as much detail as possible. This will enable activity promoters to take part in early co-ordination enable:
- consideration of joint working (including trench sharing)
  - identification of other activities which need to be coordinated with these activities and
  - production of reports for activity coordinators.

### Entering information on the register

- 8.7 It is the authority's responsibility to enter forward planning information into the relevant section of the register but, if agreed, the works promoter may submit forward planning information. Street Manager has been developed to enable this and for all works promoters to enter their own forward plans in line with modern working practices.

### Requirements for Street Manager

- 8.8 The following must be recorded on Street Manager:
- an application for a permit, variation of a permit, revocation of a permit or provisional advance authorisation
  - any document accompanying an application mentioned above
  - any decision to grant or refuse a permit, variation of a permit, revocation of a permit or provisional advance authorisation
  - a permit, variation of a permit, revocation of a permit or provisional advance authorisation
  - a notice given under regulation 21 or 27

### Additional Street Data

- 8.9 Additional street data (ASD) refers to other information about streets held on the NSG Concessionaire's website alongside the NSG data. Authorities should provide suitable information to the ASD.
- 8.10 Where the street authority is also the highway authority, it creates the ASD together with the NSG. Network Rail (a street authority for level crossings between the barriers), any other authority, activity promoter or interested party should submit records to the NSG Concessionaire to ensure that their interest in a street is logged. The interest records should be entered into the ASD maintained by the highway authority.

## 9. Part 9 – Miscellaneous

### Introduction

- 9.1 The requirements in this part of the regulations relate to the treatment of the applicants for permits and the permits themselves.

### Regulation 39. Service of documents.

- 9.2 This regulation sets out how communications between the applicant for the permit and the authority should be made. This will be via Street Manager or other electronic means as set out in the 2007 regulations as amended.
- 9.3 The requirement to submit information via Street Manager applies to regulation 9B - authorities' start/stop notices - and regulations 18, 21 and 27 - fines and FPNs for working without a permit and failing to comply with a condition.
- 9.4 All participants in a permitting regime should ensure that they comply with the requirements.
- 9.5 It should be noted that regulation 39A sets out the requirements for the service of documents under regulation 17 - notification prior to commencing a permit scheme. These documents do not need to be sent via Street Manager but may be sent, for example, via electronic communication.

### Regulation 40. Non-discrimination

- 9.6 There is a regulatory requirement that all requests for a permit; the consideration of all works; and the value added by the authority to each permit application received are treated equally regardless of the works' promoter.
- 9.7 This will mean that an authority's works will be treated in the same way as any statutory undertaker (except that they are not liable for the fees or sanctions).
- 9.8 The requirement for parity of treatment is essential to the permit approval process and the operation of a permit scheme.

## Rules of transition – from notices to a permit scheme or where required at scheme variation

9.9 The basic rules of transition will need to be applied on all roads where the permit scheme operates.

- The new or varied permit regime will apply to all activities where the administrative processes, such as application for a permit or PAA, start after the commencement date.
- 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 (for major activities as required) shall operate under the permit scheme. This means that, even if the relevant section 54, section 55 or section 57 NRSWA notice has been sent before the changeover, the promoter will have to apply for a permit.
- Any other activities which started under the NRSWA notices regime will continue under that regime until completion.

9.10 Given the advanced notice of the changeover, there should be few activities where these rules will create difficulties. In those few cases, discussions should take place between the authority and the promoters concerned to work out a practical way of dealing with the activities.

## Amendment Regulation 14 -Transitional provision (amendment regulations 2015)

9.11 This regulation provided the specific ‘transitional’ arrangements for existing schemes in 2015.

### Statutory consultee

9.12 The Secretary of State is and remains a statutory consultee (see regulation 3) for variations on permit schemes. The following email address should be used to provide documents to the Secretary of State in accordance with the requirement in this regulation: [streetmanager@dft.gsi.gov.uk](mailto:streetmanager@dft.gsi.gov.uk)

## Calculation of the Reasonable Period for Permits

9.13 Authorities can charge utilities under section 74 of NRSWA charges of up to £10,000 per day where:

- the duration of the works exceeds such period as may be prescribed and
- the works are not completed within a reasonable period

9.14 Regulation 7 of the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009 states that the “prescribed period” is two

working days. Section 74(2) defines the “reasonable period” as “such period as is agreed by the authority and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question. In default of such agreement, the authority’s view as to what is reasonable shall be acted upon pending the decision of the arbitrator.”

- 9.15 Regulations 10 and 11 of the 2009 regulations provide further detail on how to estimate when the works could be completed and how the reasonable period should be calculated. These regulations also include requirements for statutory undertakers to notify the authority of the likely duration of the works and any revised estimates. Setting out these details can help to avoid disputes and can ensure consistency across different authority areas.
- 9.16 However, regulations 10 and 11 of the 2009 regulations do not apply “where an undertaker proposes to carry out street works in respect of which a permit must be obtained from a permit authority”. In other words, the estimating provisions do not apply in those areas where there is a permit scheme in place. The “reasonable period” is, therefore, to be determined in accordance with section 74(2) of NRSWA.
- 9.17 Regulation 37(4) of the 2007 regulations makes amendments to section 74 of NRSWA in so far as it relates to specified works in specified streets. It means that, as far as permits are concerned, the specification in a permit of a period as one during which specified works may be carried out in a specified street is not to be taken as an agreement between the authority and the undertaker as to what the reasonable period is. The reasonable period may, therefore, be different to the period of time specified in the permit.
- 9.18 Authorities should therefore provide written confirmation to undertakers through Street Manager when they are granting permits that the authority agrees that the “reasonable period” under section 74(1)(b) of NRSWA is the same as the period of time specified in the permit as the period during which specified works may be carried out in a specified street.
- 9.19 In other words, this will encourage authorities to “agree” for the purposes of section 74(2) that the “reasonable period” was the same as the period of time specified in the permit as the period during which specified works may be carried out in a specified street. If the promoter thinks they are going to overrun, they would need to request a variation to the permit to avoid incurring an overrun charge.

# 10. Conclusion

## Implementing a permit scheme

- 10.1 The DfT does not provide advice or guidance on the practicalities of the day-to-day operation of a permit scheme. It is strongly recommended that authorities consult the Joint Authorities Group (JAG) or information provided by HAUC (England) on any developing issues.
- 10.2 It should also be noted that, from time to time, projects of a national or regional significance are introduced. In such cases, it is expected that authorities work closely with relevant statutory undertakers to assist in the development or implementation of such projects.

## Dispute resolution

- 10.3 Various sections of the TMA provide powers to devise a suitable dispute resolution procedure, and to identify the stages of the permit application process at which it can be invoked. The Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters will set out a process for dispute resolution. It is expected that all concerned will use their best endeavours to resolve disputes locally without having to escalate them.

## Background information

- 10.4 All previous statutory guidance and codes of practice on permit schemes and any documents referred to within those documents are no longer valid, unless they have been carried forward into the two statutory guidance documents. However, the previous documents are listed here as they may provide background / training information. They were as follows:

- Traffic Management Act 2004 Statutory Guidance for Permits – issued 28 March 2008
- Traffic Management Act 2004 Code of Practice for Permits – issued 28 March 2008
- Traffic Management Act 2004 Permit Fee Guidance – issued 1 July 2008

- Traffic Management Act 2004 Permit Scheme Decision Making and Development (2nd edition) – issued 1 November 2010
- Traffic Management Act 2004 Additional Guidance for new Permit Schemes – issued 15 January 2013
- The Statutory Guidance for Permit Schemes (Conditions) issued 15 March 2015
- The Statutory Guidance for Permit Schemes issued 6 October 2015
- The Statutory Guidance for Permit Schemes issued 1 July 2020
- The Statutory Guidance for Permit Schemes (Conditions) issued 1 July 2020

## Annex A: Check List

**Draft Checklist (1.29) as a guide for senior officers varying a permit scheme.**

|  |  |   |  |
|--|--|---|--|
| <b>Full Name of the Permit Authority</b> |  |   |  |
| <b>Type of scheme (Single/Multi)</b>     |  |   |  |
| <b>Date final Checks</b>                 |  | <b>Officer who confirms completion of full checks</b> |  |
| <b>Completed</b>                         |  | <b>Finance officer final clearance</b>                |  |



**Content checklist: Reference refers to the 2007 regulations as amended (reg), and to the statutory guidance (S.G).**

| No. | Reference |                | Subject   | Yes/No | Place in scheme doc |
|-----|-----------|----------------|---|--------|---------------------|
|     | Rag       | S.G. part      |   |        |                     |
| 1   |           | Part 1         | <p>Scheme compliance statement – which includes:</p> <ul style="list-style-type: none"> <li>-</li> <li>The legal name of the authority/authorities included</li> <li>An assurance of Street Manager compliance</li> <li>A table showing regulatory compliance.</li> <li>Confirmation that all financial requirements have been met</li> </ul> |        |                     |
| 2.  |           | Parts 1, 2 & 3 | <p>The permit scheme document must:</p> <ul style="list-style-type: none"> <li>Clearly define the streets the scheme applies to</li> <li>Detail the team that will be in place to operate scheme.</li> <li>Detail the approach to post-implementation evaluation</li> <li>Demonstrate benchmarking undertaken &amp; completed.</li> </ul>     |        |                     |
| 3.  | 4(c) & 40 | Parts 3 & 9    | Demonstration of compliance with the non-discrimination obligation [undertakers and authorities].   |        |                     |
| 4.  | 4(b)      | Parts 1 & 2    | Permit scheme objectives (including the improvements expected – suggested limited to around 4).   |        |                     |

| No. | Reference                     |           | Subject  | Yes/No | Place in scheme doc |
|-----|-------------------------------|-----------|--|--------|---------------------|
|     | Rag                           | S.G. part |  |        |                     |
| 5.  | 4(d)                          | Part 3    | How the authority proposes to evaluate the scheme so as to measure it continually against its objectives [the 'when' is set out in regulations].   |        |                     |
| 6.  | 4(e)                          | Part 2    | The costs and benefits (whether or not financial) which the authority anticipates will result from that permit scheme.   |        |                     |
| 7.  | 4(f)<br><br>15 (3)<br><br>(1) | Part 6    | <p>The evidence considered by the authority as to the fees which may be charged, and the reasons for its decision (fees matrix).</p> <p>To confirm that the fees and costs are developed in line with the Regulations (15.3.1) and proportionate to the value added by issuing a permit.</p> |        |                     |
| 8.  | 4(g)                          | Part 1    | The proposed variation implementation date   |        |                     |
| 9.  | 4(h)                          | Part 9    | Details of any transitional arrangements which the authority would wish to apply in relation to the permit scheme coming into effect.  |        |                     |
| 10. | 3 &<br>4(g)                   | Part 1    | Consultation report – changes to scheme clearly shown in response to the consultation.   |        |                     |
| 11. |                               |           | Consideration of 'Nationally Significant' initiatives for example: implementation of broadband, HS2  |        |                     |
| 12. |                               | Part 1    | When operating a permit scheme each authority must comply with NRSWA, TMA and the 2007 regulations as amended, and must have regard to statutory guidance.   |        |                     |

## Annex B: Information on permit scheme variation

### Section 1: Legal framework

- B.1 The Deregulation Act 2015 as it referred to England removed the requirement for permit schemes to be approved by the Secretary of State. It amended the TMA enabling authorities in England to make their own schemes and to vary or revoke existing schemes. Amendments made by the Deregulation Act 2015 and the Infrastructure Act 2015 also enable National Highways to make permit schemes in relation to highways for which it is responsible.
- B.2 The 2007 regulations were amended by the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015 (S.I. 2015/958) (available at: <http://www.legislation.gov.uk/uksi/2015/958/contents/made>) to reflect changes made by the Deregulation Act 2015 and other changes to the operation of permit schemes. The amended regulations applied to all schemes from 1 October 2015.
- B.3 Under section 33(5)(b) of the TMA, authorities preparing a permit scheme are required to have regard to statutory guidance issued by the Secretary of State.
- B.4 In this statutory guidance, “must” has been used to refer to a statutory requirement. “Should” is used where the DfT strongly recommends specific action is taken. Where “may” is used, it refers to those things an authority will want to consider in the development of a scheme and as part of its own approval process.
- B.5 Each time a permit scheme is varied, in any extent, each authority is responsible for its compliance with the TMA, the 2007 regulations as amended and NWSRA. They must also have regard to this guidance and the related conditions statutory guidance, both issued in 2022.

## **Traffic authorities - network management duty and duties under NRSWA**

- B.6 Section 16 of the TMA introduced a network management duty (NMD) on traffic authorities. A permit scheme does not remove the requirements on each authority to perform those duties.

## **Legislative differences related to NRSWA**

- B.7 Permit schemes replace parts of NRSWA - see in particular: regulations 14, 14A, 36, and 37 of the 2007 regulations. It should be noted that no permit scheme alters or reduces the duties to cooperate and coordinate works set out in sections 59 and 60 of NRSWA.

## **Direction to vary or revoke an operational permit scheme**

- B.8 Although the Secretary of State no longer needs to approve a permit schemes, the Secretary of State retains the power to: direct an authority to prepare and introduce a permit scheme (section 33(2)(b)); to direct that a scheme is modified; or that a permit scheme is revoked. Where the Secretary of State makes such a direction, or the authority seeks to cease the operation of a scheme, the authority should notify all works promoters at least four weeks in advance.

## Section 2: Processes for varying a permit scheme

B.10 An authority must ensure that all aspects of the proposed variation to an existing scheme comply with the 2007 regulations as amended, before making the order giving effect to the scheme. Notice of such an order should be provided to statutory undertakers at least four weeks before the order comes into effect. Authorities may wish to consider the use of the checklists at Annexes A & B when varying a scheme.

B.11 An authority must ensure that:

- Permit schemes must apply to an authority's own works in exactly the same way as other works (see regulations 6(2) and 40).
- Permit schemes comply with the required system for electronic information sharing and data collection, that is, Street Manager.

B.12 Authorities will need to ensure that the requirements of each variation are capable of being communicated electronically – see regulation 39.

## Creating and updating the National Street Gazetteer (NSG)

B.13 Authorities are required to indicate in the Additional Street Data (ASD) as part of the National Street Gazetteer which streets are subject to the permit scheme. The NSG is already used under NRSWA whereby each street has a Unique Street Reference Number (USRN).

B.14 The specification for street gazetteers is set out in British Standard BS 7666. It is important that permit schemes make sure their street gazetteer is upgraded at least to level 3 of that standard.

B.15 At regular intervals of the operation of any permit scheme, the authority should carry out a thorough review of their NSG, in particular, those designated as traffic-sensitive streets. Given the requirement in the regulations (regulation 4 as amended) to evaluate schemes, it would be reasonable to review the NSG every three years. Any proposed updates identified from that process will be subject to the requirement to consult on any changes (regulation 3). Keeping this information current will ensure that cost benefit analysis also remains current.

## Preparing information to introduce an order

B.16 Each authority is required to prepare information and evidence (including information from the consultation exercise) to support the decision of each Chief Executive (or similar) to bring any scheme variation into operation. They may wish to refer to the checklist in the Annex A.

## Varying and revoking permit schemes at the authority's request (see Regulation 5).

B.17 Before varying its scheme, an authority must consult those identified in regulation 3(1). The reasons for any variation should be evidenced and explained.

B.18 Consultation on a variation can be in proportion to the variation proposed. For example, if, after say three years of operation it is decided that the scheme fees should be reduced, it is unlikely that a detailed consultation will be required.

## Annex C: Approval for works

- C.1 The following list (also appears in Chapter 7 of the 2020 Co-Ordination Code of Practice) are those for which a permit approval is required. Prior approval is a requirement and needs to be provided before works commence (except for emergency works).
- C.2 Before requesting permit approval, those requesting a permit should have checked to ensure the works are to be done in a “street” for which the relevant authority is responsible.
- C.3 The works may then, but need not, require a permit fee and will conform to one or more of the following:
- Involve the breaking up or resurfacing any street, (see below for pole testing and coring involving excavation)
  - Involve opening the carriageway or cycleway of traffic-sensitive streets at traffic-sensitive times
  - Reduce the lanes available on a carriageway of three or more lanes
  - Require a temporary traffic regulation order or notice, or the suspension of pedestrian facilities
  - Require a reduction in the width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time
- C.4 It should be noted that there are other functions that an undertaker should inform the authority about. See regulation 3A above which requires permit schemes to include a requirement for applicants to provide such supplementary information as is known by the applicant at the time of application and national condition (NCT03 ancillary information on adjacent streets) will apply if there are changes to ancillary information on activities on adjacent streets related to those permitted that become known about within the duration of the permit.

## Annex D: Glossary

| Term                           | Explanation   |
|--------------------------------|---|
| Additional Street Data ("ASD") | 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"   |
| Arbitration                    | As defined in section 99 of NRSWA, "any matter which under this Part is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers" |
| Authority                      | Authority includes the references in NRSWA, TMA and other legislation to highway authority and permit authority   |
| 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"  |
| Bridge                         | As stated 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"  |
| Breaking up (the street)       | Any disturbance to the surface of the street (other than opening the street)  |
| 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"   |
| Contravention        | As defined in section 329 of HA 1980, "contravention in relation to a condition, restriction or requirement, includes failure to comply with that condition, restriction or requirement, and "contravene" is to be construed accordingly"   |
| Council              | As defined in section 329 of HA 1980, "council means a county council, the Great London Council or a local authority"   |
| DfT                  | Department for Transport  |
| Emergency activities | 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 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" |
| 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"   |
| HA 1980              | The Highways Act 1980   |
| HAUC                 | The Highway Authorities and Utilities Committee   |
| HAUC (England)       | The Highway Authorities and Utilities Committee for England   |
| 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 | Immediate activities are either emergency activities or urgent activities   |
| JAG (UK)             | Joint Authorities Group (UK)  |
| 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"   |
| Local street gazetteer                       | A subset of the NSG containing details of all streets in a highway authority area, being a self-contained entity created and maintained by the highway authority covering all streets in their geographic area regardless of maintenance responsibility   |
| 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"   |
| Major activities                             | Major activities are activities other than immediate activities, where (i) the authority has indicated to the promoter, or (ii) the promoter considers, that an order under section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads) is required; or activities, other than immediate activities, which have a planned duration of 11 days or more"   |
| 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 - (a) a reconstruction or widening of the highway; (b) works carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts); (c) substantial alteration of the level of the highway; (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway; (e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980; (f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges); (g) provision of a cattle-grid in the highway or works ancillary thereto; or (h) tunnelling or boring under the highway" |
| Minor activities                             | Minor activities are those activities other than immediate activities where the planned duration is 3 days or less  |
| National Highways                            | National Highways was appointed under the Infrastructure Act 2015 as a strategic highways company responsible for operating, maintaining and improving motorways and certain major A-roads (the strategic road network) in England  |
| 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 the BS7666 standard   |

|  |   |
|--|---|
| Network management duty                | As stated in Part 2 of TMA  |
| NRSWA                                  | New Roads and Street Works Act 1991   |
| OSGR                                   | Ordnance Survey Grid Reference  |
| Permit                                 | The approval of a permit authority for an activity promoter to carry out activity in the highway subject to conditions  |
| Permit application                     | 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)  |
| Permit authority                       | A highway authority or other “street authority” which has approval to operate a permit scheme on all or some of its road network by order   |
| Permit scheme                          | A scheme approved by Local Authority Order  |
| Protected street                       | Any street that 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 undertakers can place the equipment that would otherwise lawfully have been placed in the protected street  |
| Provisional Advance Authorisation      | The early approval of activities in the highway, equivalent to the advance notice given under s 54 of NRSWA   |
| Registerable                           | Registerable activities correspond to specified works in the regulations  |
| Reinstatement                          | As defined in section 105(1) of NRSWA, “reinstatement includes making good”   |
| Road                                   | “highway”   |
| Road category                          | This means one of the road categories specified in paragraph 1.3.1 of Chapter S.1 of the code of practice “Specification for the Reinstatement of Openings in Highways”   |
| Road works                             | Works for road purposes   |
| Special Engineering Difficulties (SED) | 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 or 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 |

|  |   |
|--|---|
| Standard activities  | Standard activities are those activities, other than immediate activities, that have a planned duration of between 4 and 10 days inclusive  |
| Statutory right  | As defined in section 105(1) of NRSWA, "statutory right means a right (whether expressed as a right, a power or otherwise) conferred by an enactment (whenever passed or made), other than a right exercisable by virtue of a street works licence"   |
| 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 (a) any highway, road, lane, footway, alley or passage; (b) any square or court; (c) any land laid out as a way whether it is for the time being formed as a way or not"  |
| Street authority   | As defined in section 49(1) of NRSWA, "the street authority in relation to a street means, subject to the following provisions (a) if the street is a maintainable highway, the highway authority, and (b) if the street is not a maintainable highway, the street managers"  |
| Street Manager   | The Department for Transport's digital service for planning and managing roadworks. Data can also be provided to Street Manager by means of an interface which complies with the Department for Transport's Application Programming Interface (API) specification for planning and managing roadworks. See <a href="#">here</a> for the API documentation   |
| Street managers (different from electronic communication system) | As defined in section 49(4) of NRSWA, "the expression "street managers", used in relation to a street which is not a maintainable highway, means the authority, body or person liable to the public to maintain or repair the street or, if there is none, any authority, body or person having the management or control of the street"  |
| 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 license: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street" |
| Street Works UK  | Group representing statutory undertakers, amongst others  |
| Street works licence   | As stated in section 50(1) of NRSWA, "the street 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   |

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|                                       | 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 order                         | This means an order made under section 1, 6 or 9 of the Road Traffic Regulation Act 1984   |
| Traffic sensitive street              | This means a street designated by a street authority as traffic sensitive pursuant to section 64 of NRSWA and in a case where a limited designation is made pursuant to section 64(3) any reference to works in a traffic sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation  |
| 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"  |
| 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 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 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   |
| 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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| Works promoter | A works promoter is anyone (including utility companies, statutory undertakers, highway authority road work providers and contractors) responsible for undertaking works on the highway |
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