**Code of Practice Third Edition**

**Revised August 2009**

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**New Roads and Street Works Act 1991**

**Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and** 

**Related Matters**

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**Summary Reference Guide**

| **Table 1: Matrix of notice periods and response times** | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Notice Period** | | **Validity Period** | | **Response Time** | | |
|  | **S 54** | **Ss 55/57** | **S 54** | **Ss 55/57** | **S54** | **Ss55/57** | **S 74** |
| **Major** | 3 months | 10 days | 15 days | 5 days | 1 month | 5 days | 5 days |
| **Standard** | n/a | 10 days | n/a | 5 days | n/a | 5 days | 5 days |
| **Minor** | n/a | 3 days | n/a | 2 days | n/a | 2 days | 2 days |
| **Immediate** | n/a | 2 hours  after | n/a | n/a | n/a | any time during  works | 2 days |

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53 The street works register

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**New Roads and Street Works Act 1991**

**Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters**

***Approved by the Secretary of State for Transport under sections 56, 56A, 59, 60 and 74 of the Act***

August 2009

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**FOREWORD**

The New Roads and Street Works Act 1991 (NRSWA), supported by relevant

Regulations and Codes of Practice, provides a legislative framework for street works by undertakers (including utility companies) and works for road purposes - to the extent that these must be co-ordinated by street authorities.

The aim is to balance the statutory rights of highway authorities and undertakers to carry out works with the right of road users to expect the minimum disruption from works.

The Secretary of State for Transport has approved this code under the powers to approve or issue codes of practice in the following sections of NRSWA:

∙ Section 56(4) - the power of authorities to give directions as to the timing of street works

∙ Section 56A(8) - the power of authorities to give directions as to the placing of apparatus

∙ Section 59(3) - the duty of street authorities to co-ordinate works

∙ Section 60(2) - the duty of undertakers to co-operate with street authorities and with other undertakers.

The Code reflects various changes made to the provisions of NRSWA under the Traffic Management Act 2004 (TMA). The TMA tightens the regulatory framework within

which undertakers dig up roads, giving authorities more power to co-ordinate, control and direct works effectively with the aim of minimising disruption.

The Code also incorporates the requirements set out in the following regulations:

∙ The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007,SI 2007, No. 1951;

∙ The Street Works (Fixed Penalty) (England) Regulations 2007, SI 2007, No. 1952;

∙ The Street Works (Charges for the Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009, SI 2009, No. 303

∙ The Street Works Register (Registration Fees) Regulation 1999, SI 1999, No. 1048.

∙ The Street Works (Charges for Occupation of the Highway) (England) Regulations 2001, SI 2001, No. 4060.

Practical guidance is given on undertakers’ and authorities’ responsibilities with regard to street or highway works. The relevant sections of NRSWA are listed on the inside

front cover.

This Code was prepared by several working parties comprising representatives of the Department for Transport, the National Joint Utilities Group and local highway authorities and was the subject of extensive consultation with relevant organisations.

Street works are a devolved matter in Scotland and Wales. This 3rd edition of the Code has been approved by the Secretary of State for Transport for use in England **only**. It replaces the 2nd edition published in April 2001 and comes into operation on 1 April 2008.

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**The latest version of the Technical Specification for the Electronic Transfer of Notices which is available on the DfT website.**

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**1. INTRODUCTION**

The efficient co-ordination of street works is one of the most important aspects of street works legislation, benefiting street authorities, undertakers and road users alike. The

New Roads and Street Works Act 1991 (NRSWA) sets out the objectives of the co ordination function:

∙ to ensure safety

∙ to minimise inconvenience to people using a street, including a specific reference to

people with a disability

∙ to protect the structure of the street and the apparatus in it.

This Code of Practice is intended to help street authorities carry out their duty to co ordinate works in the highway, under section 59 of NRSWA, and undertakers to fulfil

their duty to co-operate in this process, under section 60 of NRSWA.

The legislative and regulatory provisions explained in this Code may be best viewed as three pillars of co-ordination:

∙ **The Notice System.** Notices provide valuable information to aid the co-ordination process, while notice periods provide time for appropriate steps to be taken. See chapters 3-4, 7-8 and 11.

∙ **Streets subject to special controls.** Designation procedures allow for attention to be focussed on particularly sensitive streets. Traffic-sensitive streets are especially

important in this context. See chapter 5.

∙ **The Co-ordination Tools.** The legislation provides tools to help the co-ordination process, including powers to restrict further works following substantial street or road works and to direct the timing, date and location of street works. See chapters 6 and 9.

Street authorities and undertakers must adhere to three key principles:

∙ the need to balance the potentially conflicting interests of road users and undertakers' customers

∙ the importance of co-operation and regular communication between street authorities and undertakers

∙ an acknowledgement that works programmes and practices may have to be adjusted to meet the statutory objectives of the co-ordination provisions.

This Code explains how these principles can be made to work in practice. Significant elements are:

∙ the fact that most notice periods specified in the legislation and regulations are minimum periods. Longer periods of notice should be given, and notice information should be updated, wherever possible

∙ the central role played by local liaison meetings between street authorities, undertakers and other interested parties

∙ the importance of the designation of streets subject to special controls. Street

authorities should confine designation to cases where it is strictly necessary.

Undertakers must respect the objectives of designation when planning and carrying out works.

This Code applies to prospectively maintainable highways.

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Everyone working in the highway should take account of the needs of all road users, including those with disabilities - whether they are pedestrians, equestrians, cyclists or drivers - at all stages in the planning and execution of works in the street. This has

implications for the timing, method and scheduling of works. Inevitably, works in the

street will interfere with road users and nearby residential and business premises to

some extent. The aim should, however, be to avoid, where possible: ∙ serious traffic disruption

∙ works on recently resurfaced or reconstructed streets

∙ planned works within a short time of earlier works.

The provisions of this Code and its accompanying legislation cannot be achieved

without the commitment of all concerned. Everyone should ensure that the information given is up-to-date, timely and correct, including a nationally consistent street gazetteer (NSG), Additional Street Data (ASD), and that all notices are given in accordance with the protocols contained in the Technical Specification for EToN.

As well as the powers contained in NRSWA and the Traffic Management Act 2004 (TMA), the street authority has further powers through other legislation such as the Highways Act 1980 and the Road Traffic Regulation Act 1984. It may also have powers granted by Local Acts, particularly in London.

**Legislative framework**

The two most important elements in street works legislation are:

(a) the duty of street authorities to coordinate all works in the highway (section 59 of NRSWA); and

(b) the duty of undertakers to co-operate in this process (section 60 of NRSWA).

It is essential that both street authorities and undertakers take these responsibilities seriously. This Code is intended to help them do so along with other statutory obligations.

Section 49 of NRSWA defines the term ‘street authority’. On publicly maintainable highways, the street authority is the highway authority and usually this will be the

relevant local authority. However, some highways are the responsibility of others.

The Secretary of State for Transport is the highway authority for the motorway and

trunk road network, which is managed on his behalf by the Highways Agency, to whom notices should be sent. Similarly, roads in the Royal Parks are the responsibility of the

Royal Parks Agency acting on behalf of the Secretary of State for Culture, Media and

Sport. Network Rail is the street authority for highways between the level crossing barriers, and there are others. All of these distinctions must be logged appropriately in the Register. See chapters 3 and 4.

**Other statutory obligations**

Both street authorities and statutory undertakers operate under other statutes which impose additional obligations that impact on those under NRSWA - for street authorities to co-ordinate all works, and for undertakers to co-operate.

Local authorities should act reasonably at all times and have duties imposed under a number of Acts.

Besides those duties under section 59 of NRSWA, a local traffic authority has an

obligation to fulfil the Network Management Duty (NMD), under Part 2 of the TMA - to 8

do all that is reasonably practicable to manage its road network effectively with a view to keeping traffic moving. Authorities need to have regard for the *Network Management Duty Guidance1.*

The NMD requires local traffic authorities, usually the local highway authorities, to manage their road network to achieve - as far as may be reasonably practicable having regard to their other obligations, policies and objectives - the following objectives:

(a) securing the expeditious movement of traffic on the authority’s road network; and

(b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

This may involve the exercise of any power to regulate, or co-ordinate, the use of any road, or part of a road, in the road network (whether or not the power was conferred on

them in their capacity as a traffic authority).

Under the NMD, local traffic authorities must establish processes, as far as reasonably practicable, to ensure that they:

(a) identify causes, or potential causes, of road congestion or other disruption to the movement of traffic on their road network; and

(b) consider any possible action that could be taken in response or in anticipation of such causes.

The processes should cover a wide range of activities, such as identifying and managing different roads or classes of roads, monitoring the road network, and the co ordination and direction of works - which includes the management of an authority's

own works for road purposes to minimise its impact on all road users.

However, there is no requirement to identify or consider anything that appears to have

only an insignificant effect (or potential effect) on the movement of traffic.

Under the TMA, the Secretary of State has the power to intervene in a local traffic authority, if he considers that a local traffic authority may be or is failing to perform any of its network management duties, through the use of an 'Intervention Notice' or 'Intervention Order' respectively. A guidance document, *The Traffic Management (Guidance on Intervention Criteria) (England) Order 2007* has been published by the Secretary of State2. It sets out what the Secretary of State would take into account in

determining whether or not a local traffic authority is performing its network management duties. This includes:

(a) co-ordinating and planning works and known events; and

(b) ensuring parity with others, by applying the same standards and approaches to an authority’s own works as to those of other works promoters.

There are additional duties on local authorities; for instance Part III of the Disability

Discrimination Act 1995 (DDA) as amended by the DDA 2005, gives disabled people a right of access to goods, facilities, services and premises. By providing integrated and accessible transport and a barrier-free pedestrian environment, local traffic and highway authorities will help deliver this right and fulfil their obligations.

The highway network is a valuable public asset and highway authorities want to protect

1 *Traffic Management Act 2004 Network Management Duty Guidance* published by Department for Transport (Product Code TINF972) and available at http://www.dft.gov.uk/pgr/roads/tpm/tma2004/trafficmanagementact2004netw4143

2 *The Traffic Management (Guidance on Intervention Criteria) (England) Order 2007* SI 2007 No. 339 ISBN 978-0­ 11-075792-6

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its integrity. For example, the network managed by the Highways Agency, represents

less than five per cent of the road network in England, and is valued at more than £80 billion (Source: Highways Agency 2005-06 accounts). The road network of local

highway authorities often represents their most valuable and largest asset.

However, these local authority duties must be balanced against the statutory obligations of statutory undertakers. Statutory undertakers, or those in possession of a street works licence (under section 50 of NRSWA), have a legal right to carry out street works. Statutory undertakers are generally those companies that supply water, gas, electricity and telecommunications or control sewerage, but there are a few less obvious ones, for example London Underground, which may need access to equipment for communications or power.

The utility companies have statutory obligations to provide a supply or service, and these are closely monitored by the utility regulators, OFWAT (water industry), and OFGEM (gas and electricity industries) to ensure that the required level of service is

maintained. This will include restoring supply, as well as ensuring new customers are connected within certain time frames. OFCOM (regulator of telecommunications) places a universal service obligation on BT across the UK (except Hull, where it is Kingston Communications), to meet all reasonable requests for service. Under legislation customers of the electricity, gas or water companies, subject to certain

exemptions, may be entitled to compensation, if a company fails to meet these guaranteed standards of performance3.

The operators of a gas network also have obligations under Regulations enforced by the Health and Safety Executive**4** . These require operators of gas networks to carry out certain works within a specific time or to replace certain types of apparatus within a specified period. Currently, the gas industry has a programme to replace all iron mains within 30 metres of properties, over 30 years, from 2001, with highest priority given to that apparatus at greatest risk, based on an agreed safety case to assess priorities. The priorities may change to reflect an escalation of risk based on either new information about specific types of pipes or apparatus, or as result of incidents involving a specific pipe.

**This Code of Practice should be read in conjunction with the Technical Specification for Electronic Transfer of Notices (EToN)**

The NRSWA, the TMA and other relevant regulations must be consulted in conjunction with this Code. As should the other Codes of Practice published under the NRSWA: *the Network Management Duty Guidance* and the *Guidance on Intervention Criteria*, published under the TMA.

Department for Transport July 2009

**3** *The Electricity (Standards of Performance) Regulations 2001* (as amended), the *Gas (Standards of Performance) Regulations 2005* (as amended) and *the Water Supply and Sewerage Services (Customer Service Standards) Regulations 1989* (as amended).

4 *Gas Safety (Installation and Use) Regulations 1998 SI 2451* and *Gas Safety (Management) Regulations 1996 SI 551*

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**2. CO-ORDINATION IN PRACTICE**

**2.1 Introduction**

This chapter sets out the statutory basis for co-ordinating works in the street.

Section 59(1) of NRSWA requires street authorities to "*use their best endeavours to co ordinate the execution of works of all kinds (including works for road purposes and the carrying out of relevant activities) in streets for which they are responsible:*

*(a) in the interests of safety*

*(b) to minimise the inconvenience to persons using the street (having regard, in particular, to the needs of people with a disability)*

*(c) to protect the structure of the street and the integrity of apparatus in it.*"

This duty includes co-ordination with other street authorities if works in one street affect streets for which another authority is responsible. Where appropriate, this includes street managers.

The duty has been extended through the Network Management Duty, which requires a more pro-active approach to the management of the road network and the way

authorities should tackle the causes of congestion and disruption.

Section 60 of NRSWA places a duty on undertakers to use their best endeavours, with regard to the execution of street works, to co-operate with the street authority and one

another, with the same threefold objectives as mentioned above.

These sections form the basis of this Code of Practice and impose a statutory obligation on street authorities and undertakers to have regard for it in the steps they take to co-ordinate works.

**2.1.1 The objective**

Co-ordination enables differences between those competing for space or time in the

street, including traffic, to be resolved in a positive and constructive way.

Street works reduce the width of the street available to traffic, pedestrians and other users. The level of disruption caused by restricting movements will depend on the type of works and how busy the street is. An objective method to calculate disruption is described in 12.7 and Appendix G.

Works where the traffic flow is close to, or exceeds, the physical capacity of the street will cause serious disruption, although works in any busy street will cause some disruption. Small scale works in a non-traffic sensitive street may only cause minimal disruption to residents and delivery vehicles, although this could still be an issue for

residents. However, a cluster of small scale works close to a much larger scale one could cause serious disruption. Effective co-ordination therefore needs to take into

account proposals of every scale and duration.

Effective co-ordination is essential to minimise traffic disruption whilst allowing promoters the necessary time and space to complete their works. The disruptive effect of any one proposal should not be considered in isolation. The combined effect of all

the activities taking place on a road network will impact on the traffic. 11

**2.1.2 The process**

The co-ordination process has four phases:

(a) Information: The street authority needs accurate and timely information on what is proposed and when it is happening

(b) Analysis: The street authority needs a means of assimilating and analysing this information

(c) Consideration: The street authority must consider whether any changes are required to minimise disruption before it agrees to the proposals

(d) Co-operation: All parties must co-operate with the street authority to achieve the minimum disruption.

**2.2 Information**

NRSWA places significant obligations on both undertakers and local authorities to register works although the requirement to give notice of certain works applies only to undertakers.

**2.2.1 Notices**

Successful co-ordination requires accurate and timely information, along with good communication between street authorities and undertakers. The street authority cannot fulfil its duty, under section 59 of NRSWA, to co-ordinate activities affecting the street

without adequate advance notice of proposed works.

Although NRSWA applies only to undertakers proposing street works, highway authorities proposing road works should follow the same principles. Chapter 8 explains

how notices should be given and the notice period required

The basic principle of minimum notice periods is: the greater the disruption, the longer the notice period required

Undertakers should recognise that statutory notice periods are the minimum, and whenever possible, longer periods should be given. This benefits both the street

authority and the undertaker - if modifications are required, the earlier the street authority informs the undertaker, the easier it will be for them to comply. There may be circumstances where the street authority and others concerned have no objection (or indeed, find it advantageous) to an undertaker proceeding before the end of the full prescribed notice period. In such cases, consent should be given to an early start. See 8.3.9

A street authority can request early warning of immediate works on streets that it has

designated on the ASD as vulnerable to traffic disruption. In these cases, the promoter should ring the authority’s specified number as soon as works become necessary or, at the latest, as soon as they begin.

Undertakers should be prepared to discuss their proposals with other interested parties,

including frontagers, and to modify them if it is appropriate and practical to do so.

**2.2.2 Co-ordination machinery**

In some cases the street authority and works promoters will be able to co-ordinate effectively on a one-to-one basis. For the most part, regular meetings of dedicated groups will be needed and the Regional Highway Authorities and Utilities Committees (HAUCs) and local co-ordination meetings provide the means to do this.

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The key principles of effective co-ordination are:

∙ sharing of information and consultation between interested parties at earliest opportunity

∙ regular input and attendance of relevant people (those empowered to take decisions) at co-ordination meetings

∙ works promoters and authorities sharing business development plans, and replacement programmes for apparatus and highway assets with co-ordinating authority

∙ communication of decisions at the earliest opportunity so that promoters' plans can be adapted, if necessary

∙ cross-boundary co-ordination between neighbouring authorities, utilities, and others, especially for all planned works and planned maintenance on strategic routes.

**Regional HAUCs**

At a regional level, the groups should be set up under the aegis of regional HAUCs. Principal issues will be policy determination within national HAUC guidelines; monitoring the effectiveness of local co-ordination arrangements and providing policy guidance on a local basis. They should also facilitate local dispute resolution procedures. If the parties wish, performance reviews could also be carried out at these meetings.

**Local co-ordination**

At a local level, these groups should be organised and chaired by the Traffic Manager (or the nominated deputy) of the relevant street authority. They may be convened at an area level (eg County level) if appropriate, but wherever possible, the groups should be based on a highway authority’s managed area and include other relevant street authorities. The meetings will be concerned primarily with direct co-ordination of individual schemes and dissemination of information.

Local groups should meet quarterly or more frequently if the need arises, but a discussion should always take place whenever proposed major works are likely to conflict with other activities, especially in a street or streets known to be prone to congestion. They should cover:

∙ specific major works with, wherever possible, fully-costed and assessed alternative

routes for works proposals and a full assessment of the preferred route

∙ medium-term and annual works programmes for all works promoters, submitted at least 21 days before the meeting, and showing a six month rolling programme of work. This will allow the local authority to compile a co-ordinated schedule of works.

∙ planned road closures for the next quarter and rolling year ahead, to allow all street and road works to be planned within such closures as far as possible.

∙ other significant events.

The following topics may also be covered, if they do not conflict with the main aim of the meeting:

∙ local policies and strategies affecting street works, traffic management proposals (including the effect of diversionary routes), and the potential for reducing disruption from works through common schemes/trench sharing etc

∙ proposed designations of streets subject to special controls and other constraints ∙ reviews of performance at local level, including damage prevention

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∙ feedback from HAUC(UK)

∙ street works licences

∙ any joint forward advertisement of street and road works where major traffic

disruption is likely.

Representatives from all major interests would include undertakers and other promoters, and the Highways Agency if there are motorways or trunk roads within the

area.

**Liaison with other bodies**

Street authorities should liaise with adjacent street authorities if works are likely to affect traffic flows across boundaries and/or trunk roads. They should also provide information to other bodies likely to have an interest such as:

∙ the police, fire, ambulance and other emergency services

∙ public transport operators

∙ any other appropriate bodies, e.g. organisations representing disabled people, pedestrians, motorists, and cyclists

∙ the appropriate planning and environmental health officers.

**2.3 Analysis**

Local co-ordination meetings are valuable for sharing information and enabling all parties to understand each others’ difficulties and constraints. But they cannot be in permanent session and realistically they can only cover major programmes and proposals with relatively long lead times.

The day-to-day co-ordination of the majority of proposals can only be achieved through the use of technology, especially given the relatively short lead times for minor and standard works.

Two significant changes have been introduced in the notice regulations. These have been made in line with this edition of the Code:

∙ it is now strongly recommended that street works notices include National Grid

References (NGRs); and

∙ the nationally consistent street gazetteer has been enhanced to Level 35.

To make best use of modern technology, street authorities will need notice management systems that use GIS. This will enable them to view all proposals and

current activities against a map background. Potential problems will be evident, allowing appropriate action to be taken.

To increase the benefit of these changes, street authorities should request that NGRs are also given on other relevant documents, such as applications for skips or scaffolding on the highway.

**2.4 Consideration**

Street authorities must consider all aspects of the proposed works and other influences that may affect traffic, which include:

∙ the road network capacity

5 *Spatial datasets for geographical referencing - Part 1: Specification for a street gazetteer BS7666-1:2006* 14

∙ the scope for collaborative working arrangements, including trench and duct sharing,

between undertakers and the street authority

∙ the optimum timing of works from all aspects

∙ the effect on traffic; in particular the need for temporary traffic restrictions or prohibitions

∙ appropriate techniques and arrangements particularly at difficult road junctions and pinch points

∙ the working arrangements required in protected and traffic sensitive streets, and streets with special engineering difficulties

∙ the effect of skip and scaffold licences, any known special events and other licences or consents issued in respect of affected streets under the Highways Act 1980

∙ developments for which planning permission has been granted on streets affected by the works.

**2.5 Co-operation**

The primary aim of section 59 is for the street authority to co-ordinate works in the street with the active co-operation of all parties concerned.

Undertakers proposing works in the street have a statutory duty to co-operate with the street authority under section 60 of NRSWA. In addition, under section 68 undertakers must provide street authorities with the facilities to ascertain compliance. Failure to

comply with section 60 or section 68 may constitute a criminal offence.

A street authority should discuss any difficulties that the proposed works cause with the

promoter and agree an acceptable way forward. However, safety concerns, urgency or lack of co-operation, may make it necessary for the street authority to use its powers of direction. These are covered in chapters 6 (Restrictions) and 9 (Directions).

**2.6 Forward Planning**

**2.6.1 Forward planning information**

Forward planning information on long-term programmes from all works promoters will help highway authorities to co-ordinate works. It will also help works promoters to

identify opportunities for joint working and to co-ordinate the timing of resurfacing. This might include mains replacement programmes or reconstruction of main roads, which

will be planned several years ahead.

Works promoters should give such information about road or street works in their long term programme, which may include those works in their annual operating programme, or three or five year rolling programmes. This forward planning information could also include works identified through asset condition surveys. It could be provided at any time before the advance notice under section 54 is required.

It is much easier to adjust the timing of medium and long-term programmes to fit with the plans of other works promoters than to do so when the detailed plans are available and contractual commitments may have been made. While accurate information is important, it is accepted that the longer the lead time the greater the uncertainty about timing.

**2.6.2 Recording information.**

It is essential that information on large scale or potentially very disruptive works and 15

activities is included in the street works register at the earliest opportunity (in either a separate section or flagged as forward planning). This will enable works promoters to:

∙ take part in early co-ordination

∙ consider joint working

∙ consider trench sharing

∙ highlight other works which need to be co-ordinated with these works ∙ produce reports for works co-ordinators.

The entry should give as much detail as possible. The minimum information needed is

the street involved, the nature of the works and the proposed dates - which may be just a calendar year. This information should be reviewed and updated regularly to include details as they are finalised. Forward planning information does not remove the need

to provide a notice under section 54 or section 55 at the appropriate time. **2.6.3 Entering information into the register**

It is the street authority’s responsibility to enter forward planning information into the relevant section of the street works register. This will be made available alongside other information in the register.

An EToN message type has been developed for sending forward planning information -

this can be found in the Technical Specification for EToN.

Alternatively, promoters can send forward planning information about works electronically using the format in Table 2.1 below. Information should be provided in

the order shown. The highway authority may need to reorder data before converting it into a CSV file for entry into the register. The six-digit grid reference number is important for providing reasonably accurate information on location of the works.

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| **Table 2.1: Spreadsheet contents for forward planning information about works in the highway** | |
| --- | --- |
|  | Guidance notes. (Do not include guidance notes in spreadsheet) |
| Street authority |  |
| Operational district |  |
| Works promoter |  |
| Date of last update | If applicable |
| Works promoters' reference | If applicable |
| Town |  |
| Locality |  |
| USRN |  |
| Street name |  |
| Road number\* | Road classification number |
| Grid reference (Easting) | Approximately the centre point of the proposed works |
| Grid reference (Northing) | Approximately the centre point of the proposed works |
| Works promoter contact name | Name of person who can answer queries regarding the works. |
| Works promoter contact number | Telephone number of above |
| Works description |  |
| Works position | When known.  Carriageway = C. Footway = F. Verge = V. |
| Traffic management type | When known |
| Length of works | When known |
| Width of works | When known |
| Start date of works | This may be just a financial or calendar year |
| End date of works | This may be just a financial or calendar year |
| Notes |  |
| *\*Road classification provides works co-ordinators with information on a route basis.* | |

**2.7 Collaborative Working**

It is important that all street authorities and undertakers seek every opportunity possible

to co-ordinate street and road works, as it can minimise traffic disruption and benefit the travelling public and the undertaker’s customers. Such an approach cannot be imposed so the emphasis must be on mutual co-operation. To make such schemes

work, promoters should speak to street authorities as early into the planning process as possible.

It should be possible to arrange contracts so that the excavating primary promoter serves notice and carries out work on behalf of itself and others. However, it must be emphasised that such arrangements do not remove the legal liability imposed by NRSWA on individual undertakers.

**2.8 Reinstatements**

Reinstatement cannot always be completed in one site visit; although undertakers are encouraged to use first time permanent reinstatements wherever possible. The first phase of works may be completed to only interim reinstatement standard and a second

phase will be needed to complete the work to permanent reinstatement standard.

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A further set of notices is required to complete works from interim to permanent

reinstatement stage. This must start with a new section 55 notice of proposed start date, using the same works reference as the first phase of works. This ensures continuity of notices through the whole life cycle of the works. See sections 8.2.11 and 8.2.12

Remedial, non-dangerous reinstatements should be notified as new works, using the remedial works category and use the promoter’s original works reference number, and follow the normal noticing rules for major, standard or minor works, as shown in Table 5

at 7.5.1. However, if for any reason the original works reference number cannot be

used, then a new number should be allocated and provide a cross–reference to the

earlier works. This is set out in the Technical Specification for EToN. **2.9 Phasing of Works**

All works must be carried out as quickly as is reasonable with the minimum disruption to other street users. Wherever possible they should be completed in a single

occupation of the street to permanent reinstatement.

If this cannot be done, the works to complete the reinstatement from interim to

permanent are regarded as two separate phases, although the same works reference number is used. Under the provisions of NRSWA this will mean separate works notices and durations for the purposes of section 74.

The first works are from the start date in the first notice until the completion of interim

reinstatement and the removal of all surplus materials and equipment, etc from site.

The second works are from the start date in the second notice until the completion of

permanent reinstatement and the removal of all surplus materials and equipment, etc

from site. The same works reference should be used for all phases.

Undertakers should discuss any works requiring more than two phases with the authority. All notices shall include a phase type. See the Technical Specification for EToN.

**2.9.1 Immediate works**

Immediate works may need to be followed by further works, for example, to renew an

asset following a temporary repair and reinstatement of the highway. In these instances, subsequent works should be treated as separate works for noticing

purposes - using the same works promoter reference but a different works category.

If the reinstatement of the carriageway was interim, and subsequent works are carried

out before that reinstatement is made permanent, it will be necessary to use the same works reference number. The notice should state that the permanent reinstatement will be completed as part of these subsequent works.

Interim reinstatements must be made permanent within the timescales required. The anticipation of subsequent works is no reason to delay permanent reinstatement.

A diagram illustrating the phasing of works can be found in the Technical Specification

for EToN.

**2.10 Interrupted Works**

If works are interrupted because, for instance, the undertaker finds that he needs some specialist plant or apparatus, other than that originally planned for; it is the undertaker’s

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responsibility to notify the authority of a revised estimated end date.

If works are interrupted because the undertaker, or his contractor, has caused third party damage, then it is the undertaker’s responsibility to notify the authority of a revised estimated end date, taking into account the likely duration of the repair works. The works remain the responsibility of the original undertaker until it is able to issue a Works Clear or Works Closed notice.

If an undertaker’s works are interrupted at the request of the street authority, they

should discuss this and revise the estimated duration of the works.

Whenever works are interrupted, the undertaker should first agree a way forward with the street authority before starting any of the processes above.

**2.11 Performance management measures (PMMs)**

The Network Management Duty requires every local traffic authority to assess its performance in managing its road network and review the effectiveness of its arrangements.

Parity is an important principle in exercising the duty. Authorities must lead by example, applying the same standards and approaches to their own activities as to those of others, such as utility companies and developers. Authorities are required by regulations under section 53 of NRSWA to place information about their own works on the street works register; this should be in the same timescales as undertakers. It is

recommended that the same processes and systems are used to achieve this. These

can then be used to demonstrate parity.

PMMs are being developed using information available via the existing notice management systems. Following this Code will mean data registered against all types

of works will be consistent. The data structures defined in the Code sup port the

development of the PMMs, although additional information may have to be recorded against some activities.

PMMs should encourage a culture of continuous improvement for all works promoters

working in the highway. PMMs will allow regional HAUCs to recognise those local

authorities and works promoters that are not improving, and to work with them to

identify the causes and agree mitigating actions.

Authorities may publish PMMs on their websites. This will help demonstrate performance of the network management duty.

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**3. THE REGISTER**

**3.1 Introduction**

The Register provides a single source of information on on-going, or planned works by undertakers and highway authorities, alongside a list of all streets in an authority’s area, whether or not it is the street authority, and associated data for each street, where relevant, that may include whether it has been designated (see chapter 5) or is subject

to a restriction on works (see chapter 6).

Notice management systems receive street works notices electronically and allow an authority to manage them together with other relevant information. It often happens that one computer system doubles-up as the register and the notice management system in a street authority. This is acceptable provided that the system fully meets the requirements for both Registers and Notice Management Systems.

**3.2 Register keepers**

Under section 53 of NRSWA each street authority is required to maintain a register for every street for which they are responsible. The register should contain information about street works and other prescribed types of works.

For maintainable highways, the street authority is the highway authority.

For streets which are not maintainable highways (non-publicly maintainable or private streets) the street authority is the street managers. This might impose unreasonable burdens on street managers, who are often just the householders fronting the street, so the regulations exempt street managers from the requirement to keep registers.

Instead, the local highway authority is required to keep the register in respect of non maintainable highways.

**3.3 Local and Central Registers**

A local register is a register that is maintained by a single street authority for its own

geographic area. It will include information on all streets other than those that are the responsibility of another street authority.

A central register is a register covering two or more street authority areas that is maintained by one single authority, the ‘register authority’. A central register could, for example, include all authorities in a metropolitan area.

**3.4 Form of Registers**

The register shall be kept on an electronic system. The Regulations require that all registers shall be based on GIS by 1April 2009. Each register must be maintained against the same digital map base to ensure consistency between all holdings of street related data. This common geographical dataset should be vector-based, nationally consistent, maintained, and seamless with changes published on a regular update cycle.

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It should include:

∙ vector objects (polygons, lines and points) representing real-world geographical features and boundaries, each with well-defined lifecycles and royalty-free unique identifiers suitable for referencing

∙ road centreline geometry objects, each with royalty-free unique identifiers, which reference the road surface and form a complete and fully consistent topological network, with no breaks or misalignments at administrative boundaries.

Authorities should synchronise their holdings of the common digital map data so that they all contain the same version at any given point in time.

| **Table 3.1: The minimum specification of the common map base** | |
| --- | --- |
| Scale | Urban areas: 1:1250  Rural areas: 1:2500  Remote areas: 1:10000 |
| Accuracy | Urban areas: ± 1.0m  Rural areas: ± 2.0m  Remote areas: ± 4.0m |
| Coverage | National and seamless, exhausting space over all land areas. |
| Geometry types | Point, line and polygon. |
| Classification | Objects classified by physical form. |
| Update cycle | 8 weeks max. |

All streets in Local Street Gazetteers should reference the road centreline geometries in the common map base (using royalty-free unique identifiers), which should in turn

reference polygons representing the road surface. Such a structure promotes consistency and maximises the possibility for interoperability between applications, both in the highways arena and in a wider context.

In essence, local authorities should provide the USRN definitions and attribution as defined in BS7666: 2006 Part 1, while the geometries should be recorded by referencing the road centreline objects in the digital map base. This will promote reuse and consistency between datasets. All data should follow the principles of the Digital National Framework (www.dnf.org).

**3.5 Content of Registers**

The register must record:

∙ particulars of all notices, under sections 54, 55 and 57, served on the highway authority relating to street works in any street which is a maintainable highway

∙ particulars of all notices, given under sections 54, 55 and 57, served on street managers relating to street works in any street which is not a maintainable highway

∙ particulars of all directions given under section 56 or 56A

∙ particulars of all notices, consents and directions published or given by a street authority under section 58 or 58A

∙ particulars of all notifications served by an undertaker under section 58A ∙ particulars of all notices served by a street authority under section 66 ∙ particulars of all notices given by a street authority under section72(3) ∙ particulars of all notices given under section 74 or 74A

∙ description and location of street works for which plans and sections have been

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submitted under Schedule 4 to NRSWA (streets with special engineering difficulties)

∙ particulars of all notices given by any relevant authority under Schedule 4 to NRSWA

∙ details of every street for which the local highway authority is the street authority ∙ details of every street which is a prospectively maintainable highway

∙ details of every street, of which the local highway authority is aware, which is a highway, but for which it is not the street authority

∙ details of every street, or part of a street, which is: a) a protected street; b) a street with special engineering difficulties, or, c) a traffic-sensitive street and proposed designations

∙ description, timing and location of both street authority works for road purposes and any such works that are proposed except as detailed in Notices Regulation 4(5)

∙ particulars of all consents under section 61, along with any conditions ∙ details of all directions under section 62

∙ particulars of street works licences, including details of conditions and changes of ownership

∙ information under section 70(3) and (4A) as to completion of reinstatements ∙ particulars of apparatus notified to the street authority under section 80(2) ∙ every notice of works under section 85(2)

∙ details of road closures and diversions, where an order under section 14 of the Road Traffic Regulation Act 1984 is required

∙ the road category of each street.

**3.5.1 Registerable and notifiable works**

There is a difference between registerable works and notifiable works, although this is

not significant in practice. These are identified through notices given in respect of street works (‘notifiable works’) and registrations of works for road purposes by the street or highway authority (‘registerable works’). The requirements for registerable works and notifiable works are set out in Chapter 7.

**3.6 Access to Registered Information**

**3.6.1 Access to registers**

Everyone has a right to inspect the register, free of charge, at all reasonable times, except as noted in 3.6.2. “All reasonable times” may be taken to mean normal office hours (08:00 to 16:30, Monday to Friday except Bank Holidays).

Street authorities are strongly recommended to publish the register on their public website. This should be available 24 hours a day, seven days a week, except for those

occasional times when it will be unavailable due to upgrade and maintenance. This work should, wherever possible, be done outside normal office hours.

Much of the detailed information in the register is unlikely to be of interest to the public. It is therefore suggested that the website display headline information first and allow users to drill down to more detailed information. However, it is the responsibility of the local authority to decide which information to make available in this way.

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Notices contain confidential information such as names and telephone numbers of contacts in organisations. Authorities should make sure that such information, as well as that described in paragraph 3.6.2, remains confidential. Authorities should also make it clear that they are not responsible for the accuracy of information concerning those works for which they are not the promoter.

The website should allow records to be searched and retrieved by the USRN or the “street descriptor” (the street name, description or street number) as given in the NSG. The Highways Agency has its own methods of disseminating information on trunk roads and motorways.

**Public access to websites should be read-only to prevent unauthorised amendment to records.**

**3.6.2 Restricted information**

Restricted information is anything certified by the Government as a matter of national security, or, information, which could jeopardise the undertaker’s commercial interests. If it were not restricted it might reveal, for example, information about a contract under

negotiation. The undertaker should indicate restricted information on the notice.

Restrictions on the release of information should be as limited as possible. In particular, it should not be assumed that because one item of information about a works

needs to be restricted, all information about it does. For example, an advance notice might need to be restricted for commercial reasons, whereas later notices need not be. The case for restriction needs to be considered on a notice-by-notice rather than a works-by-works basis.

The right of access to restricted information is limited to:

(a) Persons authorised to execute any type of works in the street or (b) Persons "otherwise appearing to the authority to have a sufficient interest".

Any person wishing to see restricted information must satisfy the street authority, as a

minimum, that his interest is greater than the general interest of the ordinary member of the public.

**Restricted information should not be shown on highway authorities’ websites. 3.6.3 Retention of information**

Information provided by means of any notice under NRSWA should be retained on the register for at least six years after completion of the guarantee period of the works

referred to in the notice. Information about other works should be retained on the

register for at least six years after completion.

Any legal claims in relation to the works must be brought within six years of the date on

which the event, which forms the basis of the claim, occurred. In the case of personal injuries, claims must be brought within three years of the date on which the event happened. However, in the case of a person who is below 18 years of age, the claim can be made up to three years after they reach 18. Information should be kept for those periods for that purpose; which may mean 21 years and nine months in the case

of injury to an unborn child.

Street authorities will need to decide how to keep the information on the register.

Because of the size of the database the authority may decide to archive information, or a subset of the information on the register for a longer period or even indefinitely.

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**Both authorities and utility companies will need to obtain their own legal advice and guidance on how to meet these requirements.**

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**4. THE STREET GAZETTEER AND ADDITIONAL STREET DATA**

**4.1 Introduction**

This chapter provides information about a nationally consistent street gazetteer (“NSG”), which contains basic and consistent information about all streets in England.

**4.2 The Street Gazetteer**

Every local highway authority produces a Local Street Gazetteer (LSG) and a validated copy is held centrally by the NSG Concessionaire. Each of these local gazetteers shall contain the information, required by and defined in the Technical Specification for

EToN, about the streets in that authority’s area.

Highway authorities and statutory undertakers can obtain full copies and updates of the street data from the NSG Concessionaire’s website, www.thensg.org.uk.

**4.2.1 Creating and updating the NSG**

Street gazetteers shall be created, maintained and published at Level 3 (as defined in

BS 7666).

It is the local highway authority’s responsibility to create and maintain street gazetteer data for all streets within its geographical area, whether or not it is the street authority for any particular street.

**4.2.2 Referencing**

Information held in street works registers, and notifications concerning street works given under this Code of Practice, must be referenced to the Unique Street Reference Number (USRN) which relates to the Type 1 or Type 2 street entry (see the Technical Specification for EToN) given in the street gazetteer for each street.

It is essential that all users are working from the same data. The NSG custodian holds validated local street gazetteer data, which the LSG custodian (street authority) should download and use.

**4.2.3 Provisional streets**

A provisional street is a street that does not yet have an entry in the NSG. Typically,

these will be new and/or private streets. The street authority must register private

streets. The proposed works should be notified against a provisional street only if a works promoter is certain that a street is not in the NSG. It is then the responsibility of the local highway authority to allocate a USRN, notify the works promoter, and create

an entry in the LSG and the NSG website. The promoter should then use the new URSN in all further notifications relating to the works.

Under section 87 of NRSWA, a highway authority should make a declaration that a

street is likely to become a maintainable highway. The declaration should be registered

as a local land charge.

**4.2.4 Trunk road network**

There is a Trunk Road Street Gazetteer (TRSG) for the motorway and trunk road network maintained by the Highways Agency. Works on streets maintained by the

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Highways Agency should be notified using the trunk road referencing number (TRRN), contained in the TRSG, instead of the USRN.

**4.3 Additional Street Data**

Additional Street Data (“ASD”) refers to other information about streets held in the register that is available from the NSG Concessionaire’s website alongside the NSG data. Highway authorities, statutory undertakers, and other interested and approved parties, can obtain copies and updates to this data from the concessionaire.

Local highway authorities must provide the following information:

(a) the street authority responsible for maintaining the street

(b) whether the street is publicly maintainable, prospectively publicly maintainable, or private

(c) any other authorities with an interest in the street

(d) the street reinstatement category

(e) designations of protected streets

(f) designations of streets with special engineering difficulty

(g) designations of traffic-sensitive streets

(h) where possible, streets on which it might be expected that section 56A directions may be used

(i) other features of the street, such as structures, environmental areas, parking restrictions, priority lanes, special surfaces, standard surface and special construction needs etc.

Items (a) to (g) are mandatory and (h) and (i) are optional, although street authorities are urged to make full use of this facility.

If all parties agree, the ASD may also be required to contain other data that the

Department for Transport may need from local authorities - such as inventory data, traffic regulation and parking restriction orders that apply to the street and may need to be lifted temporarily for works.

**4.3.1 Responsibility for creating and updating**

Where the street authority is also the local highway authority, it creates the ASD

together with the NSG.

Where the street authority is not the local highway authority, the street authority may create and submit its own ASD to the NSG Concessionaire, referenced to the local highway authorities’ gazetteers. Organisations that fall into this category are:

∙ the Highways Agency - which manages the motorway and trunk road network in England

∙ Transport for London - which manages the main road network within London ∙ Network Rail.

Any other authority, works promoter or interested party should submit records to the NSG Concessionaire to ensure that its interest in a street is logged. The interest records should be entered into the ASD maintained by the local highway authority.

This is particularly appropriate to neighbouring authorities in the exercise of their network management duties. The NSG Concessionaire will administer this process.

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**4.3.2 Procedures for creating and updating**

The relevant authority should forward additions or amendments to the ASD to the NSG Concessionaire - using the formats in the Technical Specification for EToN.

It is essential that users work from the same data, especially in the case of designations, but it is impractical to require users to download updates from the website

daily until dynamic on-line updating is available. It is now proposed that updates are made on a monthly basis, so that any changes to the ASD will be as current as possible without the requirement for on-line updating. Users of the ASD data must ensure that they are using the most current version of the data.

Provision for dynamic on-line updating of ASD is expected in the future. 27

**5. STREETS SUBJECT TO SPECIAL CONTROLS**

**5.1 Introduction**

The notice and co-ordination system balances the need to reduce the bureaucracy involved in managing street works with the importance of minimising delay and inconvenience to road users, whilst protecting the integrity of the street and any apparatus in it. To achieve this NRSWA provides for three categories of streets to be subject to special controls:

∙ protected streets

∙ streets with special engineering difficulties

∙ traffic-sensitive streets.

**5.2 Protected Streets**

**5.2.1 Background**

By virtue of section 61 of NRSWA, all “special roads”, as defined in the Highways Act 1980 (ie motorways), are protected streets. In addition, a street authority may designate other protected streets that meet criteria specified in the regulations.

**5.2.2 Designation**

Streets may be designated as protected, only if they serve, or will serve, a specific strategic traffic need, with high and constant traffic flows, and there is a reasonable alternative route in which undertakers can place the equipment, which would otherwise

lawfully have been placed in the protected street. This includes services to existing or

proposed properties in the street, or trunk supply routes passing through the street. **5.2.3 The implications of designation**

Once a street has been designated as protected, the activities of undertakers and highway authorities will be severely restricted.

Undertaker’s apparatus may not be placed in the street (except by way of renewal)

without the street authority’s consent, although, under NRSWA, lateral crossings should

normally be allowed. However, if it is allowed with conditions attached, the street authority may contribute to the undertaker’s expenses in complying with those conditions. Any disputes that arise over designation of a protected street shall be

settled by arbitration. See section 13.5 of this Code.

Undertakers’ works in verges and central reservations, which do not impinge on the carriageway, should usually be acceptable. Road maintenance or repairs will, in general, be carried out only at night, weekends, or other times with less impact on

traffic.

However, working at night may cause conflict with Environmental Health Legislation. See section 12.7.

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**5.2.4 Existing streets**

Given the possible financial implications for both highway authorities and undertakers, designation should be contemplated only when essential.

The decision should be taken only after consultation and after other means of reducing delay and inconvenience have been explored.

The street authority must justify the need and:

(a) take account of the needs of utilities to supply and maintain services to frontagers and to use such streets for existing trunk supplies.

(b) reimburse reasonable expenses incurred by the undertaker if removal or alteration of apparatus in the street is required (subject to appropriate allowances for betterment, deferment of renewal and value of recovered apparatus). The cost sharing arrangements for diversionary works do not apply.

**5.2.5 New streets**

Where construction of a street is planned and it is being considered for designation, the street authority shall consult all undertakers and others, such as transport, bridge and

sewer authorities, as well as adjacent landowners and frontagers, who might have an interest. Where requested and reasonably practicable, the highway authority will make provision, at the undertaker’s expense, for necessary areas or strips for carrying services alongside carriageways, and for duct or service crossings.

**5.3 Streets with Special Engineering Difficulties (SED) 5.3.1 Background**

Under section 63 of NRSWA, the term ‘special engineering difficulties (SED)’ relates to streets or parts of streets associated with structures, or streets of extraordinary construction, where works must be carefully planned and executed to avoid damage to, or failure of, the street itself or the associated structure, with attendant danger to person or property.

Under Schedule 4 to NRSWA, plans and sections of proposed street works must be approved by each authority with an interest in the structure concerned, ie the street authority, and/or the sewer, transport or bridge authority.

**5.3.2 Scope of designations**

The designation of streets with SED should be used only where strictly necessary, bearing in mind the safeguards already provided elsewhere in NRSWA, for example sections 69 (for other apparatus in the street), 88 and 89 (for bridges and sewers), and 93 (level crossings and tramways). This is in the interests of all concerned - street

authority, undertaker, and where appropriate, the owner of the structure. Circumstances where designation may be appropriate include:

**Bridges**

The street may be designated if the bridge authority is concerned about the impact of street works on the strength, stability or waterproofing of the bridge, or access for maintenance or any other purpose. In general, the designation would relate to the

whole of the bridge structure, but it will only be necessary to designate the area

adjacent to the bridge and not the whole length of the street.

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**Retaining walls**

Retaining walls may be designated where they give support to the highway and bridge abutments, and where the foundations are sufficiently shallow for excavation to affect the integrity of the structure. Where foundations are piled, designation is likely to be necessary only if excavation could alter the degree of support given to the piles by the soil.

In many cases, it will be necessary to designate only the adjacent area and not the whole width of the street. A distinction should be made between areas appropriate for excavations no deeper than 1.2 metres, and areas where further restrictions are needed if an excavation is deeper.

**Cuttings and embankments**

Areas adjacent to cuttings and embankments should be designated if excavation could

lead to slides or slips of the soil, or could affect special construction features such as earth reinforcement systems or lightweight fills. The whole width of street, or specific areas similar to those for retaining walls, may be designated

**Isolated structures**

Examples of isolated structures include high-mast lighting columns and large sign gantry supports. Where excavation could affect stability, areas immediately around the supports should be designated, again distinguishing between excavations up to 1.2 metres deep and those that are deeper.

**Subways and tunnels at shallow depth**

Areas immediately above subways and tunnels and adjacent areas may be designated.

**Tramway tracks in the street**

Areas occupied by the tracks and immediately adjacent areas may be designated. Additional protection to the appropriate authority is also given in section 93 of NRSWA. See also 12.3.

**Culverts**

The area of the street immediately above a culvert may be designated where the structural integrity of the pipe or channel could be adversely affected by works.

Therefore, a reinforced concrete pipe or box culvert would not justify designation, but a masonry or steel culvert could be considered if the depth of cover is shallow.

**Undertaker's apparatus**

Designation may be required only in exceptional circumstances, such as electricity

pylons adjacent to the carriageway, or the presence of critical operational apparatus, for example, communications or signalling cables for transport operators like Network Rail or London Underground. In most cases, the safety and security of apparatus is adequately covered by sections 69 or 89 of NRSWA.

**Pipelines**

Some types of government and private sector oil or gas pipelines, and similar structures which traverse the street, may justify designation.

**Engineering problems**

Streets may be designated if they pose extraordinary engineering problems in the event of excavation - for example, a road, which might have been constructed using a

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continuously reinforced concrete slab or geo-textiles and is founded on very poor soil, such as a peat bog.

**5.3.3 Designation on request**

A street authority may be asked to designate a street as having special engineering difficulties by:

∙ a transport authority, on the grounds of the proximity of the street to one of its structures

∙ an undertaker having apparatus in the street.

The street authority must consider any request carefully. It may then make the designation, with or without modifications, or decide not to do so. The street authority should consider the arguments for and against the proposed designation carefully and should always act reasonably in coming to its decision.

If the street authority declines the requested designation, the transport authority or undertaker may appeal to the Secretary of State.

**5.3.4 Practical considerations**

Designations should not be made as a matter of policy wherever there is a bridge or structure that is likely to be affected by street works. Each case should be considered on its merits. Street authorities and owners of structures should re-examine these designations periodically and withdraw any that are unnecessary in the light of other

safeguards in NRSWA or other legislation. **5.3.5 Cellars**

It is not practical for the street authority to identify all cellars under footways and carriageways, and to decide whether they justify an SED designation.

Owners of cellars must notify the highway authority under section 180 of the Highways Act 1980, if they wish to carry out works. The highway authority will in turn notify interested undertakers before work begins.

Street authorities and undertakers wishing to carry out work in areas where they know, or might reasonably be expected to know, of the existence of cellars should notify the cellar owners or frontagers when they intend to carry out:

∙ excavations close to cellars, or

∙ extensive excavations which will impinge upon cellars.

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**5.3.6 Policy guidance**

The street authority is responsible for designating sections of streets with SED, maintaining a list of such designations, and creating the appropriate ASD record - subject of course to the provisos in 4.3.1. However, it is important that:

∙ the owner of the structure informs the street authority of its existence so that it can be considered for designation

∙ the key relationship to ensure that adequate precautions are taken, is that between an undertaker proposing street works and the owner of the structure.

For this mechanism to work effectively, it is essential that:

∙ the street authority, undertakers, bridge authorities and other owners of relevant structures consult and co-operate on the designation, and withdrawal of designation, of sections of streets with SED

∙ on receipt of formal notices covering sections of street with SED, the street authority

ensures that the necessary actions are in hand

∙ arrangements for handling immediate works on sections of streets with SED are

agreed between undertakers and the owners of structures

∙ there are early discussions between undertakers and the owners of the structures

concerned in the cases of planned major works and provision of new supplies. **5.4 Traffic Sensitive Streets**

**5.4.1 Background**

Under section 64 of NRSWA a street authority may designate certain streets (or parts of streets) as "traffic-sensitive" if they meet the criteria set out below, or by agreement with the majority of undertakers known to have apparatus in the street concerned.

This designation highlights that works in these situations are likely to be particularly disruptive to other road users, but it does not necessarily prevent occupation during

traffic-sensitive times. Even if a street meets one of the criteria, it does not mean that a designation has to be made - each case should be dealt with on its merits.

Depending on circumstances, designation may apply to the carriageway only, or to a footway or pedestrian area only, to part of a length of street, and to certain times of day, days of the week, or days of the year.

Once a designation is made it applies to all works taking place in the street. Highway authorities and undertakers should not work in the carriageway of traffic-sensitive streets at sensitive times unless there is no alternative.

**5.4.2 The criteria for designation**

To encourage works outside the traffic-sensitive period street authorities should not make a designation for any period longer than is strictly necessary.

One or more of the following criteria should apply before a street authority may designate a street as traffic-sensitive:

(a) The street is one on which, at any time, the street authority estimates traffic flow to

be greater than 500 vehicles per hour, per lane of carriageway, excluding bus or cycle lanes.

(b) The street is a single carriageway two-way road, the carriageway of which, is less 32

than 6.5 metres wide, having a total traffic flow in both directions of not less than 600 vehicles per hour.

(c) The street falls within a congestion charges area.

(d) Traffic flow contains more than 25% heavy commercial vehicles. (e) The street carries more than eight buses an hour.

(f) The street is designated for pre-salting, by the street authority as part of its programme of winter maintenance.

(g) The street is within 100 metres of a critical signalised junction, gyratory or roundabout system.

(h) The street, or that part of a street that, has a pedestrian flow rate in both directions

at any time, of at least 1,300 persons per hour, per metre width of footway.

(i) The street is on a tourist route or within an area where international, national, or significant major local events take place.

**5.5 Procedure for making designations**

Before making any designation, the street authority shall give a notice which: ∙ specifies a period, of not less than one month, when objections may be made; and

∙ for designations of streets as traffic-sensitive, identifies the criteria that are met.

To:

∙ every undertaker known to the street authority to be working in its area, and every undertaker that has given the authority notice of its intention to start working in its area

∙ every other local authority for the street to which the proposed designation relates ∙ Transport for London, where the street is in Greater London

∙ the chief officer of police, chief executive of fire and rescue authority, the chief

executive of the National Health Service ambulance trust

∙ Passenger Transport Executives and other transport authorities, such as light rail operators

∙ any person who has submitted a written request to be given notice of a proposed designation. This may include other street authorities eg Highways Agency or Network Rail.

∙ for the designation of streets as protected, the occupiers of properties fronting the street concerned

In addition, when it is proposed to designate a street as protected, the occupiers of any property that fronts the street concerned should be given a copy too. The above list is

not definitive and there may be other bodies that could be consulted before making a designation, for instance neighbouring authorities, local groups. Authorities may also

wish to publish proposed designations in local newspapers.

In the case of traffic sensitive streets, the notice must identify the criteria that means

the street merits designation and it would be sensible to include the rationale.

If the street authority does not receive any objections within the specified period, or if all objections have been withdrawn, the authority may make the designation.

If there are outstanding objections at the end of the consultation period, the street 33

authority must give them careful consideration. In the case of a proposed designation of a street as protected, a local inquiry should be held and its report considered alongside the objections. It may then make the designation, with or without modifications, or decide not to do so. The street authority should carefully consider the arguments for and against the proposed designation and should act reasonably in

coming to its decision.

When a designation is made, the highway authority shall notify the NSG Concessionaire.

**5.6 Procedure for withdrawing designations**

It is recommended that the street authority reviews its designations periodically.

Any person entitled to a notice under the designation procedure, or any other person the street authority considers to have sufficient interest, may make representations to the street authority to withdraw the designation. The street authority should carefully consider the arguments for and against the proposed withdrawal of designation and shall act reasonably in coming to its decision.

A street authority can withdraw a designation at any time, subject to the following provisions for SED designation:

(a) If the original designation was made at the request of a transport authority or undertaker, no withdrawal shall take place without prior consultation with them.

(b) If the original designation was made following a direction by the Secretary of State, no withdrawal shall take place without his consent.

Where a withdrawal is made, the highway authority shall submit the relevant ASD to the NSG Concessionaire as soon as possible, or within one month.

**5.7 Other Features of the Street (Structures, Environmental Areas etc)**

**5.7.1 Features**

Many features of a street can affect the planning and co-ordination of street works.

These may be subject to restrictions imposed by legislation other than NRSWA. To

enable best practice, information about such features may be held as Additional Street Data in the NSG. Data capture codes have been defined for the following features:

**Environmentally sensitive areas**

These include such areas as Sites of Special Scientific Interest and Ancient Monuments. The Special Designation Description indicates the type of sensitive area.

**Structures** (not designated as being of Special Engineering Difficulty)

Work near various structures in the highway warrants extra care, even if the structures

are not designated as being of Special Engineering Difficulty. The guidelines in Appendix D should be followed. The Special Designation Description indicates the type

of structure.

**Special surfaces**

These include, but are not restricted to, such surfaces as porous asphalt, tactile and coloured surfaces. The Special Designation Description indicates the type of surface.

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**Pipelines**

Government and private sector oil or gas pipelines.

**Priority lanes**

These include cycle routes and bus lanes. The Special Designation Description indicates the type of priority lane.

**Level crossing precautionary areas**

The Special Designation Description indicates the extent of the Precautionary Area. When works are proposed within the Precautionary Area, extra safety measures

required by the rail operator must be applied. See chapter 12 and Appendix C.

**Special construction needs**

This description indicates the extent and type of special construction and could include such sites as geo-textile mats and areas where sulphate-resistant concrete is required.

**Parking bays and restrictions**

The Special Designation Description indicates streets with parking meters, residents’ parking bays, parking restrictions such as red routes and other permanent restrictions.

This will alert works promoters to plan any necessary action such as applying to the local authority to have parking suspended.

**Pedestrian crossings and traffic signals**

The Special Designation Description indicates streets which have signal-controlled pedestrian crossings and permanent traffic signals.

**Speed limits**

The Special Designation Description indicates the speed limit appropriate to the street.

**Transport authority critical apparatus**

This is apparatus used, or owned, by a Transport Authority that is critical to the operations of the Transport Authority and if damaged or interrupted could disrupt or temporarily stop services; for instance damage to high voltage cables supplying power to a rail network would cause its closure and severe inconvenience to their passengers.

**Special events**

There may be streets where special events, either one-off events (eg Tour de France in London) or regular events (eg annual street fairs or parades) take place. The highway authority may wish to highlight such events in additional street data so works promoters can consider how to adjust the timing of planned works to avoid any conflict with the

event or in the run up to the event. This can be done through the use of Type 23 record.

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**6. RESTRICTIONS**

**6.1 Introduction**

Some people believe that road works take place without any thought given to minimising disruption to residents and road users. It may appear as if roads have been dug up repeatedly by different bodies with no apparent co-ordination, or within months of resurfacing.

To address this, provisions have been made in NRSWA to allow authorities to restrict

works in all or part of a street following:

∙ Substantial Road Works (Section 58) and,

∙ Substantial Street Works (Section 58A)

Restrictions apply only to the length of the street on which such substantial road or

street works have been carried out.

The street authority may decide not to exercise its powers under section 58 or section 58A.

**6.2 Substantial Works - Definitions**

**6.2.1 Substantial Road Works**

Substantial Road Works are works for road purposes affecting any of the carriageway, footway, footpaths, cycle tracks or bridleways and include resurfacing, reconstruction, widening or alteration of the level of the street. It includes specialist non-skid surface dressing.

Substantial Road Works extend at least 30 metres continuously and: ∙ reduce the width of a footpath or cycle track by more than two-thirds or

∙ prohibit the use of the carriageway by vehicles or

∙ reduce the width of the carriageway by more than one-third.

**6.2.2 Substantial Street Works**

Substantial Street Works means Major Works as defined in 7.5.2.

**6.3 Creating a Restriction**

**6.3.1. Creating a restriction under section 58**

A street authority wishing to impose a restriction following Substantial Road Works should a minimum of three months in advance of the works:

(a) Publish a notice on the authority's web site, stating the extent and nature of the proposed works and the proposed start date.

(b) Copy it to:

∙ any sewer, transport or bridge authority with an interest in the street

∙ anyone who has given advance notice

∙ anyone with apparatus in the street

∙ anyone who has registered an interest in that street

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∙ occupiers of premises which have a frontage onto the part of the highway to which the proposed restriction relates.

∙ Under section 58(3) failure to do so does not affect the validity of the restriction imposed by the notice.

(c) Place a copy of the notice on the register.

(d) Place a copy on any central registers.

Copies of notices should be given electronically by EToN or by post, where appropriate. Authorities may also wish to publish proposed restrictions in local newspapers.

The undertaker must respond within 20 days under Regulation 9(3) with details of any works in their schedules of works, or of which they may be aware, at any time until the

proposed end of the restriction period. To meet the original timescales for the substantial road works, the street authority may decide to allow these street works to be carried out in accordance with the early start procedure as set out in 8.3.9 or may issue directions under section 56 to reflect the programme discussed and agreed with undertakers. If a number of works are to be completed before the substantial road

works take place the road works may be delayed and consequently the start date of the

restriction. It would be helpful, if undertakers were informed of the change. There is a

facility on EToN to do so.

If the road works have not started within six months of the proposed start date, or within six months of the completion of any undertakers’ works that were carried out as a result

of the notice, the notice ceases to be valid. A restriction will not be created and the process would need to be repeated.

Once the substantial road works are completed, the street authority should give a further non-statutory notice to the parties mentioned above stating that the works have been completed and that the restriction is in force. This action should be prompted by the highway authority’s own Works Closed Notice. Once the restriction is in force,

street works may only be undertaken in the street as detailed in 6.5. **6.3.2 Creating a restriction under section 58A**

On receipt of a notice under section 54 of NRSWA, a street authority wishing to impose a restriction following Substantial Street Works should:

(a) Identify other works that it already knows about that should also be completed before the restriction comes into force.

(b) Publish a notice of its intention to create a restriction on its website, giving at least

20 days notice of its intention to create a restriction. The notice must describe the proposed works and give the date when they are proposed to start; state the duration of the proposed restriction and the part of the highway it will affect; and require any other undertakers proposing works who have not given notice, to do so within the 20-day period or the period specified in the notice.

(c) Copy the notice to:

∙ any sewer, transport or bridge authority with an interest in the street ∙ anyone who has given advance notice of intended works

∙ anyone with apparatus in the street

∙ anyone who has registered an interest in that street

∙ the occupiers of any premises which have a frontage onto the street in question. 37

(d) Place a copy of the notice on the register.

(e) Place a copy on any central registers.

Copies of notices should be given electronically or by post, where appropriate. Authorities may also wish to publish proposed restrictions in local newspapers.

Works promoters must reply to such notice received from street authorities within the 20 days notice period.

At the end of this period, the street authority will know of the proposals of the first works promoter; of any works promoter who gave notice in response to the street authority’s notice; and of any other works promoter who has co-incidentally given notice of its

intention to work in that part of the highway.

By way of co-ordinating those works, the street authority may now give directions stating when each of those works may begin. Street authorities should do this as

quickly as possible.

No other works promoter may now begin any works (other than exempted works or works to which an authority has given consent see 6.5.3) in that part of the street until all the works referred to in the last paragraph have been completed.

After the end of the notice period and before all the works have been completed, the street authority may give a direction imposing the restriction by publishing on the website. It must copy the direction to all the parties to whom it gave its original notice and place a copy on the register.

**6.3.3 Revocation of a restriction under section 58A**

A restriction may be revoked at any time. The procedures for doing so follow the same

principles as those outlined in 9.4. There are no powers to vary a restriction under section 58A

**6.4 Duration of Restrictions**

**6.4.1 Duration of restrictions**

Durations of restrictions depend upon the type of works carried out and the impact they have on the travelling public and the local neighbourhood. Longer restrictions will apply where streets, or parts of streets, have been newly constructed, reconstructed or resurfaced, as set out in Table 6.1.

| **Table 6.1: Maximum durations of restrictions** | | |
| --- | --- | --- |
| Works type | Category of carriageway in street | |
|  | Traffic-sensitive or  reinstatement category 0, 1    or 2 | Reinstatement  category 3 or 4 |
| 1: Reconstructed | 5 years | 5 years |
| 2: Resurfaced with or without level change | 3 years | 3 years |
| 3: Other substantial road or street works | 1 year | 6 months |
| Combination of 1 or 2 plus 3 | Higher of figures | Higher of figures |
| Customer connections | 20 days | |

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| ***Definitions used:***    *Reconstruction is the removal and replacement of some or all of the various layers that make up a road pavement. It is used to strengthen the road pavement.*  *Resurfacing is the removal of the running surface and its replacement to restore surface integrity*    *and skid resistance.*  *“Other substantial road or street works” refers to the effects of substantial street works and*    *substantial road works, such as drainage provision, which leave similar reinstatements to those after undertakers’ works.* |
| --- |

**6.5 Works during a Restriction**

Works may be carried out during a restriction if the works either fall within the categories of exempt works or have the consent of the street authority.

**6.5.1 Exempt works and reduced restrictions**

Works which are exempt or subject to reduced restrictions are:

∙ minor works that do not involve breaking up or excavating in the highway ∙ immediate works

∙ customer connections (see 6.5.2)

∙ works to comply with either an improvement notice or prohibition notice issued by the Health and Safety Executive under sections 21 or 22 of the Health and Safety at Work, etc Act 1974

∙ works carried out under regulation 16(3)(b) of the Gas Safety (Installation and Use) Regulations 1998

∙ works carried out to comply with a programme approved under regulation 13A of the Pipelines Safety Regulations 1996 (SI1996/825, as amended by SI2003/2563) that could not have been identified before the restriction began.

The normal noticing rules appropriate to the works concerned must be followed (note also 8.4.2).

**6.5.2 Customer connections**

If an undertaker receives a request for a new customer connection after the period for

response to a section 58 or section 58A notice of restriction, and it is not possible to carry out the necessary works before the restriction comes into force - then an embargo

on carrying out those works will apply for 20 working days (date restriction begins plus 19 days) immediately following the completion of the substantial street or road works, as indicated in Table 6.1.

Before issuing the appropriate notice the undertaker must contact the street authority to discuss its proposals and the extent of the works in the street. The notice must contain

the information discussed, the fact that it is a customer connection, and the name of the street authority officer who has confirmed the proposal.

It is expected that the minimum works will be carried out to provide the connection but

it should be recognised that in some circumstances, extra work may be required to

minimise disturbance to the restricted surfaces. 39

**6.5.3 Other works during a restriction**

If the proposed works do not fall within one of the exempt categories, then the works may be carried out, but only with the street authority’s consent.

An application for consent should be made, in writing, specifying, in addition to the standard street works information, the grounds upon which consent is sought. Once

consent is granted, notice must be given as normal. The street authority should

respond to an application for consent within 20 days of receipt. The undertaker cannot start work without receiving the consent of the street authority. Consent should not be unreasonably withheld. If the street authority refuses consent and the undertaker considers this unreasonable, the matter may be settled by arbitration.

The exemptions described in 6.5.1 exemplify the balance that must be achieved if the co-ordination aspects of the legislation are to be successful. In considering applications for consent from works promoters, street authorities must take account of the needs of the promoter’s customers. Equally, works promoters must recognise the needs of road users and the need to ensure best value for money in highway

expenditure. The key test is whether the undertaker could reasonably have foreseen the eventuality during the notice period and/or could reasonably be required to

postpone the work until the end of the restriction.

Undertakers should do their utmost to give details of their plans for works in affected streets as early as possible within the notice periods, and to complete their works before any specified starting date or in accordance with directions. Nevertheless, if works overrun, or have to be carried out after the specified date, it would be sensible from the point of view of road users for these street works to be accommodated before completion of the substantial works concerned.

**6.6 Policy Guidance**

The appropriate use of restrictions will not only protect streets where notice is served, but should also encourage highway authorities and undertakers to plan and amend their programmes in a way which minimises inconvenience for the public.

If a street authority wants to prevent works occurring in a newly constructed or improved road, it should use the powers available under section 61 of NRSWA, to designate the road as a protected street from the date of its opening to traffic.

A restriction under section 58 or section 58A cannot be made, if substantial works have started without a notice under section 58 or section 58A having been given. However, even if works promoters are not aware of a restriction, they are strongly recommended to approach the authority to establish whether a restriction is in force, when a street, in which it is proposed to carry out works, has been newly constructed, recently reconstructed or resurfaced. Works promoters should not assume that they can automatically break open that street. It may be that the ASD entry has not yet been posted or that a particular works promoter was not sent the relevant notice under section 58 or section 58A and there may be a restriction in force.

If having received a notice, the authority realises that there is a restriction in place then

they should advise the works promoter of this fact as soon as possible. **6.7 Dispute Resolution**

Disagreement between the works promoter and the street authority should be resolved by means of the dispute resolution procedures set out in Chapter 13.

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**7 WORKS CLASSIFICATION**

**7.1 Works Promoters**

A works promoter can be either an ‘undertaker’ or an ‘authority’.

**7.1.1 Undertakers**

An ‘undertaker’ - as defined in section 48 (4) of NRSWA - refers to:

(a) a person with a statutory right to keep apparatus in the street and to carry out necessary works; or

(b) a holder of a street works licence.

**7.1.2 Authorities**

A ’street authority’ - as defined in section 49 (1) of NRSWA - is either: (a) the highway authority for a maintainable highway or

(b) the street managers of a private or non-publicly maintainable street.

‘Other authority’ - as defined in sections 88, 89 and 91 of NRSWA - is a sewer, bridge or transport authority.

**7.2 Street Works Licences**

A street authority may grant a street works licence. This allows a person without a statutory right, to place, retain and remove apparatus in the street, and to do work necessary for that purpose. The licence system is governed by section 50 of, and Schedule 3, to NRSWA.

**7.2.1 Notice requirements**

The street authority must give at least ten days notice to undertakers and others likely

to be affected before issuing a licence.

The licensee must give the street authority notice of the proposed start date before beginning work, following the same notice periods as for other street works. See section 7.5.1. The street authority should remind the licensee of this requirement and to whom it should copy such notifications.

**7.2.2 Record keeping**

A street authority must keep a record of all street works, and apparatus installed, under licences it has granted. Details of licences must be included in the street works register.

**7.2.3 Obligations on licensee**

The street authority should inform the licensee and the licensee’s agent, where applicable, of its obligations under NRSWA, regarding:

∙ safety, signing, lighting and guarding

∙ qualifications of operatives and supervisors

∙ delays and obstructions

∙ other undertakers' apparatus

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∙ reinstatement

∙ records of apparatus; and

∙ the needs of people with disabilities.

The street authority should also inform the licensee:

∙ of the restrictions on streets subject to special controls

∙ of relevant section 58 and 58A notices

∙ that it may direct working times and recover its inspection costs. The licensee should also be made aware of the requirements of section 74 of NRSWA.

Reinstatement specifications and guarantee periods will be the same as those for other street works undertakers.

The licence can include many of the matters above as conditions of consent. **7.3 Registerable Works**

**7.3.1 Description of Registerable Works**

Registerable works include:

∙ street works - work on plant and apparatus in the street by undertakers, and noticed by them under section 54, section 55 or section 57 of NRSWA

∙ works for road purposes - maintenance and improvement works to the road itself carried out by, or on behalf of, the highway authority; and

∙ major highway works.

A detailed description can be found in the Technical Specification for EToN. **7.3.2 Registerable Works**

All works covered in 7.3.4 have to be registered. The street authority shall record works notified by undertakers in accordance with the regulations and Chapter 8 of this Code. Works, which are not notified in this way, are unlikely to be picked up by the street authority. It follows that only those works, which are notifiable, will in fact be registerable. Although the definitions are different legally, to all intents and purposes they are the same thing in practice.

NRSWA does not require local authority road works to be notified in the same way,

although they do need to be registered. It is strongly recommended that the same process is used.

**7.3.3 Network Management Duties**

The street authority’s network management duties require it to hold information on the

works and activities carried out on its street network. Registering road works is the first

and most important step to achieving that.

**7.3.4 Included and Excluded Works**

Works promoters must register, or notice, all works that:

(a) Involve the breaking up or resurfacing any street, (see below for pole testing and coring involving excavation).

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(b) Involve opening the carriageway or cycleway of traffic-sensitive streets at traffic sensitive times.

(c) Require any form of temporary traffic control as defined in the Code of Practice for

Safety at Street Works and Road Works.

(d) Reduce the lanes available on a carriageway of three or more lanes.

(e) Require a temporary traffic regulation order or notice, or the suspension of pedestrian facilities.

(f) Require a reduction in the width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time

Works promoters do not need to register the following works in advance however, where reinstatement is carried out it must be registered within 10 days of completion.

∙ traffic census surveys - because disclosure prior to a census can encourage a change in normal traffic flows

∙ pole testing involving excavation - does not require registration in advance, unless one or more of rules (b) - (f) above, apply.

∙ core holes - not exceeding 150 mm in diameter do not require registration in advance, unless one or more of rules (b) - (f) above, apply.

∙ road markings - that are not part of a larger set of works and do not reduce the width of the carriageway, as they do not involve breaking up of the highway

If a street authority gives prior written agreement to a works promoter, small excavations may not need to be registered in advance, unless one or more of rules (b) - (f) above, apply. For this purpose small excavations are defined as those associated with existing apparatus and that do not exceed 150 mm distance from the building line and are no larger than150 mm.

The statutory requirements for signing, lighting and guarding of all of the above activities, as well as the requirements for the legal parking of any associated vehicles, must be complied with at all times.

**7.3.5 Bar holes**

Bar holes are used to detect and monitor gas leaks. Bar holes can also be used in the

electricity industry to detect faults. Those which require no further street works, such as a reported gas leak with none detected should be registered within ten days of final monitoring checks. For registration purposes, bar holes count as a single excavation and reinstatement.

An immediate (eg emergency) notice must be sent within two hours of the start of any other registerable street works (ie excavation, or activities defined in 7.3.4) associated with the bar holes. For registration purposes, these bar holes will not count as further

excavations and reinstatements.

All bar holes must be reinstated and registered when works on site are complete. **7.4 Street Authority Works for Road Purposes**

**7.4.1 General information**

Section 53 of NRSWA requires an authority to place information about its own works on the street works register and this should be done in similar timescales to undertakers.

The Regulations specify that this applies to works that involve

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∙ breaking up any part of the highway

∙ opening the carriageway of traffic sensitive streets at traffic sensitive times or

∙ reducing the width of the carriageway by one or more lanes, or by more than one third where there are no lanes.

Therefore works equivalent to those carried out by undertakers will be registered, as set out in 7.3.4. Registration identifies responsibility for the works and underlines the importance of advance notification. This is essential for planning and co-ordinating works so that they limit both disturbance of the road structure and disruption to users.

In effect, highway, transport and bridge authorities are giving notice of their proposals to all other parties. They should therefore use the protocols in the Technical Specification for EToN for notices for this purpose. In general, these works will use similar classification criteria as those for street works.

Registration is not required for road markings and similar works that do not involve breaking up or reduce the width of the carriageway.

**7.4.2 Street lighting**

The definition of works for road purposes may include some works carried out by undertakers, such as street lighting. It is for works promoters to ensure such works are notified or registered, as appropriate. Responsibility for new connection works to the street authority asset resides with the street authority.

Fault repairs and works carried out for any other authority, such as District or Parish Councils, are not works for road purposes. They should be treated as street works and

must follow the normal procedures.

**7.5 Categorisation of Works**

Works are categorised by duration, except for immediate works, which are not time specific.

**7.5.1 Notice periods**

| **Table 7.1. Minimum notice periods** | | | |
| --- | --- | --- | --- |
| Works category | s 54 | s 55 | s 57 |
| Major | 3 months | 10 days | n/a |
| Standard | n/a | 10 days | n/a |
| Minor | n/a | 3 days | n/a |
| Immediate -– Urgent | n/a | 2 hours after | n/a |
| Immediate -– Emergency | n/a | n/a | 2 hours after |

Whenever possible, longer notice should be given. Undertakers should contact the

street authority early in their planning cycle so that they are aware of any directions or restrictions that may affect works.

Where a section 55 notice is still valid for the works concerned, a further section 55

notice cannot be given for the same works. See 8.2.2.

An assessment tool, which identifies works likely to cause significant disruption, can be found in 12.7 and Appendix G.

**7.5.2 Major works**

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**Definition**

Major works:

∙ have been identified in an undertaker’s annual operating programme or, are normally planned or known about at least six months in advance of the proposed start date

∙ require a temporary traffic order (not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any works other than immediate works. See section

12.1 or

∙ have a planned duration of 11 days or more, other than immediate works.

**Notice periods**

Under Regulations undertakers are required to give three months notice of major works (section 54) and a 10-day notice of starting date (Section 55).

**7.5.3 Standard works**

**Definition**

Standard works are works, other than immediate or major works, with a planned duration of between four and ten days inclusive.

**Notice periods**

Standard works require a 10-day notice of starting date (section 55). **7.5.4 Minor works**

**Definition**

Minor works are works, other than immediate or major works, with a planned duration of three days or less.

**Notice periods**

The notice requirement for minor works is a three-day notice of starting date (section 55).

**7.5.5 Immediate works**

**Definition**

Immediate works are either:

∙ emergency works, which are defined in section 52 of NRSWA, are works required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property. The term includes works that do not fall within that definition but which cannot be severed from those that do. An example is street

works away from an emergency site that are necessary to shut off or divert a supply. Remedial works to dangerous, defective reinstatements are classed as emergency works (see 7.6.1) or

∙ urgent works as defined in the Regulations as street works:

(a) (not being emergency works) whose execution is required (or which the person responsible for the works believes, on reasonable grounds, to be required):

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

(ii) to avoid substantial loss to the undertaker in relation to an existing service 45

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 appropriate notice period; and

(b) includes works that cannot reasonably be severed from such works.

**The notice requirement**

Immediate notices must be given as soon as reasonably practicable and, in any event, within two hours of the works starting. Where immediate works are identified and undertaken outside the normal working day the notice should be given within two hours of the start of the next working day, ie by 10:00. Some authorities may be able to respond to notices outside the normal working hours and would expect immediate notices to be given. These hours should be set out in the authority's operational district data (ODD).

Urgent works require a section 55 notice; emergency works require a section 57 notice.

Notices of Immediate Works must explain why they fall within the definition.

**Burden of proof**

If a street authority disputes whether works, or part of works, is immediate, the

undertaker must demonstrate conclusively that it is. Elements of work, which could be subject to the normal notice period, cannot be included in the ‘immediate’ category.

**Severable works**

The definition of emergency works in section 52 of NRSWA provides that items of work which “cannot be reasonably severed” from the emergency works are regarded as part of them. The same test applies to urgent works.

Works which can be “reasonably severed” from the immediate works must therefore be regarded as separate works and classified as appropriate.

Typically, immediate works consist only of a repair to end the emergency, or restore the service, and complete the necessary reinstatement. Subsequent works to provide a permanent solution are “severed” and subject to a separate notice.

If the undertaker leaves site after dealing with the immediate problem, including carrying out an interim reinstatement and closing down the site, and returns later for

further works - it is clear that these are “severed”. However, even where works are

continuous, the later stages are not necessarily part of the immediate works.

See 2.9.1 for notices and phasing where immediate works are followed by subsequent works.

**7.6 Remedial Works**

**7.6.1 Definition**

Remedial works correct defects identified in accordance with the *Code of Practice for Inspections and regulations*.

The type of notice for these works (sections 55 or 57, and all section 74 notices) will depend on whether they can also be categorised as major, standard or minor works. They should use the original works promoter reference number. Those remedial works to remedy dangerous defects will, of course, be categorised as immediate works.

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**The procedures below outline how an undertaker notifies a street authority of remedial works. They do not affect the power of the street authority to remove a**

**danger arising from a defective reinstatement.**

**7.6.2 Noticing requirements**

The noticing requirements for remedial work to an interim or a permanent reinstatement are the same as those for all other types of street works.

To assist co-ordination, the notice should use the original works reference number. If the original works notices cannot be found, a new works reference number will be needed, highlighting that these are remedial works. A section 54 notice is not

necessary for remedial works.

Under section 72(3) of NRSWA, an authority can require remedial works to be carried out within a period of not less than seven days or such other periods as may be

prescribed.

If the undertaker discovers the necessity for remedial works the following action should be taken:

∙ if the reinstatement is dangerous, the undertaker should take the necessary action

and inform the street authority by way of a section 57 notice or

∙ for all other remedial work, the undertaker should agree the works and timings with

the highway authority, before notifying the street authority, (see section 2.8).

The undertaker is encouraged to make the interim reinstatement of the original works permanent while carrying out remedial works.

If the street authority discovers the necessity for the remedial works the actions set out in the *Code of Practice for Inspections* should be followed.

All the other notices that are required for works will also be required for remedial works. **7.6.3 Purpose of the notices**

The purpose of the notice is two-fold. It enables the street authority to co-ordinate the

work and allows it to inspect the works in progress and on completion.

This paragraph should be read alongside the requirements of section 72 of NRSWA and the Inspections Regulations and Code of Practice for Inspections.

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**8. NOTICE REQUIREMENTS AND VALIDITY**

**8.1 Introduction**

This chapter describes the various notice requirements of NRSWA. For the purposes

of this Code of Practice, works include highway works and street works.

The notice system performs at least seven functions:

∙ it is a vital component of the co-ordination process

∙ it enables emergency notices, which can prompt the emergency procedures of other organisations

∙ it triggers the inspection regime

∙ it forms the basis of records for reinstatement guarantee purposes ∙ it records who has worked at a particular location

∙ it facilitates charging regimes; and

∙ it is an essential element of the street authority’s responsibility for keeping a register.

The term “notification” includes notices, notifications, registrations of reinstatement, directions, responses, and cancellations.

An undertaker starting work in a new area should advise the street authority of its DfT code (sometimes referred to as the DETR code) and operational district (see the

Technical Specification for EToN), at least 20 days before serving the first notification and would be advised to check the street works Register. However, it may be helpful to new undertakers in an area, if the authority brought to their attention any restrictions or designations.

Others proposing to carry out work for the first time may not be aware of the requirements of the legislation and this Code. They are likely to contact the local

authority. All such contacts should be referred to the authority’s Traffic Manager (appointed under section 17 of the TMA) or street works manager, as appropriate. However, it is recognised that most other activities on the highway are controlled by other statutory provisions that may not include the giving of notices.

In accordance with the principles outlined in section 7.3.4, Works for road purposes need to be registered, and street authorities should consider providing notices in a similar form to those required for street works.

**8.2 Notice Types**

NRSWA provides for different types of street works notice:

**8.2.1 Advance notice (section 54)**

Major works, require an advance notice under section 54 of NRSWA as amended by section 49 of the TMA. To promote co-ordination, the notice must include all available

information about works in that street, including an estimated end date and a cross

reference to any project of which the works are part. Details can be found in the Technical Specification for EToN.

**8.2.2 Notice of starting date (section 55)**

Undertakers shall notify the street authority of all registerable street works in 48

accordance with section 55 of NRSWA - including major works for which a section 54 notice has already been submitted. The notice must include all available information about works in that street, including an estimated end date, and be cross-referenced to any project of which the works are part. Details can be found in the Technical

Specification for EToN.

This prevents works being split into smaller units requiring a shorter notice period. No notice is required for works that do not involve breaking up the street or tunnelling or

boring (for undertakers this would be mainly openings), in the following circumstances: ∙ in a street that is not designated as traffic sensitive

∙ in the footway of a traffic sensitive street at any time or

∙ in the carriageway of a traffic sensitive street outside traffic sensitive times.

Within the notice period, the undertaker must indicate whether he intends to work outside the normal working day (see section 98 (2) of NRSWA) or working days. This information will be used by the street authority in respect of its powers under section 56 to direct when works may take place. This provision does not prevent an undertaker

working at weekends or at night if the works require it once they have commenced, provided that the undertaker advises the authority of the need and reasons for doing so.

**8.2.3 Immediate works notice (sections 55 or 57)**

An immediate works notice is:

(a) In emergency works - a notice under section 57 of NRSWA or

(b) In the case of urgent works - a notice indicating start of works under section 55 of NRSWA.

Immediate works notices may be given as soon as reasonably practicable and, in any

event, within two hours of the works starting. If the authority to whom an undertaker is obliged to give such notice does not have arrangements for receiving and responding to notices ‘out of hours’ (any period between 16:30 and 08:00 the following day), the undertaker shall have complied with his obligation if he serves a notice by 10.00 on the

following day.

**8.2.4 Actual Start (Sections 74 (5B) and 74 (5C))**

The validity period, covered in 8.4, means that works do not have to start on the date proposed in the section 55 notice. Therefore, notification of the actual start date is required to begin the prescribed or reasonable period. Works may not begin before the date given in a Notice of Proposed Street Works, unless an early start date has been agreed.

Once works begin, a Notice of Actual Start must be given by the end of the next working day. In the case of immediate works, the notice given under section 57, for emergency works, or section 55, for urgent works, shall be deemed to be the Actual Start Date notice. This is because it can be given up to two hours after the works have commenced.

A notice of Actual Start must be given in accordance with the requirements described in the Technical Specification for EToN.

The identity of the main contractor or, if appropriate the Direct Labour Organisation 49

("DLO"), must be provided on the actual start date notice. This should always be the organisation with whom the undertaker has the contract, and not any subcontractor

who may be actually carrying out the works.

**8.2.5 Challenge to Duration Estimate**

A highway authority may dispute a duration estimate, in a section 54, 55, 57 or 74 notice, or a revised duration estimate if they do not consider the proposed duration is reasonable. It can give the undertaker its own estimate and reasoning using a Duration

Challenge Notice (section 74 (4) of the Act). See Technical Specification for EToN.

The Duration Challenge Notice must be sent within two days of receipt of the Duration Estimate for minor or immediate works and within five days for major or standard works. If the highway authority does not challenge the proposed period within the

above timescale, it becomes the reasonable period by default.

If the undertaker does not accept the challenge of duration it must notify the highway authority within two days, using a non-statutory duration challenge non-acceptance of notice. See Technical Specification for EToN. If the discussions, or dispute resolution procedures, lead to a duration estimate different from that in the highway authority’s

duration challenge, the undertaker must issue a Revised Duration Estimate.

If on resolving the matter mutually or through arbitration, the end date or duration of works has changed, the undertaker should issue another notice of proposed works with the agreed revised timescales. This should not be challenged. The records should be altered manually if it is too late to issue another notice.

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**8.2.6 Revised Duration Estimate Formatted:** Font color: Auto

Unforeseen circumstances can delay the completion of works, so the undertaker may give a Notice of Revised Duration Estimate at any time before the estimated end date. Such estimates should provide full justification for the extension. If the highway

authority wishes to challenge a revised duration estimate, they must respond within two day of receipt of the request regardless of the category of works, using the procedure set out in 8.2.5.

**8.2.7 Works Clear (Section 74 (5C))**

A works clear notice is used following interim reinstatement. The Notice of Works Clear must be given by the end of the working day following the one on which the works were clear. There may be multiple works clear notices in works of more than one phase. The completion of an interim reinstatement does not mark the end of that phase, as all spoil, excess materials, stores, signing, lighting and guarding must be removed from

site before the works can be regarded as completed for a works clear notice.

**8.2.8 Works Closed (Section 74 (5C))**

A works closed notice is used following permanent reinstatement. The Notice of Works

Closed must be given by the end of the working day following the one on which the works were closed.

All spoil, excess materials, stores, signing, lighting and guarding must be removed from

site before the works can be regarded as completed for a works closed notice.

If temporary road markings have been used, the works are not complete until the

permanent markings are applied. The works duration should also cover this period. 50

**8.2.9 Duty to maintain apparatus**

See Section 12.2

**8.2.10 Diversionary Works**

Under section 84 of NRSWA a highway, bridge or transport authority should inform undertakers of major highway, bridge or transport works. Details of the procedure can be found in the *Code of Practice for Diversionary Works*.

**8.2.11 Notice of completion of reinstatement**

Section 70 of NRSWA requires an undertaker to notify a street authority within ten days of completing a reinstatement. The notice must state whether the reinstatement is interim or permanent. It must also contain the following:

∙ NGRs either

(a) one in the centre of small excavations or

(b) one at each end of trenches

∙ the dimensions of each and every reinstatement

∙ the date the site was reinstated, which is the start date for the guarantee period ∙ the reinstatement construction method for all the reinstatements carried out.

The notice could also include the following:

∙ the number of inspections units

∙ an illustration, which may be a plan, sketch or digital photograph, may also be provided.

**8.2.12 Time for completion of permanent reinstatements**

An undertaker must complete the permanent reinstatement as soon as reasonably practicable, and in any event within six months of the completion of the interim reinstatement. A further notice must be given as above within ten days of completion of permanent reinstatement.

A further set of notices are required to complete works from interim to permanent

reinstatement stage. These must start with a new section 55 notice of proposed start

date, but must use the same works reference as that used for the first phase of works

to interim reinstatement stage. This ensures continuity of notices through the whole life cycle of the works. The works promoter must ensure that the notice to register the

interim reinstatement has been given before attempting to give notice of works to complete the permanent reinstatement. The EToN system will not accept a section 55 notice for permanent reinstatement before the interim reinstatement has been

registered. There is a similar requirement for remedial works.

**8.3 General Rules Applying to all Notices**

**8.3.1 Method of giving notices**

Notices may be given electronically or in paper form and must comply with the

requirements set out in the Technical Specification for EToN. For this purpose only, a

notice given by fax is regarded as a paper notice and must comply with the conditions set out in that specification. Paper notices are subject to a registration fee in accordance with *The Street Works (Registration Fees) (Regulations) 1999, SI 1999,*

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*No. 1048.*

The regulations include a sunrise provision of April 2009 for all statutory undertakers and street authorities to move to an all-electronic noticing system that conforms to the Technical Specification for EToN.

Other activity promoters, such as those operating under section 50 of NRSWA, will be encouraged to move to an electronic system within five years of the publication of this Code. Authorities may wish to provide facilities to allow on-line provision of information by those operating under section 50. After this, paper notices ie by fax, post or hand delivery will be allowed only if the electronic process is unavailable.

Recipients of certain notices or copies of notices, eg transport authorities or frontagers, are unlikely to have access to EToN and therefore notices will have to be given either by e-mail or more likely by post.

**8.3.2 Content of notices**

The definitive format and content of notices is given in the Technical Specification for EToN, and all notices must comply. Anyone using paper systems must take particular

care to code notices appropriately.

The description of works should be in plain English without any industry specific jargon. A standard description used consistently, with added text for exceptions, allows quicker analysis. This would result in clearer information and help street authorities to co ordinate works.

For instance standard descriptions and durations might be:

∙ Standard descriptions – for example, ‘250m lay main 300PE’, or ’700m lay duct 6­ way’ and,

∙ Standard durations – in days, for each activity.

Undertakers and highway authorities are encouraged to agree standard descriptions locally that can be used by all works promoters.

Agreed standard durations for routine jobs would help focus co-ordination on those works likely to be of greater impact, such as those in busy streets or works that need extending.

**8.3.3 Duration of Works**

All notices should estimate start and end dates so that the duration can be calculated.

For section 74 purposes the estimated duration of works is measured from the start date to the end date given in the notice of actual start. However, the actual duration used to assess whether works have overrun - is measured from the notice of Actual

Start to the completion of all activities in that phase of works, including any necessary reinstatement. See 8.2.4, 8.2.7 and 8.2.9.

Interim and permanent reinstatements are separate phases (see 2.9). The period

between these cannot be considered as an overrun provided the site has been properly cleared. All spoil, excess materials, stores and all signing, lighting and guarding should

be removed from site before works can be regarded as finished.

Further works to complete the reinstatement, for example the replacement of road 52

markings where delay is permitted by the specification, should be a separate phase. **8.3.4 Days and working days**

Unless stated otherwise, in this Code “day” means “working day”, which is defined in

section 98(2) of NRSWA, as any day except weekends and public and bank holidays. The working day is assumed to be 08:00 to 16:30. Any notice received after 16:30 on any day is deemed to have been given on the next working day.

The time of 16:30 is significant only for calculating notice periods. It does not mark the

“end” of the day for any other purposes.

The estimated start and end dates given in notifications can be working or non-working days. Promoters should specify the actual dates on which they intend to start and end the works in order to assist co-ordination. Authorities may or may not allow works to be carried out on non-working days (and outside normal working hours) depending on local circumstances.

**8.3.5 Service of notices**

The notice period starts when the recipient receives the notice, not when it is sent.

Notices should be served on the street managers of private streets, which are public highways. A copy should be sent to the highway authority for registration.

With electronic transfer receipt is normally almost instantaneous and it is assumed a notice has been received at the time it was given, unless there is evidence to the

contrary. It is good practice to set up audit trails, to demonstrate proof of writing, and systems to record delivery.

A new EToN system based on XML web services has been implemented in conjunction

with the publication of this Code and the Regulations (see the Technical Specification

for EToN). Statutory undertakers and local authorities may provide a different address

for specific type of notice. It should be noted that electronic transfer of inspections data

will continue to use EToN 3.0 for the time being.

Where, after three attempts to give a notice by EToN (duly recorded by the person

serving the notice), the notice cannot be given (for example because the distant server

is down), notification should be given by telephone or fax for immediate works with formal EToN notice following as soon as reasonably practicable. For other notices, the notice may be given by other electronic means (eg e-mail or fax) or may be sent by post or delivered or by any other method agreed. Following recovery of service a copy of the notice should then be sent through EToN to ensure information on the works are correctly recorded in the register. See Technical Specification for EToN

It is recommended that street authorities include in their ASD alternative means for serving notices should the XML web server be unavailable. These may include e-mail addresses, or fax and phone numbers, or postal and delivery addresses, as

appropriate. Statutory undertakers may wish to provide alternative addresses to use should EToN be unavailable in their ODD submissions.

If notices are sent by fax, it is assumed that a notice has been received when the transmitting equipment records satisfactory completion of the transmission.

It is not guaranteed that notices sent by first-class mail will be received the following

day. Promoters should take this into account.

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**8.3.6 A Notice shall contain only one street**

Each notice shall contain information about works in only one street. However, works may be part of a larger project and cross-referencing all the notices related to one

project would be useful for co-ordination.

**8.3.7 Phases**

Where the notice relates to work that may be completed in phases, the estimated end date is the estimated date of the end of that phase. A new notice will be required to start the next phase. However, each phase is part of the same works, and the protocols in the Technical Specification for EToN should be followed.

**8.3.8 Notices to interested parties**

Some notices have to be served on other interested parties as do any responses to them. The ASD, associated with the NSG, makes it clear where this applies. Electronic systems working with the Technical Specification for EToN should deal with this automatically. Interested parties without access to these systems should be sent

paper notices.

**8.3.9 Early starts**

Works must not start before the expiry of the notice period, except where an early start has been agreed with the street authority and any other interested parties. For

instance, there may be works that while not meeting the criteria for immediate works, would be better carried out sooner rather than later to prevent damage, eg. water leaks. It is needed or to allow new customer connections to be made.

All early starts are subject to the agreement of the street authority; permission should

not be refused unreasonably.

Early starts may be requested by works promoter before, or after a section 54 or section 55 notices have been given.

When an early start is known to be required before a first initial notice is given street authorities may request either of the following procedures;

(a) Agreed date: the works promoter contacts the street authority to agree an early start. Once agreed the works promoter then submits a notice within 1 day to secure that slot. The notice will include any requested details or an agreed early start

reference. The slot is only secured once the notice with the agreement is received; or

(b) Proposed date: the works promoter submits a notice with the proposed start and finish dates required, and the comment field requests an early start and explains

the reasons. The authority can consider the request and, reject it, agree it by

returning a comment, or seek additional information. It is recommended that the works promoter contacts the street authority after submitting the initial notice to discuss the early start.

When an early start has been agreed after the giving of the initial notice the promoter shall include on the next notice:

∙ the early start date and the new proposed end date

∙ reasons for the early start and

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∙ the name of the person granting permission or an agreed early start reference.

**8.3.10 Protected streets**

Consent to place apparatus in protected streets is required by section 61 of NRSWA. This must be obtained before giving the statutory notice, so that there will be no need to cancel the notice if the works are not approved.

**8.3.11 Trench sharing**

With trench sharing, the primary promoter should take overall responsibility as the agreed point of contact with the street authority. The secondary promoter(s) should retain the same responsibility for submitting notices, in accordance with NRSWA, indicating work carried out by them or on their behalf. For example, the primary promoter will excavate the trench and install its apparatus. The secondary promoter will then install its apparatus. Finally, the primary promoter will backfill the trench and reinstate it, unless it has been agreed that one of the secondary promoters will do it.

Only those notices submitted by the primary promoter are required to show the estimated inspection units attributable to the street works. The primary promoter must, in the initial notice, detail the other promoters involved and the scope of trench sharing,

in the Works Description text. All other promoters should submit the correct notices

and clearly mark, that “trench sharing is involved” within the Works Description text. The secondary promoter’s notice will indicate only the laying of apparatus.

The primary promoter must also ensure that estimates of works duration are agreed and/or confirmed with the secondary promoter(s) when submitting notices to comply with section 74 charging requirements.

**8.3.12 Streets with special engineering difficulty (SED)**

In addition to giving statutory notice of works, promoters must comply with the

provisions of Schedule 4 to NRSWA before work starts, including submitting and

agreeing the plan and section of works with the relevant authorities (for example where appropriate the transport authority, as well as the street authority) at the appropriate times.

The requirements of schedule 4 override those of section 54 so it may be necessary to

cancel a section 54 notice if SED approval is not forthcoming.

To avoid delaying works, promoters should allow enough time to obtain SED approval. **8.3.13 Road closures and portable light signals**

In addition to the above notices, road closures, portable light signals, or other measures required under the Road Traffic Regulation Act 1984 must comply with regulations6. See 12.1.

Sufficient time must be allowed before works start for the processes to be completed, and the closure or other restriction to be put into place during the validity period of the statutory notice. Additionally, undertakers should make it clear on notices that such requirements have been met or at least applied for.

**8.3.14 Frontagers**

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*The Road Traffic (Temporary Restrictions) Procedure Regulations 1992 SI 1992 No. 1215* 55

The highway authority is generally the first point of contact for complaints. The

promoter should give advance information to frontagers about disruption to services

and any restrictions on access, along with details of any mitigating action.

Any publicity should be copied to the highway authority.

Other users of the street should also be aware of what is proposed and the intended

duration of the works. Local Authority websites can be useful (see 3.6.1), but courtesy

notice boards are required at the site to inform motorists and passers by. These notice boards must comply with regulations7 and the *Safety at Street Works and Road Works Code of Practice*.

**8.3.15 Private or non-publicly maintainable streets**

For works in a private street, undertakers must copy notices served on the street managers to the street authority. They should also inform the frontagers. It is recommended that this is followed up by, or combined with, a formal letter giving the intended start date and explaining that the notification periods for publicly maintainable streets are applied to private streets. The impact on traffic can be calculated using the assessment tool in chapter 12 and Appendix G. Other impacts, such as restrictions on access and loss of parking, can also be assessed.

**8.3.16 Error correction**

Where an authority identifies an error in data recorded, or submitted for recording, in the street works register, it should contact the works promoter to discuss and agree the corrections.

Where the promoter identifies an error the recipient should be contacted to discuss and agree corrections. It is strongly recommended that the originator of an error should submit a non-statutory correction notice the next working day following agreement of

the correction. This notice should include the corrected data and the name of the person in the recipient organisation who agreed the correction. The error correction process is described in the Technical Specification for EToN.

This procedure cannot be used without the prior agreement of both parties. Its purpose is simply to ensure that the information recorded in the register is correct and useful to the street authority in carrying out its co-ordination duties. The system has been set up so that the error correction sits alongside the original notice information rather than overwriting it.

**8.4 Notice Validity**

**8.4.1 Where advance notice has been given**

An advance notice (under section 54) must specify a provisional starting date. When the subsequent notice of proposed works (under section 55) is given, it must specify a start date, which is:

∙ no earlier than three months after the date on which the advance notice is given, unless an early start has been agreed (see 8.3.9) or

∙ no later than 15 days beginning with the starting date given in the advance notice. A local authority may allow a further period of validity.

7 *Traffic Signs Regulations and General Directions 2002 SI 2001 No. 3113* and *Safety at Street Works and Road Works - A Code of Practice (ISBN 0 11 551958 0)*

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If the section 55 notice is not given as above then the provisions outlined in 8.4.4 come into force.

**8.4.2 Notice of proposed start date**

The works may not start earlier than the expiry of the notice period, except with the

agreement of the street authority to an early start, see 8.3.9. However, the notice remains valid for the following time periods and therefore the works may start:

∙ in the case of a ten-day notice - no later than five days from and including the

provisional starting date specified in the notice

∙ in the case of a three-day notice - before the end of the day after the provisional starting date specified in the notice.

These may be such further periods as the local authority may allow.

If the works have not started within these periods, the notice becomes invalid and a new notice of proposed start date should be given, unless the street authority agrees to extend the period.

A new advance notice is not required, providing that there is still time left within the validity period on the section 54 notice to give another section 55 notice; otherwise a new advance notice will be required.

**8.4.3 Immediate notices**

The issue of notice validity does not arise in the case of immediate notices because the

works will have already started by the time the notice is issued.

**8.4.4 Notification of change**

After giving a section 54(1) Advance Notice of Major works or section 55(1) Notice of Starting Date (any works), a works promoter may need to cancel, defer or postpone the works or bring the start date forward. Works promoters need to inform highway

authorities of such changes through advance notices at the earliest possible opportunity.

If the works are to be re-scheduled within the validity period of the existing notice, then

no further notice is required, prior to giving the notice of Actual Start.

If the works is to be re-scheduled and the revised timing would contravene the statutory

notice or validity period of the existing notices, a new notice must be served giving the revised dates. If these dates give insufficient time for the full notice period to be given for the new notice, then the authority’s agreement to an early start must be obtained before submission of the new notice.

If the works is to be cancelled permanently, or at least there is no current plan to re schedule it, the works should be cancelled. If the first phase of a works is cancelled,

then the works reference cannot be re-used.

The second or subsequent phases of works (notified following completion of the first/previous phase) can only be deferred or postponed. It is still necessary to cancel a section 55(1) Notice if a re-scheduled date is not known. Therefore, the works reference number must be used for later notices following a cancellation under these circumstances.

The associated notice requirements are described in the Technical Specification for 57

EToN. All notices must include an explanation for the change and information on any future plans.

**Advance notification of changes**

To aid coordination and to minimise abortive effort, it is essential that works promoters inform the authority concerned as soon as possible of plans to re-schedule the dates of works, by giving the appropriate notice as follows:

(a) If Major works are postponed, the undertaker should give a replacement 54(1) notice or an initial or replacement section 55(1) notice as follows, depending on the timing and the extent of the delay:

∙ If the new proposed start date is within the current section 54(1) validity period, this is notified on the initial section 55(1) notice, or a further section 55(1) notice. No prior agreement is necessary, provided the section 55(1) notice is given within the appropriate notice period.

∙ If the new proposed start date is outside the validity period of the current 54(1) notice, but the new date does not allow a full 3 months notice to be provided, then either:

i. a further section 54(1) notice should be given, but the authority’s agreement to an early start must be obtained before submission

of the new notice; or

ii. where the original date is deferred by a few days, an initial or further section 55(1) notice may be given, but only if prior

agreement to extend the section s54(1) validity period is

obtained.

∙ If the new proposed start date is outside the validity period of the current 54(1) notice, and the new date allows a full 3 months notice to be provided, then a further section 54(1) notice should be given, and no prior agreement is necessary.

(b) If Standard or Minor works are deferred, the works promoter should give a replacement section 55(1) notice with the re-scheduled dates as follows:

∙ If a full 10 days notice period (Standard) or 3 days notice period (Minor) is provided, then no prior agreement is necessary.

∙ If the new proposed start date does not allow for the prescribed notice period to be given on the new notice, prior agreement for an early start must be obtained.

(c) If the works promoter wishes to commence works before the proposed start date given in the section 54(1) notice or section 55(1) notice then agreement to an early start must be obtained and an initial or replacement section 55(1) notice given (see 8.3.9)

All the above processes are supported by the Technical Specification for EToN

**Statutory section 54 (4A) notices – major works**

If the requirement of section 54(4A) has not been fulfilled by means of a section 55(1) 58

notice of starting date, nor by means of Advanced notice of Changes as defined above,

the undertaker must cancel the works no later than the end of the next working day after the proposed start date given in the section 54(1) notice.

Note that where a replacement advance notice has been given then section 54(4A) requirements will apply to the revised starting date.

**Statutory section 55(8) notice**

If a section 55(1) notice has been given, and the works have not started within the validity period (5 days for Major and Standard works or 2 days for Minor works) then under section 55(8) a further notice must be sent to the authority providing additional

information on the reasons for the works not starting and if the work is intended to start, and when.

The section 55(8) requirements are met by giving a cancellation notice or, if the works

are still going ahead, by giving a replacement section 54(1) or section 55(1) notice as

described above. These notices shall be given no later than the end of the next working

day after the expiry of the validity of the section 55(1) notice in question.

| **Table 8.1: Notice validity periods** | | | | | |
| --- | --- | --- | --- | --- | --- |
|  | **Notice Periods** | | | **Notice Validity Periods** | |
|  | **S 54** | **S 55** | **S 57** | **S 54** | **S 55** |
| **Major** | 3  months | 10 days | n/a | 15 days | 5 days |
| **Standard** | n/a | 10 days | n/a | n/a | 5 days |
| **Minor** | n/a | 3 days | n/a | n/a | 2 days |
| **Immediate –**  **urgent** | n/a | 2 hours  after | n/a | n/a | n/a |
| **Immediate –**  **emergency** | n/a | n/a | 2 hours  after | n/a | n/a |

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**9. DIRECTIONS**

**9.1 Introduction**

This chapter covers the measures an authority can use to control works that it believes could cause serious traffic disruption.

Directions affect when and where an undertaker can carry out works in the street. NRSWA enables a street authority to serve two types of directions:

∙ Section 56 Directions – covering the times that works either proposed, or subsisting, can be carried out

∙ Section 56A Directions – covering restrictions on placing apparatus in the street.

NRSWA also enables an authority to reduce unnecessary delay or obstruction through a section 66 notice.

**9.2 Section 56 Directions**

Section 56 of NRSWA provides for a street authority to serve a direction on an

undertaker, setting out the dates and times during which proposed or subsisting works may be carried out.

**9.2.1 Proposed street works**

If an authority believes that major, standard or minor works, proposed via a section 54 or section 55 notice, will cause serious disruption, it can issue a section 56 direction

before works start. See constraints below.

The assessment tool outlined in 12.7 and Appendix G should be used to assess likely disruption.

**9.2.2 Subsisting street works**

Once works have started, the street authority may issue a direction under section 56(1A). See constraints below.

In the case of major, standard and minor works, the direction should be issued only if circumstances causing serious traffic disruption have arisen after the works have started.

A direction under section 56(1A) may be used for immediate works at any time, provided that it does not result in danger to life or property. This is because immediate works will have started before the street authority will have had the opportunity to assess the impact of the works and use its power, if necessary.

**9.2.3 Constraints**

A section 56 direction is subject to four constraints:

∙ it cannot affect the right of an undertaker to execute emergency works

∙ it can be used only where proposed street works are likely to cause serious traffic disruption that would be avoided or reduced if the works were carried out at other specific times

∙ it can be used only where subsisting street works are causing, or are likely to cause, serious traffic disruption that would be avoided or reduced if the works were carried

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out at other specific times; and

∙ a direction requiring street works to be executed out of normal hours should not be issued if it would cause the undertaker to breach noise abatement or prevention

legislation. The custodian of this legislation may be different from the street

authority. In two-tier authorities the District Council deals with environmental health requirements whilst the County Council deals with traffic.

Where it has directed works to be carried out at night, it is the street authority’s responsibility to reach agreement with Environmental Health Officers on any resultant noise issues.

**9.2.4 Dispute resolution**

Guidance on dispute resolution procedures can be found in chapter 13. **9.3 Section 56A directions**

Section 56A of NRSWA provides for a street authority to direct a works promoter not to

place apparatus in the street, if it thinks that apparatus will cause serious traffic disruption. The authority may suggest an alternative street, but may not direct that the

apparatus shall be laid in that alternative street.

**9.3.1 Constraints**

A section 56A direction is subject to three constraints:

∙ it applies only to new apparatus8

∙ it can be used only where disruption would be reduced by installing the apparatus in an alternative street

∙ it can be used only where it is reasonable to require the undertaker not to place the apparatus in the proposed street.

The second constraint applies only to the disruption caused by the initial installation of the apparatus - see section 56A(1)(a). The street authority cannot include likely

disruption over the life of the apparatus, such as that caused by maintenance visits.

The assessment tool outlined in chapter 12 and Appendix G of this Code enables a street authority to compare likely disruption for each option.

Constraint 3 is expressed in NRSWA as:

".*..placing the apparatus in [an alternative street] … would be a reasonable way of achieving the purpose for which the apparatus is to be placed; and … it is reasonable to require the undertaker not to place the apparatus in [the proposed street]..."*

The street authority can only judge how reasonable an alternative street is, after discussing the options with the undertaker. This discussion may lead the undertaker to modify its proposals, avoiding the need for a direction.

**9.3.2 Policy guidance**

Certain works are, by definition, not subject to direction under section 56A. These include maintenance works on existing apparatus and customer connections where

8 The Protected Street legislation (s 61of NRSWA and s16 and s21 of Highways Act 1980) should be considered if the street authority wishes to have existing plant moved.

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there is no suitable alternative route.

To avoid a section 56A direction, undertakers should discuss preferred routes for

apparatus with the street authority at the earliest opportunity in the design and planning process. It is therefore likely that this can be used only for major works.

**9.4 Revocation of Directions**

A street authority may revoke section 56A directions. It should inform the undertaker(s) via a revised section 56A notice – the Technical Specification for EToN explains how to

do this. When revising directions, the street authority should use the same considerations as those used for the original direction.

**9.5 Street Authority Responses**

The street authority must respond within the times set out in Table 9.1 to a notice of proposed start date if it intends to give a direction under section 56 or 56A. This does

not apply to a direction under section 56(1A).

A direction under section 56 or section 56A should be issued following receipt of a

section 54 notice and not any subsequent section 55 notice, unless there have been significant change in the meantime. A direction following a section 55 notice would normally only be given, if this was the first notification of the proposed works.

| **Table 9.1: Street authority response periods** | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Notice Periods** | | | **Response Times for s 56 and 56A directions**🟉 | | |
|  | **S 54** | **S 55** | **S 57** | **S 54** | **S 55** | **S 57** |
| **Major** | 3  months | 10 days | n/a | 1 month | 5 days | n/a |
| **Standard** | n/a | 10 days | n/a | n/a | 5 days | n/a |
| **Minor** | n/a | 3 days | n/a | n/a | 2 day | n/a |
| **Immediate -Urgent** | n/a | 2 hours  after | n/a | n/a | \* | n/a |
| **Immediate -**  **Emergency** | n/a | n/a | 2 hours  after | n/a | n/a | \* |
| \* Directions on immediate works may be given at any time before completion of the work.    🟉 The above response periods do not apply when the direction under section 56 is given    to allow street works to be completed before the introduction of a restriction under section 58. | | | | | | |

**9.6 Avoidance of Unnecessary Delay or Obstruction (section 66)**

Section 66 of NRSWA requires street works to be completed as quickly as possible.

If a street authority believes that an undertaker is causing an obstruction by occupying more of the street, or taking longer to complete the works, than is reasonable, it may issue a section 66 notice. This notice can direct the undertaker, either to reduce the

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obstruction or to remove it altogether. The undertaker must comply within 24 hours, or any longer period specified in the notice.

Good co-ordination should enable unavoidable obstructions and delays to be accommodated, without the need for section 66 notices.

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**10. CHARGING SCHEMES**

NRSWA, as amended by the Transport Act 2000 and the TMA, contains provision for two charging schemes:

∙ section 74A - charges for occupation of the highway; and

∙ section 74 - charges for unreasonably prolonged occupation of the highway. **10.1 Section 74A - Charges for Occupation of the Highway**

Section 74A requires undertakers to pay a daily charge for occupation of the highway. This is called ‘Lane Rental’.

Between March 2002 and March 2004, section 74A was piloted in Middlesbrough and

Camden. Both pilots were inconclusive and, for the time being, this provision will not be utilised.

**10.2 Section 74 - Charges for Unreasonably Prolonged Occupation of the Highway**

Section 74 of NRSWA allows highway authorities to charge undertakers if street works

are unreasonably prolonged (ie take longer than previously agreed).

The regulations, *The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) 2009* apply to every publicly maintainable highway, except:

∙ a footpath or bridleway

∙ a highway with a pedestrian planning order in force; and

∙ a highway where vehicular traffic is prohibited - unless that prohibition is restricted to particular times.

If the works take longer than either the “Prescribed Period” or the “Reasonable Period”, described later in this chapter, they become ‘unreasonably prolonged’ - and the highway authority may levy a charge for each day, or part of a day, in excess of the

prescribed or reasonable period.

**10.3 Exempt Works**

Section 74 charges cannot be levied against the following work, as long as it does not involve breaking up, tunnelling or boring under the street:

∙ works in non traffic-sensitive streets.

∙ works in the footway of traffic-sensitive streets, at traffic-sensitive times

∙ works in traffic-sensitive streets at non traffic-sensitive times

∙ replacing poles, lamps, columns or signs in the same location

∙ pole testing

In addition, charges may not be levied against:

∙ any small diameter holes of less than 30mm diameter created for investigatory purposes; for example bar holes.

∙ works carried out by, or on behalf of, a highway authority.

If works are exempt, the undertaker must record the appropriate charge exemption in the section 55 or section 57 and Works Clear/Closed notices.

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**10.4 Prescribed Period**

The “Prescribed Period” is the period during which no overrun charges can be levied. It has been set by the Secretary of State, in Regulations, at two days, starting on the day works begin.

The prescribed period does not relate to time required to carry out any particular type of

works. Therefore, it is not to be used to judge the duration of proposed works. **10.5 Reasonable Period**

A “Reasonable Period” is a period agreed between the undertaker and the highway authority, as reasonable for the street works in question. In default of agreement, it is

the period determined by arbitration to be reasonable.

The reasonable period should be agreed within two days of receipt of the notice of proposed minor or immediate works, or five days for major or standard works.

If the highway authority wants to challenge the proposed duration, they can do so by

giving written notice of its own estimated duration of works and reasons for the

challenge the undertaker may either accept this new estimate as the reasonable period, or start discussions with the street authority, by sending a non-statutory non acceptance duration challenge notice. See 8.2.6

If the works are prolonged due to reasonably unforeseen circumstances, such as

weather or ground conditions, the highway authority and undertaker should agree a revised duration. See 8.2.5.

**10.6 Duration of Works**

All notices should include estimated start and end dates so that the duration can be calculated.

For section 74 purposes, the estimated duration of works is measured from the start date to the end date given in the notice of actual start. However, the actual duration used to assess whether works have overrun - is measured from the notice of Actual Start to the completion of all activities in that phase of works, including any necessary

reinstatement. See 8.2.4.

Interim and permanent reinstatements are separate phases. See 2.8. The period between these cannot be considered as an overrun provided the site has been properly

cleared and fully returned to public use. In other words, all spoil, excess materials, stores, plant and equipment and all signs, lighting and guarding must be removed from site before works can be regarded as finished.

Further works to complete the reinstatement, for example the replacement of road markings where delay is permitted by the specification, should be indicated by using the appropriate phase type, such as “interim reinstatement”. This includes circumstances where other materials in the highway are permanent.

**10.7 Section 74 Notice Types**

| **Table 10.1: Notices for section 74** | |
| --- | --- |
| Actual Start (sections 74 (5B) and 74 (5C)) | See 8.2.4 |
| Revised Duration Estimate | See 8.2.5 |
| Challenge to Duration Estimate | See 8.2.6 \* |

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| Works Clear (section 74 (5C)) | See 8.2.7 |
| --- | --- |
| Works Closed (section 74 (5C)) | See 8.2.8 |
| \* *When challenging a duration estimate, highway authorities should provide the reason for the challenge* | |

**10.8 Informal Warning**

Highway authorities may wish to consider sending undertakers an informal warning where a works clear or works closed notice has not be received after the end date of

the works start notice. This warning could be automatically generated. A non statutory Informal Overrun Warning notice for this purpose is included in the Technical Specification for EToN.

**10.9 Charging Regime**

Charges vary according to the type of work, the road category and whether the street is traffic sensitive.

Road category is an indication of the importance of the street - 0 being the highest, 4

the lowest. Information about determining a road’s category can be found in the

*Specification for the Reinstatement of Openings in the Highway.* Roads carrying in excess of 125 million standard axels each year (the upper limit for category 0 roads) will be treated as category 0 roads for the purposes of overrun charges.

The road category, as given in the Additional Street Data, should be treated as definitive. If road categories have not been entered on the NSG, they will be treated as

category 4 for purposes of overrun charges. Highway authorities must therefore ensure that information on the NSG is up to date.

When working in an area that could be regarded as belonging to more than one street, charges should apply to the street with the highest road category. This is of particular significance when working at a junction.

In the plan below, Little Street is a category 4 road and Great North Road is a category

2 road. If an undertaker proposes works in the central area, marked in a herringbone pattern notice should be given against Great North Road. If Great North Road and Little Street are in different highway authorities the notice should be given against Great North Road but copied to the authority responsible for Little Street.

Great

North

Road

Little Little

Street Street

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The charges will be applied according to Table 10.2, which sets out the maximum

charge for each day that works overrun.

| **Table 10.2: Maximum daily charges** | | | | |
| --- | --- | --- | --- | --- |
|  | **Street having a road**  **category**  **other than 2, 3 or 4** | **Street of road category 2** | **Street of road category 3 or 4, (TS)** | **Street of road category 3 or 4 (not TS)** |
| **Major and**  **Standard**  **works** | £2,500 | £2,000 | £750 | £250 |
| **Minor and**  **Immediate**  **works** | £500 | £500 | £250 | £100 |

The table above sets out the maximum daily charges. The local authority has the power to use their discretion to either reduce or waive the charge in such circumstances that they deem appropriate.

The highway authority must set out the charge payable to the undertaker within three months of receipt of a works clear or works closed notice.

Some roads are only traffic-sensitive (TS) on certain days or at specific times of the

day. Overrunning works on streets that are TS on certain days will be charged at the non TS rates for days when the street is not TS and at TS rates when it is. If the street is only TS at specific times of day, overrunning works will be charged at the TS rate.

Both highway authorities and undertakers should take care to ensure that the facts

used for proposing or disputing charges are accurate, along with the works type and category of road. Where there is evidence that the dates given in notices were incorrect the charges should be based on the evidence. If incorrect information has been given in a notice, then the highway authority may issue an FPN, if the highway authority considers an offence has been committed.

**10.9.1 Mitigated charges following reinstatement**

In most circumstances, if the prescribed or reasonable period has ended and reinstatement (either interim or permanent) has been completed and noticed but the site has not been fully returned to public use (ie if spoil, excess materials, stores, plant

and equipment, signs, lighting or guarding has not been removed (see 10.6)), the undertaker will be liable for overrun charges.

If the highway authority discovers that an undertaker has endeavoured to clear the site and has left only a single sign or item of lighting or guarding in error after completing reinstatement, it is strongly recommended that they inform the undertaker the identity and location of the item. The undertaker will than have until the end of the next working day to remove the offending item and pay a nominal, one-off, charge of £100, regardless of the interval between reinstatement and full clearance of the site, as long as free movement of traffic along the highway is possible. This provides an alternative to paying the full charge where the undertaker has endeavoured to clear the site.

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| **Table 10.3: Mitigated Charge** | |
| --- | --- |
|  | **All street categories** |
| **Major,**  **Standard,**  **Minor and**  **Immediate**  **works** | £100 - one off charge |

If free movement of traffic is not possible, or the undertaker fails to clear the site by the end of the following working day they will be liable for the full overrun charges from the date the works were reinstated.

Examples of single signs or items of lighting or guarding that may attract a mitigated charge if left in error can be found on the pages entitled "Basic signs and equipment you will need" and "Some other signs you may need for which you should refer to your

supervisor" in the *Safety at Street Works and Road Works: A Code of Practice*. **10.10 Remedial Works**

Remedial works to rectify defective reinstatements shall be dealt with as new works, with their own duration estimate. Any overrun on remedial works will be charged at the

rate appropriate to the works category of the works that require remedial action. **10.11 Invoicing / Paying the Charge**

Undertakers may query either an overrun charge being levied or the level of an overrun charge. Therefore, it is recommended that highway authorities and undertakers

discuss overrun charges before an invoice is issued.

If an overrun charge is disputed, the dispute resolution procedure in chapter 13 should be followed before going to arbitration or the court.

The undertaker should set up payment facilities, giving contact details, and agree methods of payment with street authorities’ finance departments.

The main options for payment are:

∙ electronic payment using the Bankers Automated Clearing Services ("BACS") ∙ on-line, via the street authority web site (if available)

∙ by post

∙ in person or

∙ by telephone.

Remittance advice should be processed quickly and accurately.

Electronic payment methods are strongly encouraged. However, it is an undertaker’s responsibility to establish if its preferred payment method is accepted and the hours when payment can be made. If electronic payment is used a separate list explaining to which charges the payments relate to needs to be supplied.

The highway authority has to keep accounts of the charges that it levies. Money obtained through levying charges can be used to pay for the cost of running the overrun charging scheme. Any excess must be used to develop and implement safe, integrated, efficient and economic transport facilities and services.

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**11. FIXED PENALTY NOTICES**

**11.1 Introduction**

This chapter provides information about the Fixed Penalty Notice (FPN) scheme for street works.

The fixed penalty notice scheme is introduced by section 41 of the TMA, which inserted section 95A and schedules 4A and 4B into NRSWA. It provides for certain offences,

under Part 3 of NRSWA, to become fixed penalty offences.

The objectives of the FPN system are to:

∙ encourage accurate and timely notice data

∙ improve the co-ordination of works

∙ improve data quality for all works promoters

∙ contribute to the aim of the TMA - minimising disruption arising from road and street works.

Fixed penalty notices:

∙ apply to all undertakers, whether statutory undertakers or licensees under section 50

of NRSWA

∙ may be given only for the street, or section of street, in which the works take place ∙ cannot be given for street authority works for road purposes.

Part 3 of NRSWA details a range of statutory duties and obligations and the offences associated with failing to comply with them. All of these can be prosecuted in the

Magistrates' Court. It is for the street authority of the street concerned to take action on offences.

**11.2 Fixed Penalty Offences under Part 3 of NRSWA**

At present, seven offences, under Part 3 of NRSWA, can be dealt with by FPNs. However, the Secretary of State may make an order providing for offences to become (or cease to be) fixed penalty offences (subject to resolution of each House of Parliament).

The scheme does not seek to impose new obligations and the offences included in this fixed penalty notice scheme remain the same offences and require the same level of

evidence, whether they are dealt with by an FPN or through the Magistrates’ Courts. The intention is to improve observance of the duties and obligations under Part 3, and

thereby help reduce the disruption caused by street works.

An FPN offers an undertaker the opportunity to discharge any liability to conviction for a

fixed penalty offence, by payment of a penalty.

However, the street authority retains the power to take an alleged offender to the Magistrates' Courts, instead of giving an FPN.

These offences mainly refer to noticing failures. Therefore, payment of an FPN does not exempt an offender from other prosecutions or charges for offences under NRSWA.

It is important that accurate information is provided in notices given under section 54, 55 or 57, 70, 74 or 74A. Each set of works requires several notices, so it is possible

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that more than one FPN could be issued for each set of works. However, only one

FPN should be issued per notice regardless of the number of errors.

The table below summarises the duties and obligations to which the seven offences

relate. All parties are strongly recommended to consult NRSWA, the TMA and the latest regulations for more information. It is not possible to state either what constitutes an offence, as that is a matter for the Courts or the circumstances in which an FPN may

be challenged. Whether a particular case justifies giving an FPN or prosecution in the Magistrates’ Court would be for each authority to decide based on the facts of the case and their own independent legal advice.

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| **Table 11.1: Summary of duties and obligations** | | |
| --- | --- | --- |
| **Offence** | **Brief**  **description** | **Duties and obligations** |
| An offence  under s.54(5) | Failure to comply with duties under s.54 | In certain cases prescribed in regulations prescr bed periods of advance notice must be given to a street authority by an undertaker proposing to execute street    works.  Each notice must state the proposed start date on which it is proposed to begin the works and contain the information prescribed in regulations.  After giving **advance notice under section 54,** an undertaker must comply with the requirements prescr bed in regulations, or imposed by the street authority.    These concern the provision of information and procedural steps to co-ordinate    the works with other proposed works of any description.  If an undertaker who has given advance notice under section 54 has not, before    the starting date specified in the notice, given to the street authority a notice    under section 55 in respect of the works, he must within such period as may be    prescribed in regulations (Regulation 8(2)) give to that authority a notice containing prescribed information. |
| An offence  under s.55(5) | Beginning to  execute works in contravention of s.55 | In relation to certain types of street works an undertaker must give prescribed    periods of **advance notice** stating the proposed start date and containing    information prescribed in regulations.  This notice must be given to the street authority, to any other relevant authority,    and to any other person having apparatus in the street, which is likely to be affected by the works.  The undertaker must not begin the works without notice, or before the end of the    notice period, without the consent of those to whom notice is required to be given. |
| An offence  under s.55(9) | Failure to give    notice in  accordance with s.55(8) | If the **notice of starting date** ceases to have effect, the undertaker must give a further notice containing such information as may be prescribed in regulations and within the prescribed period.  This notice must be given to the same people as the notice of starting date (*see*    *above*). |
| An offence  under s.57(4) | Failure to give    notice in  accordance with s.57 | Where emergency works are of a kind which either do, or would, but for certain    provisions in Schedule 3A NRSWA, require a **notice of starting date** under section 55, an undertaker executing such works must give notice stating his intention or, as the case may be, the fact that he has begun to execute the    works.  The notice must also contain such other information as may be prescribed in    regulations.  The notice must be given as soon as reasonably practicable, and in any event    within two hours (or such other period as may be prescribed), to the persons to    whom a notice of starting date would be required to be given under section 55 (*see above*). |
| An offence  under s.70(6) consisting of a failure to  comply with subsection  (3) or (4A) | Failure to comply with  requirements to give notice of  completion of  reinstatement | Section 70(1) imposes a general duty on the undertaker to reinstate the street.  The undertaker must, within ten working days from the date on which the    reinstatement is completed, give notice to the street authority of that completion.    The notice must state whether the reinstatement is permanent or interim, and give such other information about the reinstatement as may be prescribed in regulations.  In the case of an interim reinstatement, the undertaker must within ten working days from the date on which the permanent reinstatement is completed, give    notice to the street authority of that completion. The notice must contain such    other information about the reinstatement as may be prescribed. |

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| An offence  created by  regulations  made under s.74(7B) | Failure to give a    notice required by regulations  under s.74  *(charge for*  *occupation of the highway where works*  *unreasonably*  *delayed*) | The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2001 create a criminal offence in respect of any failure to give a notice required by the regulations.  An undertaker executing street works in a highway, to which these regulations    apply must, not later than the end of the day following the day on which the works begin, give the highway authority an **“actual start of works notice”**.    This should confirm the actual start date and specify, by reference to the    nationally consistent street gazetteer, the street or streets, in which the works are to be carried out.  Once an undertaker has completed interim reinstatement, a written **“works clear notice”** must be given to the highway authority not later than the end of    the day following the day on which the highway was returned fully to public use.  An undertaker who has completed permanent reinstatement must give the highway authority a written **“works closed notice”** not later than the end of the day, following the day on which, the highway was returned fully to public use.    If the duration of the works will exceed the prescribed period, a notice shall be    given to the highway authority containing an estimate of the likely duration. The    estimated duration of works should:    ∙ for works for initial placing of the apparatus, be given with the application for a licence  ∙ for other works (not emergency) be given with the section 55 notice ∙ for emergency works be given as soon as practicable after the works begin.  This estimate is assumed to be agreed by the authority, unless it gives a written    notice to the undertaker written notice of its own estimate of a reasonable period    for the duration within five days (major or standard works) or two days (minor or    immediate works) of receiving the undertaker’s estimate.  If the duration of the works is exceeds the prescr bed period, or is likely to    exceed either the period stated in a previous estimate of duration or the period agreed or determined under section 74(2) to be a reasonable period, the undertaker shall give a notice in writing containing an estimate or a revised    estimate of duration. This estimate is assumed to be agreed by the authority, unless it gives a written notice to the undertaker of its own estimate of a    reasonable period for the duration within two days of receiving the undertaker’s estimate. |
| --- | --- | --- |
| An offence  created by  regulations  made under s.74A (11) | Failure to give a    notice required by regulations  under s.74 A    *(Charge*  *determined by*  *reference to*  *duration of*  *works*) | The Street Works (Charges for Occupation of the Highway) (England)    Regulations 2001 create a criminal offence in respect of any failure to give a    notice required by the regulations.  An undertaker executing street works in a highway, to which these regulations    apply, must, not later than the end of the day following the day on which the    works begin, give the approved highway authority an **“actual start of works**    **notice”.** This should confirm the start date and specify by reference to the nationally consistent street gazetteer, the street or streets in which the works are to be carried out.  Once an undertaker has completed interim reinstatement, a **‘works clear notice’** must be sent to the approved highway authority, not later than the end of    the day following the day on which the highway was returned fully to public use.  An undertaker who has completed permanent reinstatement must give the approved highway authority a written **’works closed notice’,** not later than the    end of the day following the day on which the highway was returned fully to    public use. |

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**11.3 Time Periods**

An FPN should be given as soon as is reasonably practicable. It may not be given more than

91 calendar days after the commission of the offence, beginning with the day of its commission.

It should be noted that all time periods, unless otherwise stated, are in working days.

The penalty is £120. The period for payment is 36 calendar days, beginning with the day on which the FPN is given. The street authority may extend this period at its discretion in any particular case.

A discounted amount of £80 will apply if payment is made within 29 calendar days, beginning

with the day on which the FPN is given. If the last day of the discounted period does not fall on

a working day, the discounted payment period is extended until the end of the next working day.

If the undertaker pays either the full penalty, or the discounted amount, within the required

period, no further proceedings can be taken for that offence. Once an FPN has been given,

proceedings for that offence cannot commence until the end of the period for payment.

If the undertaker does not pay the penalty within the 36 calendar days then the street authority

may bring proceedings in the Magistrates' Court for the original offence. A street authority should have sufficient time to collate its case and take action, within the six months deadline for bringing a case before the Magistrates' Court (section 127 of the Magistrates' Courts Act 1980)

– even if the FPN was not given for some time after the offence was committed. **11.4 Guidance for the Street Authority**

**11.4.1 Basic principles**

Street authorities are recommended to give FPNs where they have the most benefit. It should

apply the same due process for giving an FPN as it would in taking the undertaker to the

Magistrates' Court.

Good communication between the street authority and the undertaker is essential for timely and accurate notices, and efficient co-ordination of works.

An agent may deal with FPNs on behalf of the street authority. The authority remains responsible for ensuring that the powers under section 95A of NRSWA are used correctly and responsibly.

**11.4.2 The Fixed Penalty Notice**

The fixed penalty notice FPN must be given in the form prescribed in the regulations and included in Appendix H, Table H2.

The fixed penalty notice has two parts:

∙ Part A includes information about the street authority and the offence. ∙ Part B includes information about payment of the penalty. It also includes a table listing the

relevant offence codes, for use in Part A.

Guidance on completing the fixed penalty notice form: 73

The Street Authority may choose to incorporate its 4­

digit Data Capture Code

| \*  (\**Insert Street*  *Authority name*) | **FIXED PENALTY NOTICE**  **NEW ROADS AND STREET WORKS ACT 1991**  (Section 95A and Schedules 4A and 4B) | | | **FIXED**  **PENALTY**  **NOTICE**  Number:  **…………………** |
| --- | --- | --- | --- | --- |
| **PART A** | | | | |
| Contact Tel No. | | Works Ref No. \*  Street Authority No. \*  (\**To be left blank where the offence relates to works in respec of which no notice has been given*.) | | |
| **TO:** Undertakers are asked to provide, where possible, an electronic address as well as the postal address. If the undertaker fails to provide a postal address then the fixed penalty notice should be served in accordance with the options set out in the regulations | | | **E:**    **………………**      dd mm yy | |
| **ADDRESS:** | | | | |
| Insert relevant offence  **OFFENCE CODE** (*See Part B*) (***NB:*** *Only one offence code per fixed penalty notice*) **:**  code from Part B    **…………………** | | | | |
| **LOCATION:** Actual location of works | | | | |
| **DATE OF OFFENCE:** | | | | |
| **DETAILS OF OFFENCE :** This box needs to specify reasonable particulars of the circumstances    alleged to constitute the offence and should be expanded if required | | | | |
| **1.** I am giving you this notice, in accordance with section 95A of, and Schedule 4B to, the New Roads and Street Works Act 1991, to offer you the opportunity of discharging any liability to conviction for this fixed penalty offence by payment of a penalty.  **2.** This means that no legal proceedings will be commenced for the offence if, subject to paragraph 3, the penalty of **£120** is paid    (*See Part B for instructions on methods of payment*) within the period of **36** days beginning with the day on which this notice wa given. (***NB:*** *The street authority may extend this period in any particular case if they consider it appropriate to do so* (*See paragraph 4(3) of Schedule 4B*)).  **3.** Instead of paying the amount referred to in paragraph 2, liability to conviction for the offence may also be discharged if the discounted amount of **£80** is paid within the period of **29** days beginning with the day on which this notice was given. (***NB:*** *If th*    *last day of this period does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day* (*See paragraph 5(3) of Schedule 4B*)).  **4.** If the discounted amount is not paid within the period set out in paragraph 3, as extended where relevant, liability to convictio    for the offence may only be discharged thereafter by payment of the penalty of **£120** within the period set out in paragraph 2, as extended where considered appropriate. If you then fail to pay the penalty within that period, legal proceedings for the offence may be commenced against you.  **5.** Any representations that you wish to make in relation to this notice may be addressed to at identifying the    fixed penalty notice number stated above. | | | | |
| **NAME OF AUTHORISED OFFICER** (*in block capitals*)**:**  **………………………………………………………** | | | | |
| **DATE :**    **……………………**    These should be different officers. Representations in writing should be | | | | |

See section 11.6 for a fuller discussion

of the Representations process.

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made to either a named individual or department, but the authority should

provide full contact details.

This must match the number

given in Part A

| **PART B** | | |
| --- | --- | --- |
| \*  (\* *Insert Street*  *Authority name*) | **INSTRUCTIONS ON METHODS OF PAYMENT** | **FIXED**  **PENALTY**  **NOTICE**  Number:  …………………… |
| **ELECTRONICALLY**– by the Bankers Automated Clearing Services (BACS). Payment should be made to , Sort    Code , Account Number . Payment must be supported by the timely submission of a list of the fixed penalty    notice numbers covered by the payment and the amount being paid in relation to each number. | | |
|  | | |
| **“ON LINE” -** please visit our website at Insert 'N/A' if this payment method is | | |
|  | | |
| **BY POST**- by making your cheque payable to and sending it to . Payment must be    accompanied by a list of the fixed penalty notice numbers covered by the payment and the amount being paid in relation to each number. A receipt will be sent on request. | | |
|  | | |
| **IN PERSON** – to at between am and pm on any day on which the office is  open for business. Any cheque should be made payable to . Payment may be made by debit or credit card if the card is one that is accepted by the Street Authority in accordance with their standard procedures. Payment must be accompanied by a list of the fixed penalty notice numbers covered by the payment and the amount being paid in relation to each number. A receipt will be provided on request. | | |
|  | | |
| **BY TELEPHONE** – by contacting at on between am and pm on    any day on which the office is open for business. Payment may only be made by using a debit or credit card that is accepted by the Street Authority in accordance with their standard procedures. You must state the fixed penalty notice number of each notice in respect of which payment is being made and the amount being paid in relation to each number. A receipt will be sent on request. | | |
|  | | |
| **OTHER METHOD/S - \*** .  (\* *Insert details where applicable*.) | | |

| **OFFENCE CODES AND DESCRIPTION**  (By reference to the New Roads and Street Works Act 1991) | | |
| --- | --- | --- |
| **CODE** | **OFFENCE** | **BRIEF DESCRIPTION** |
| **01** | An offence under section 54(5). | Failure to comply with duties under s.54 (advance notice of certain works, etc.). |
| **02** | An offence under section 55(5). | Beginning to execute works in contravention of s.55 (notice of starting date). |
| **03** | An offence under section 55(9). | Failure to give notice in accordance with s.55(8) (notice to be give on s.55 notice ceasing to have effect). |
| **04** | An offence under section 57(4). | Failure to give notice in accordance with s.57 (notice of emergenc works). |
| **05** | An offence under section 70(6) consisting of a failure to comply with subsection (3) or (4A). | Failure to comply with requirements to give notice of completion    reinstatement. |
| **06** | An offence created by regulations made under section 74(7B). | Failure to give a notice required by regulations under s.74 (charge for occupation of the highway where works unreasonably delayed |
| **07** | An offence created by regulations made under section 74A(11). | Failure to give a notice required by regulations under s.74A (charg    determined by reference to duration of works). |

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**11.4.3 Giving the Fixed Penalty Notice**

FPNs can be processed more easily if they are given electronically. But other means of giving the fixed penalty notice are permitted.

If an undertaker wishes to receive FPNs by electronic means, it should tell the street

authority which method (eg EToN, e-mail or fax) and provide details of the EToN web

service URL or e-mail address or fax number to be used as appropriate. The EToN web service details should be provided in the ODD submission (see Technical

Specification for EToN). Where an address for service using a particular method for transmitting an electronic communication has been given for receipt of FPNs and the

street authority has not been notified that the address is withdrawn then an FPN must

be given by sending to that electronic address.

The street authority has to meet the three conditions set out in regulation 5(3) of the

Street Works (Fixed Penalty) (England) Regulations 2007 when giving an electronic FPN:

"*the fixed penalty notice shall be -*

*(i) capable of being accessed by the person to whom it is being sent; (ii) legible in all material respects; and*

*(iii) in a form which permits the notice to be retained for subsequent reference,*

*and for this purpose "legible in all material respects" means that the information contained in the notice is available to that person to no lesser extent than it would be if*

*given by means of a notice in printed form."*

An electronic FPN is deemed to be given on the day and at the time the transmitting apparatus records as being the day and time of satisfactory completion of the

transmission, unless the contrary is proved. This is subject to section 98(2) of NRSWA.

In all other circumstances, including system failures or if the street authority has tried

and failed to use electronic means the fixed penalty may be given by alternative methods such as:

∙ delivering it to the person to whom it is to be given

∙ leaving it at his proper address

∙ sending it by first class post to him at that address or

∙ by any other agreed means.

For service of a fixed penalty notice in these circumstances, the "proper address" is the postal address given by the undertaker to the street authority for those purposes, or, the registered or principal office of a corporation, or the last known address of such person.

Section 98(2) of NRSWA provides that a notice given after 16:30 on a working day is

deemed to have been given on the next working day.

The Technical Specification for EToN includes a non-mandatory message type for

sending an FPN using EToN.

**11.4.4 Withdrawing a fixed penalty notice**

If a street authority considers that an FPN ought not to have been given, they may give 76

a notice withdrawing the fixed penalty notice. If a notice withdrawing the FPN is given,

the authority shall repay any amount that has been paid by way of penalty, and

proceedings shall not be commenced or continued for that offence.

Guidance on completing the fixed penalty notice withdrawal form: is given below.

| \*  (\* *Insert Street*  *Authority name*) | **NOTICE WITHDRAWING FIXED PENALTY NOTICE**  This number must match  that given on the FPN form  **NEW ROADS AND STREET WORKS A**    (Section 95A and Schedules 4A and 4B) | **FIXED**  **PENALTY**  **NOTICE**  Number:  **…………………** |
| --- | --- | --- |
|  | | |
| **TAKE NOTICE** that the fixed penalty notice numbered as above is hereby **WITHDRAWN**. | | |
| **NAME OF AUTHORISED OFFICER** (*in block capitals*) **:**  **……………………………………………** | | |
| **DATE :**  **……………………………………………** | | |

**11.5 Guidance for Undertakers**

**11.5.1 Basic Principles**

An FPN provides the opportunity for an undertaker to discharge any liability to conviction for certain offences by payment of a fixed penalty. An FPN will be given to

the undertaker promoting the works and not to any contractor carrying them out.

Noticing and other procedures under Part 3 can be carried out by an agent, but the undertaker should inform the street authority if it wishes FPNs to be handled by the agent as well. The undertaker remains responsible for managing the process of

complying with its statutory duties and obligations under Part 3.

**11.5.2 Payment of the fixed penalty notice**

The undertaker should set up payment facilities, give contact details, and agree

methods of payment with street authorities’ finance departments.

The street authority should indicate all available methods of payment in part B of the

FPN form. The main options are:

∙ electronic payment using the Bankers Automated Clearing Services ("BACS")

∙ on-line, via the street authority web site (if available)

∙ by post

∙ in person or

∙ by telephone.

Payment must either be accompanied by a list of the relevant FPN numbers and the

amount being paid against each (discounted or full) or in the case of BACS payment

such a list should be provided separately. This applies, whichever form of payment is used

Remittance advice should be processed quickly and accurately.

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Electronic payment methods are strongly encouraged. However, it is an undertaker’s

responsibility to establish if its preferred payment method is accepted and the hours

when payment can be made.

**11.6 Representations**

It is strongly recommended that representations should be made as soon as is reasonably practicable.

Before making an official representation, the undertaker is advised to try to resolve the issue informally contact the officer who gave the FPN. If this fails then the undertaker should make a formal written representation to the officer, individual or department,

specified on the FPN as responsible for considering representations.

Street authorities should have a nominated official to consider all FPN representations

and should ensure that a fair and open system is in place to consider them.

The street authority may extend the full payment period while representations are being

considered. It is **NOT** able to extend the discounted payment period. **11.7 Application of Money by Street Authorities**

The street authority may deduct from the fixed penalties received under Schedule 4B to NRSWA, the reasonable costs of operating the scheme. The street authority shall apply the net proceeds to develop policies to promote and encourage safe, integrated, efficient and economic transport facilities and services, to, from and within its area.

Street authorities need to be able to demonstrate that the costs of running the FPN scheme are reasonable, and that the net proceeds, after deducting those costs, are being correctly applied. Accounts are prepared annually. Although separate accounts are not required for an FPN scheme, there should be an audit trail of income and

expenditure.

The FPN scheme is **NOT** intended as an additional source of income for street authorities. The street authority should therefore not expect any net proceeds.

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