

**2020 No. 122**

**HIGHWAYS, ENGLAND**

**The Street and Road Works (Amendments Relating to Electronic Communications) (England) Regulations 2020**

*Made - - - at 10.10 a.m. on 6th February 2020*

*Laid before Parliament at 2.00 p.m. on 6th February 2020*

*Coming into force - - 1st April 2020*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 58(1), 74, 97 and 104(1) and (3) of, and paragraph 2(2) of Schedule 3A to, the New Roads and Street Works Act 1991(a) and section 37(1), (6) to (8), (11) and (13) of the Traffic Management Act 2004(b).

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Street and Road Works (Amendments Relating to Electronic Communications) (England) Regulations 2020.

(2) These Regulations come into force on 1st April 2020.

**Amendments relating to service of documents: application and transitional provisions**

**2.**—(1) The amendments made by the following provisions apply only in respect of works falling within paragraph (3), (4) or (5)—

- (a) regulation 3(2)(a), (c), (3) to (5) and (7);
- (b) regulation 4;
- (c) regulation 5(2), (3), (8) and (9);
- (d) regulation 6(2)(e), (8), and (9).

(2) In this regulation, “works” means—

- (a) street works, or
- (b) works for road purposes within the meaning of section 86(2) of the New Roads and Street Works Act 1991.

(3) Works fall within this paragraph if the initial application for the works (see paragraph (7)) is made after 31st March 2020.

(4) Works fall within this paragraph if—

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- (a) 1991 c. 22. The 1991 Act was amended by section 256 of, and Schedule 31 to, the Transport Act 2000 (c. 38), sections 40, 49, 51, 52, 54 and 64 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18) and section 1 of, and Schedule 1 to, the Infrastructure Act 2015. Schedule 3A to the 1991 Act was inserted by paragraph 1 of Schedule 4 to the Traffic Management Act 2004.
  - (b) 2004 c. 18. Section 37(1) was amended by paragraphs 4 and 9(1) and (2)(a) of Schedule 10 to the Deregulation Act 2015 (c. 20).

(8) Where a notice of any kind cannot be given by another means of electronic communication in accordance with paragraph (4)(b), it may be given by any other means of service agreed between the person giving the notice and the recipient.

(9) In paragraphs (7) and (8), the reference to not being able to give a notice is a reference to not being able to give it after three attempts.

(10) A notice must refer to the provision of the 1991 Act under which it is given.

(11) Where a notice of a kind mentioned in paragraph (2) is successfully given by means of an interface which complies with the Department for Transport's Application Programming Interface (API) specification for planning and managing roadworks, published on 19th December 2019, version 1.12, as revised or re-issued from time to time, the requirement in paragraph (2) is deemed to be met in respect of that notice.

#### **Service of notices: other cases**

**6.—**(1) This regulation applies to—

- (a) notices given under Part 3 of the 1991 Act in respect of streets which are not maintainable highways;
- (b) notices given under section 103(2) of the 1991 Act;
- (c) copies of notices given pursuant to regulations 11(5) or 12(4) of or paragraph 3(c) of the Schedule to these Regulations.

(2) A notice may be given to a person by—

- (a) sending it to the person by means of an electronic communication, subject to paragraph (6),
- (b) handing it to the person,
- (c) leaving it at the person's proper address, or
- (d) sending it by post to the person at that address.

(3) The proper address of a person is—

- (a) in the case of a body corporate or its secretary or clerk, the address of the body's registered or principal office;
- (b) in the case of a partnership, a partner or person having the control or management of the partnership business, the address of the principal office of the partnership;
- (c) in any other case, the person's last known address.

(4) A notice to a body corporate may be given to the secretary or clerk of that body.

(5) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.

(6) A notice may be sent to a person by means of an electronic communication only if—

- (a) the person has indicated that the notice may be given by that means by being sent to a particular electronic address and in a particular electronic form, and
- (b) the notice is sent to that address in that form.

(7) A notice given by means of an electronic communication must be—

- (a) capable of being accessed by the recipient,
- (b) legible, and
- (c) in a form sufficiently permanent to be used for subsequent reference.

(8) A notice must refer to the provision of the 1991 Act or these Regulations under which it is given.”.

(4) In regulation 7—

- (a) in the heading for “Manner of service” substitute “Service”;
- (b) for “6(3) to (10)” substitute “5 or 6 (as the case may be)”.

- (a) every permit (consolidated so as to incorporate any variations of the permit);
- (b) every variation of a permit;
- (c) every variation and revocation of permit conditions;
- (d) every provisional advance authorisation;
- (e) every application for a permit;
- (f) every application for a variation of a permit;
- (g) every application for a provisional advance authorisation;
- (h) every refusal to grant a permit;
- (i) every refusal to grant a variation of a permit;
- (j) every refusal to grant a provisional advance authorisation;
- (k) every permit, provisional advance authorisation, variation of a permit and variation to permit conditions deemed to have been granted under regulation 16 of the Traffic Management Permit Scheme (England) Regulations 2007;
- (l) every permit revocation.

This is subject to subsection (5C) (also see subsection (5B) which sets out the circumstances in which subsection 5C) applies).

(2B) The Permit Authority shall also enter in the register each of the following so far as it relates to a specified street within that permit scheme—

- (a) every notice and consent given under section 58;
- (b) every notice given under regulation 6 of the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009;
- (c) every notice and direction given under Schedule 3A;
- (d) a description and location of activities for all plans and sections and descriptions of works submitted under paragraph 2(2), 3 or 5 of Schedule 4;
- (e) every notice given under Schedule 4;
- (f) every street works licence granted under section 50(1) (including details of conditions attached to such a licence and every assignment of the benefit of such a licence);
- (g) every notice given under section 70(3) or (4A);
- (h) all information given under section 80(2);
- (i) every notice given under regulation 6(3) of the Street Works (Sharing of Costs of Works) (England) Regulations 2000(a).

This is subject to subsection (5C) (also see subsection (5B) which sets out the circumstances in which subsection 5C) applies).

(2C) Two or more Permit Authorities may combine their registers.”;

(b) in subsection (3)—

- (i) for “authority” there were substituted “Permit Authority”;
- (ii) the sentence after paragraph (b) were omitted;

(c) after subsection (3) there were inserted—

“(3A) For the purposes of subsection (3), “restricted information” is—

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(a) S.I. 2000/3314.

- (6) A document may be sent to a person by means of an electronic communication only if—
  - (a) the person has indicated that the document may be given by that means by being sent to a particular electronic address and in a particular electronic form, and
  - (b) the document is sent to that address in that form.
- (7) A document given by means of an electronic communication must be—
  - (a) capable of being accessed by the recipient,
  - (b) legible, and
  - (c) in a form sufficiently permanent to be used for subsequent reference.”.
- (9) Omit Schedules 1 and 2.

**Amendments to the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009**

**6.—**(1) The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009<sup>(a)</sup> are amended as follows.

- (2) In regulation 3—
  - (a) omit the definition of “day”;
  - (b) in the definition of “major works”—
    - (i) in paragraph (a) omit the words from “have been” to “such program,”;
    - (ii) in paragraph (c) after “exceeds ten” insert “working”;
  - (c) in the definition of “minor works” after “exceed three” insert “working”;
  - (d) in the definition of “standard works”, before “days”, in both places it occurs, insert “working”;
  - (e) omit the definition of “the Technical Specification”.
- (3) In regulation 6—
  - (a) for paragraph (1) substitute—
 

“(1) An undertaker executing street works in a highway to which these Regulations apply shall give the highway authority for that highway notice of the beginning of those works not later than—

    - (a) in the case of works starting within the period beginning with 12am and ending with 7:59am on a working day, 10am on the same day;
    - (b) in the case of works starting within the period beginning with 8am and ending with 4:30pm on a working day, two hours after the start of the works;
    - (c) in the case of works starting within the period beginning with 4:31pm and ending with 11:59pm on a working day, 10am on the next working day;
    - (d) in the case of works starting on a day that is not a working day, 10am on the next working day.”;
  - (b) omit paragraphs (2) and (3);
  - (c) in paragraph (4)—
    - (i) in sub-paragraph (a) after “completed” insert “interim or”;
    - (ii) in the words after paragraph (c), for the words from “end of the next day” to the end substitute “time mentioned in paragraph (5).”;
  - (d) after paragraph (4) insert—
 

“(5) The time is—

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<sup>(a)</sup> S.I. 2009/303, amended by S.I. 2009/1178, 2012/2272; there are other amending instruments but none is relevant.

- (a) in the case of a highway returned fully to public use within the period beginning with 12am and ending with 7:59am on a working day, 10am on the same day;
  - (b) in the case of a highway returned fully to public use within the period beginning with 8am and ending with 4:30pm on a working day, two hours after that full return;
  - (c) in the case of a highway returned fully to public use within the period beginning with 4:31pm and ending with 11:59pm on a working day, 10am on the next working day;
  - (d) in the case of a highway returned fully to public use on a day that is not a working day, 10am on the next working day.”.
- (4) In regulation 7 after “shall be two” insert “working”.
- (5) In regulation 9—
- (a) in paragraph (3), before “day”, in both places it occurs, insert “working”;
  - (b) in paragraph (4) (including in Table 1)—
    - (i) before “days”, in both places it occurs, insert “working”;
    - (ii) before “day”, in both places it occurs, insert “working”;
  - (c) in paragraph (5), in Table 2 after “(each” insert “working”;
  - (d) in paragraph (9)(b) after “next” insert “working”;
  - (e) in paragraph (11) omit “in writing”.
- (6) In regulation 10(3) before “days”, in both places it occurs, insert “working”.
- (7) In regulation 11(3) after “shall be 2” insert “working”.
- (8) Omit regulation 14.
- (9) For regulation 15 substitute—

**“Service of notices, etc**

**15.—**(1) A notice under these Regulations must be given by means of the Department for Transport’s digital service for planning and managing roadworks.

(2) Where a notice cannot be given by that means, it may be given by another means of electronic communication.

(3) A notice given pursuant to paragraph (2) must be given—

- (a) by sending it to an electronic address which has been agreed with the recipient for that purpose, or
- (b) if there is no such agreement, by sending it to—
  - (i) any email address published for the time being by the recipient as an address for contacting the recipient, or
  - (ii) if there is no such published address, any email address by means of which the person proposing to send the electronic communication believes, on reasonable grounds, that the notice will come to the attention of any director or other officer of the recipient.

(4) An electronic communication must be—

- (a) capable of being accessed by the recipient,
- (b) legible, and
- (c) in a form sufficiently permanent to be used for subsequent reference.

(5) Where a notice cannot be given by another means of electronic communication in accordance with paragraph (3), it may be given by any other means of service agreed between the person giving the notice and the recipient.