
STATUTORY INSTRUMENTS

2007 No. 1890 (C. 71)

HIGHWAYS, ENGLAND

**The Traffic Management Act 2004 (Commencement
No.4 and Transitional Provisions) (England) Order 2007**

Made - - - - 27th June 2007

The Secretary of State for Transport makes the following Order in exercise of the powers conferred by section 99 of the Traffic Management Act 2004(1).

PART 1

GENERAL

Citation and interpretation

1.—(1) This Order may be cited as the Traffic Management Act 2004 (Commencement No.4 and Transitional Provisions) (England) Order 2007.

(2) In this Order—

“the 1991 Act” means the New Roads and Street Works Act 1991(2); and

“the 2004 Act” means the Traffic Management Act 2004.

Commencement of provisions

2. The provisions of the 2004 Act specified in column 1 of the Schedule shall come into force as respects England on the date specified in column 2 for the purpose specified in relation to that date in column 3.

(1) 2004 c.18.

(2) 1991 c.22. All functions of a Minister of the Crown under this Act, except section 167(3), so far as exercisable in relation to Wales, are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2, Schedule 1, as amended by section 96 of the Traffic Management Act 2004 (c.18) (“the 2004 Act”). Section 54(3) is amended, and (4A), (4B) and (4C) inserted, by section 49(1) of the 2004 Act. Section 55(8) and (9) are inserted by section 49(2) of that Act. Section 56(1A) is inserted by section 43(3) of the 2004 Act and section 56A is inserted by section 44 of that Act. Section 58(1), (2), (3), (4), (6)(b) and (7) are amended, and section 58(7A) inserted, by section 51 of the 2004 Act and section 58A and Schedule 3A are inserted by section 52(1) and (2) of that Act. Section 59(7) is inserted by section 42(4) of the 2004 Act and sections 64(1) and 74(3) are amended by section 52(4) and (5) of that Act. Section 70(3) and (4) are substituted, and (1A), (4A) and (4B) inserted, by section 54 of the 2004 Act and section 70(6) is amended by section 40(3) of that Act. Section 95A and Schedules 4A and 4B are inserted by section 41 of, and Schedules 2 and 3 to, the 2004 Act. There are other amendments and prospective amendments which are not relevant to this Order.

PART 2

TRANSITIONAL PROVISIONS

Fixed penalty offences

3. Section 95A(1) of, and Schedule 4A to, the 1991 Act (fixed penalties under Part 3) shall not apply in relation to offences committed before 12th May 2008.

Directions as to timing of street works and placing of apparatus

4. Section 56(1A) of the 1991 Act (power to give directions as to timing of street works) and section 56A(1) of that Act (power to give directions as to placing of apparatus) shall not apply to street works in respect of which notice has been given under section 54(1) (advance notice of certain works) or section 55(1) of that Act (notice of starting date of works) before 1st April 2008.

Notices of street works

5.—(1) The amendment to section 54(3) of the 1991 Act by section 49(1)(a) of the 2004 Act (notices of street works) shall not apply to notices given under section 54(1) of the 1991 Act before 1st April 2008.

(2) Section 54(4A) of the 1991 Act shall not apply in relation to street works in respect of which advance notice has been given under section 54(1) of that Act before 1st April 2008.

(3) Where an advance notice is given under section 54(1) of the 1991 Act specifying a starting date for the proposed works which is before 1st April 2008, section 54(4B) of that Act shall not apply but, if those works are not substantially begun before 22nd April 2008, the notice shall cease to have effect in relation to the proposed works so that section 54(1) applies again in relation to them.

(4) Section 55(8) and (9) of the 1991 Act shall not apply in relation to street works in respect of which notice has been given under either section 54(1) or section 55(1) of that Act before 1st April 2008.

(5) If an advance notice under section 54(1) of the 1991 Act given before 1st April 2008 specifies a starting date which is later than 30th June 2008, that notice shall cease to have effect on 1st April 2008 and section 54(1) shall apply again in relation to the proposed works.

Restriction on works following substantial road works

6. The amendments to section 58 of the 1991 Act (restriction on works following substantial road works) by section 51 of the 2004 Act shall not apply in relation to any notice given under section 58(1) of the 1991 Act before 1st April 2008.

Restriction on works following substantial street works

7. Section 58A of, and Schedule 3A to, the 1991 Act (restriction on works following substantial street works) shall only apply where a street authority receive a notice under section 54 or 55 of that Act, on or after 1st April 2008, that an undertaker is proposing to execute substantial street works in a highway.

Duty to notify street authority of reinstatement

8. The amendments to section 70 of the 1991 Act (duty of undertaker to reinstate) by section 54 of the 2004 Act (duty to notify street authority of reinstatement) shall not apply in relation to street

works in respect of which notice has been given under section 54(1), 55(1) or 57 (notice of emergency works) of the 1991 Act before 1st April 2008.

Signed by authority of the Secretary of State for Transport

27th June 2007

G. Merron
Parliamentary Under Secretary of State,
Department for Transport

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

SCHEDULE

Article 2

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|---|-----------------|--|
| Section 40(3) (increase in penalties for summary offences under the 1991 Act) | 1st April 2008 | For the purpose of inserting the words “or (4A)” into the substituted paragraph (a) of section 70(6) of the 1991 Act (duty of undertaker to reinstate). |
| Section 41(1) and (3) (fixed penalty offences) (and accordingly Schedule 3) | 29th June 2007 | To confer power to make orders under section 95A of, and regulations under paragraphs 2, 4(1), 5(2), 8 and 9 of Schedule 4B to, the 1991 Act. |
| Section 41(1), (2) and (3) (and accordingly Schedules 2 and 3) | 12th May 2008 | For all other purposes. |
| Section 42 (duty of street authority to coordinate works) | 29th June 2007 | To confer power to make regulations under section 59(7)(c) of the 1991 Act (general duty of street authority to coordinate works). |
| Section 43(3) (directions relating to timing of street works) | 1st April 2008 | For all purposes. |
| Section 44 (directions as to placing of apparatus) | 29th June 2007 | To confer power to— (a) make regulations under section 56A(4) of the 1991 Act; and (b) issue or approve, under section 56A(8), a code of practice for the purposes of section 56A (power to give directions as to the placing of apparatus). |
| | 1st April 2008 | For all other purposes. |
| Section 49 (notices of street works) | 29th June 2007 | To confer power to make regulations under— (a) section 54(4A), (4B) and (4C) of the 1991 Act (advance notice of certain works); and (b) section 55(8) of that Act (notice of starting date of works). |

| <i>Column 1</i> | <i>Column 2</i> | <i>Column 3</i> |
|--|-----------------|---|
| | 1st April 2008 | For all other purposes. |
| Section 51(1), (2), (3), (5), (7), (8) and (9) (restriction on works following substantial road works) | 29th June 2007 | To confer power to make regulations by virtue of— (a) the amendments to sections 55(2) and 58(1), (2), (4) and (7) of the 1991 Act (restriction on works following substantial road works); and (b) section 58(7A) of that Act. |
| | 1st April 2008 | For all other purposes. |
| Section 51(4) | 29th June 2007 | For all purposes. |
| Section 51(6) | 1st April 2008 | For all purposes. |
| Section 52(1), (2), (4) and (5) (and accordingly Schedule 4) (restriction on works following substantial street works) | 29th June 2007 | To confer power to make regulations by virtue of— (a) the amendments to sections 64(1) (traffic-sensitive streets) and 74(3) (charge for occupation of the highway where works unreasonably prolonged) of the 1991 Act; and (b) paragraphs 1(2), 2(2), (3), (4) (f) and (5), 3(5)(b), 4(4), (5) and (7), and 5(2)(c), (3) and (4) of Schedule 3A to that Act (restriction on works following substantial street works). |
| | 1st April 2008 | For all other purposes. |
| Section 52(3), (6) and (7) | 1st April 2008 | For all purposes. |
| Section 54 (duty to notify street authority of reinstatement) | 29th June 2007 | To confer power to make regulations under section 70(3)(b), (4A) and (4B) of the 1991 Act (duty of undertaker to reinstate). |
| | 1st April 2008 | For all other purposes. |
| Section 96 (Wales) | 29th June 2007 | For all purposes. |

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, as respects England, further provisions of Part 4 (street works) of the Traffic Management Act 2004 (“the 2004 Act”) relating to the New Roads and Street Works Act 1991 (“the 1991 Act”) and makes related transitional provisions.

Article 2 and the Schedule bring the following provisions into force on 29th June 2007 for the sole purpose of enabling the Secretary of State to make orders or regulations—

- (a) section 41(1) and (3) and Schedule 3 (fixed penalty offences);
- (b) section 42 (duty of street authority to co-ordinate works);
- (c) section 44 (directions as to placing of apparatus);
- (d) section 49 (notices of street works);
- (e) section 51(1), (2), (3), (5), (7), (8) and (9) (restriction on works following substantial road works);
- (f) section 52(1), (2), (4) and (5) and Schedule 4 (restriction on works following substantial street works); and
- (g) section 54 (duty to notify street authority of reinstatement).

Section 44 is also brought into force on 29th June 2007 to enable the Secretary of State to issue or approve, under section 56A(8) of the 1991 Act, a code of practice for the purposes of section 56A of that Act (power to give directions as to placing of apparatus). Sections 51(4) (restriction on works following substantial road works) and 96 (Wales) are brought into force on 29th June 2007 for all purposes.

Sections 40(3) (increase in penalties for summary offences under the 1991 Act), 44, 49, 51(1), (2), (3), (5), (7), (8) and (9), 52(1), (2), (4) and (5) and Schedule 4, and 54 are brought into force on 1st April 2008 in so far as not already in force and sections 43(3) (directions relating to timing of street works), 51(6), and 52(3), (6) and (7) are brought into force on that date for all purposes.

Section 41(1), (2) and (3) and Schedules 2 and 3 are brought into force on 12th May 2008 in so far as not already in force.

Article 3 ensures that when the new fixed penalty notice scheme for certain street works offences under Part 3 of the 1991 Act comes into force on 12th May 2008, that scheme will not apply in relation to offences committed before that date.

Article 4 provides that the new powers to give directions under sections 56(1A) (power to give directions as to timing of street works) and 56A (power to give directions as to placing of apparatus) of the 1991 Act do not apply where notice of proposed works has been given under section 54(1) (advance notice of certain works) or 55(1) (notice of starting date of works) of that Act before 1st April 2008.

Article 5 contains transitional provisions relating to the giving of notice in respect of street works.

Article 6 ensures that the amendments to section 58 of the 1991 Act (restriction on works following substantial road works) do not apply where notice of a restriction has been given under section 58(1) of that Act before 1st April 2008.

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Article 7 provides that the new power inserted into the 1991 Act by section 52 of the 2004 Act, for a street authority to impose a restriction on street works following substantial street works, only applies where notice of the latter was received by the authority on or after 1st April 2008.

Article 8 provides that the amendments to section 70 of the 1991 Act (duty of undertaker to reinstate) do not apply in relation to street works in respect of which notice has been given under section 54(1), 55(1) or 57 (notice of emergency works) of that Act before 1st April 2008.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.I.No.</i> |
|---|-----------------------------|----------------|
| Sections 1 to 12. | 4th October 2004 | 2004/2380 |
| Section 13, except subsection (2) of the inserted section 245A of the Highways Act 1980(3). | 4th October 2004 | 2004/2380 |
| Sections 14 and 15. | 4th October 2004 | 2004/2380 |
| Sections 16 to 31. | 4th January 2005 | 2004/3110 |
| Section 40(1) and (2) (and accordingly Schedule 1). | 4th October 2004 | 2004/2380 |
| Section 40(3), except the words “or (4A)” in the substituted paragraph (a) of section 70(6) of the New Roads and Street Works Act 1991. | 4th October 2004 | 2004/2380 |
| Section 40(4) and (5). | 4th October 2004 | 2004/2380 |
| Section 43(1), (2) and (4). | 4th January 2005 | 2004/3110 |
| Sections 60 to 63. | 4th October 2004 | 2004/2380 |
| Section 94. | 29th September 2006 | 2006/1736 |
| Section 95. | 4th October 2004 | 2004/2380 |
| Section 97. | 4th October 2004 | 2004/2380 |
| Section 98, in so far as it relates to Part 2 of Schedule 12 (and accordingly Part 2 of Schedule 12). | 4th October 2004 | 2004/2380 |