
WELSH STATUTORY INSTRUMENTS

2007 No. 3174 (W.279) (C.130)

HIGHWAYS, WALES

**The Traffic Management Act 2004 (Commencement
No. 2 and Transitional Provisions) (Wales) Order 2007**

Made - - - - 7 November 2007

The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by section 99 of the Traffic Management Act 2004⁽¹⁾ and now vested in them⁽²⁾, make the following Order:

PART 1

GENERAL

Title and Interpretation

1.—(1) The title of this Order is the Traffic Management Act 2004 (Commencement No. 2 and Transitional Provisions) (Wales) Order 2007.

(1) In this Order —

“the 1991 Act” means the New Roads and Street Works Act 1991⁽³⁾; 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 come into force as respects Wales on the date specified in column 2 for the purpose specified in relation to that date in column 3.

(1) [2004 c. 18](#)

(2) The functions of the National Assembly for Wales under the Traffic Management Act 2004 were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([2006 c. 32](#)).

(3) [1991 c. 22](#)

PART 2

TRANSITIONAL PROVISIONS

Fixed penalty offences

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

Increase in maximum fines for certain summary offences

4. The increase in penalties effected by the coming into force of section 40 of, and Schedule 1 to, the 2004 Act will not apply in relation to offences committed before 26th November 2007.

Directions as to timing of street works and placing of apparatus

5. 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) do 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

6.—(1) The amendment to section 54(3) of the 1991 Act by section 49(1)(a) of the 2004 Act (notices of street works) does 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 does 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 does not apply but, if those works are not substantially begun before 22nd April 2008, the notice will 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 do 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 will cease to have effect on 1st April 2008 and section 54(1) will apply again in relation to the proposed works.

Restriction on works following substantial road works

7. The amendments to section 58 of the 1991 Act (restriction on works following substantial road works) by section 51 of the 2004 Act does 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

8. Section 58A of, and Schedule 3A to, the 1991 Act (restriction on works following substantial street works) will 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

9. 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) 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 the 1991 Act before 1st April 2008.

7 November 2007

Ieuan Wyn Jones
Minister for the Economy and Transport, one of
the Welsh Ministers

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>
Sections 32 to 39 (permit schemes)	31 March 2008	For all purposes
Section 40(1) and (2) and accordingly Schedule 1	26 November 2007	For all purposes
Section 40(3) except the words “or (4A)” in the substituted paragraph (a) of section 70(6) of the 1991 Act	26 November 2007	Increase in penalties for summary offences under the 1991 Act
Section 40(3)	1 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 40(4) and (5)	26 November 2007	For all purposes
Section 41(1) and (3) (fixed penalty offences) and accordingly Schedule 3	26 November 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	12 May 2008	For all other purposes
Section 42 (duty of street authority to co-ordinate works)	26 November 2007	To confer power to make regulations under section 59(7) (c) of the 1991 Act (general duty of street authority to co-ordinate works).
Section 43(1),	26 November 2007	For all purposes
Section 43(3) (2) and (4) (directions relating to timing of street works)	1 April 2008	For all purposes
Section 44 (directions as to placing of apparatus)	26 November 2007	To confer power to: <ul style="list-style-type: none"> (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)
Section 44	1 April 2008	For all other purposes

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Section 49 (notices of street works)	26 November 2007	To confer power to make regulations under: (c) Section 54(4A), (4B) and (4C) of the 1991 Act (advance notice of certain works); and (d) Section 55(8) of that Act (notice of starting date of works)
Section 49	1 April 2008	For all purposes
Section 51(1), (2), (3), (5), (7), (8) and (9) (restrictions on road following substantial road works)	26 November 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
Section 51(1), (2), (3), (5), (7), (8) and (9)	1 April 2008	For all other purposes
Section 51(4)	26 November 2007	For all purposes
Section 51(6)	1 April 2008	For all purposes
Section 52(1), (2), (4) and (5) and accordingly Schedule 4 (restriction on works following substantial street works)	26 November 2007	To confer power to make regulations by virtue of: (b) 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 (c) 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)
Section 52(1), (2), (4) and (5) and accordingly Schedule 4	1 April 2008	For all other purposes
Section 52(3), (6) and (7)	1 April 2008	For all purposes

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Section 54 (duty to notify street authority of reinstatement)	26 November 2007	To confer power to make regulations under section 70(3) (b), (4A) and (4B) of the 1991 Act (duty of undertaker to reinstate)
Section 54	1 April 2008	For all other purposes
Section 71 (issuing guidance to local highway authorities as to safety precautions)	26 November 2007	For all purposes
Section 98, so far as it relates to Part 1 of Schedule 12	31 March 2008	For all purposes
Schedule 7, Part 1, paragraphs 1,4 & 5(1) & (3), Part 2 and Part 4, except for 8(3)	31 March 2008	For all purposes
Schedule 8, Part 2, except for 8(2)(a), (c), (d) & (e) and 10(3) (a), (c), (d) & (e)	31 March 2008	For all purposes
Schedule 9, Part 1 and Part 3	26 November 2007	For all purposes
Schedule 10, paragraph 3, except for 3(3)(a), (c), (d) & (e)	31 March 2008	For all purposes
Schedule 11, except for paragraphs 6 and 7	31 March 2008	For all purposes
Schedule 12, Part 1	31 March 2008	For all purposes

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, in relation to Wales, provisions of Part 3 (permit schemes) and Part 4 (street works) of the Traffic Management Act 2004 (“the 2004 Act”) which amend the New Roads and Street Works Act 1991 (“the 1991 Act”) and makes transitional provisions as a consequence of those amendments. It also commences certain repeals in relation to civil enforcement of parking contraventions

Article 2 and the Schedule list the provisions of the 2004 Act to be enacted and the various dates upon which they will come into force in Wales. The Schedule also explains the reasons for their enactment.

Articles 3 to 9 contain transitional provisions necessary as a consequence of the amendments to the 1991 Act by the 2004 Act. Article 3 provides that when the new fixed penalty notice scheme for

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

Article 4 provides that the increase in penalties effected by the coming into force date of section 40 of, and Schedule 1 to, the 2004 Act will not apply to offences committed before 26th November 2007.

Article 5 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 6 contains transitional provisions relating to the giving of notice in respect of street works.

Article 7 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.

Article 8 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 9 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.