

SCHEDULES

SCHEDULE 1

Article 10.

SCHEDULE 1A TO THE 1995 ORDER

“SCHEDULE 1A

RESTRICTION ON WORKS FOLLOWING SUBSTANTIAL STREET WORKS

Introductory

1.—(1) This Schedule applies where a street authority receives a notice under Article 14 or 15 that an undertaker is proposing to execute substantial street works in a road.

(2) For the purposes of this Schedule, “substantial street works” means street works of such description as may be prescribed.

Notice by authority of proposed restriction

2.—(1) The street authority may publish a notice—

- (a) specifying the nature and location of the proposed works and the date on which it is proposed to begin them;
- (b) stating that the authority proposes to issue a direction under paragraph 4 imposing a restriction on street works;
- (c) stating the duration of the proposed restriction and the part of the road to which it relates;
- (d) requiring any other undertakers who propose to execute street works in that part of the road, and who have not already done so, to notify the authority of their proposed works within the period specified in the notice (“the notice period”).

(2) The notice period shall not be less than such period as may be prescribed.

(3) A notice under this paragraph shall—

- (a) be published in the prescribed form and manner; and
- (b) comply with such requirements as to its form and content as may be prescribed.

(4) A copy of a notice under this paragraph shall be given to each of the following—

- (a) where there is a public sewer in the part of the road specified under sub-paragraph (1)(c), to the Department;
- (b) where that part of the road is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held by or used for the purposes of a transport authority, to that authority;
- (c) where in any other case that part of the road is carried or crossed by a bridge, to the bridge authority;
- (d) any person who has given notice under Article 14 of his intention to execute street works in that part of the road;

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- (e) any person who has apparatus in that part of the road;
- (f) any other person of a prescribed description.

(5) Notification under sub-paragraph (1)(d) shall be in such form, contain such information, and be made in such manner as may be prescribed.

(6) Article 15 does not apply in relation to works in the part of the road specified under sub-paragraph (1)(c) that are begun between the end of the notice period and completion of the works referred to in paragraph 3(1)(a) to (c).

This sub-paragraph does not apply to cases prescribed under paragraph 3(5)(b).

Completion of notified works

3.—(1) After the expiry of the notice period the street authority may issue directions to—

- (a) the undertaker proposing to execute the substantial street works,
- (b) any undertakers who have given notice under paragraph 2 in respect of works they propose to execute, and
- (c) any undertakers who have previously given notice of works they propose to execute in the part of the road specified under paragraph 2(1)(c).

(2) A direction to an undertaker under this paragraph is a direction as to the date on which he may begin to execute the works proposed by him.

(3) Where—

- (a) a direction is given to an undertaker under this paragraph as respects the date on which he may begin to execute the works proposed by him, and
- (b) he begins to execute those works before that date,

he is guilty of an offence.

(4) After the expiry of the notice period, any undertaker who, before completion of the works referred to in sub-paragraph (1)(a) to (c), executes any other street works in the part of the road specified under paragraph 2(1)(c), commits an offence.

(5) Sub-paragraph (4) does not apply—

- (a) where an undertaker executes emergency works; or
- (b) in such other cases as may be prescribed.

(6) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Direction restricting further works

4.—(1) After the expiry of the notice period and before completion of the works referred to in paragraph 3(1)(a) to (c) the authority may give a direction under this paragraph.

(2) A direction under this paragraph is a direction restricting the execution of street works in the part of the road specified under paragraph 2(1)(c) for such period following completion of the works referred to in paragraph 3(1)(a) to (c) as may be specified in the direction.

(3) The duration of the period specified under sub-paragraph (2) may not exceed the duration of the restriction proposed by the authority under paragraph 2(1)(c).

(4) The period specified in a direction under this paragraph may not in any case exceed such period as may be prescribed.

(5) A direction under this paragraph shall—

- (a) be given in the prescribed manner;
 - (b) comply with such requirements as to its form and content as may be prescribed.
- (6) The street authority must send a copy of any direction under this paragraph to the persons specified in paragraph 2(4).
- (7) A direction under this paragraph shall cease to have effect if the works referred to in paragraph 3(1)(a) to (c) to which it relates are not completed within such period as may be prescribed.
- (8) A direction under this paragraph may be revoked at any time by the authority which gave it.
- (9) Where a direction under this paragraph ceases to have effect by virtue of sub-paragraph (7), or is revoked by virtue of sub-paragraph (8), the street authority must notify the persons specified in paragraph 2(4).
- (10) If the street authority decides not to give a direction under this paragraph, it must notify the persons specified in paragraph 2(4) accordingly.

Effect of direction imposing restriction

- 5.—**(1) Where a direction under paragraph 4 is in force, an undertaker may not during the period specified in the direction execute street works in the part of the road to which the restriction relates.
- (2) Sub-paragraph (1) does not apply—
- (a) where an undertaker executes emergency works;
 - (b) where an undertaker executes works with the consent of the street authority; or
 - (c) in such other cases as may be prescribed.
- (3) The consent of the street authority under sub-paragraph (2)(b) shall not be unreasonably withheld; and any question whether the withholding of consent is unreasonable shall be settled in such manner as may be prescribed.
- (4) Regulations under sub-paragraph (3) may in particular make provision for the question referred to in that sub-paragraph to be settled—
- (a) by arbitration;
 - (b) by the planning appeals commission on appeal by the undertaker.
- (5) An undertaker who contravenes sub-paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) An undertaker convicted of an offence under sub-paragraph (5) is liable to reimburse the street authority any costs reasonably incurred by it in reinstating the road.

Supplementary

- 6.** An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, his failure is attributable to a restriction imposed under this Schedule.”.

SCHEDULE 2

Article 24.

SCHEDULE 2A TO THE 1995 ORDER

“SCHEDULE 2A

FIXED PENALTIES FOR CERTAIN OFFENCES

Power to give fixed penalty notices

1.—(1) An authorised officer of a street authority may, if he has reason to believe that a person is committing or has committed a fixed penalty offence, give him a fixed penalty notice in relation to that offence.

(2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.

2. A fixed penalty notice for an offence may not be given after such time relating to the offence as may be prescribed.

Contents of fixed penalty notice

3.—(1) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.

(2) A fixed penalty notice must also state—

- (a) the amount of the penalty and the period within which it may be paid;
- (b) the discounted amount and the period within which it may be paid;
- (c) the person to whom and the address at which payment may be made;
- (d) the method or methods by which payment may be made;
- (e) the person to whom and the address at which any representations relating to the notice may be addressed;
- (f) the consequences of not making a payment within the period for payment.

(3) The person specified under sub-paragraph (2)(c) must be the street authority or a person acting on its behalf.

The amount of the penalty and the period for payment

4.—(1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.

(2) The period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given.

(3) The street authority may extend the period for paying the penalty in any particular case if the authority considers it appropriate to do so.

The discounted amount

5.—(1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of 15 days beginning with the day on which the notice is given.

(2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.

(3) If the last day of the period specified in sub-paragraph (1) 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.

Effect of notice and payment of penalty

6.—(1) This paragraph applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.

(2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.

(3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the street authority after that time.

(4) Payment of the discounted amount only counts for the purposes of sub-paragraph (3) if it is made before the end of the period for payment of the discounted amount.

(5) In proceedings for the offence a certificate which—

(a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the street authority; and

(b) states that payment of an amount specified in the certificate was or was not received by a date so specified,

is evidence of the facts stated.

Power to withdraw notices

7.—(1) If the street authority considers that a fixed penalty notice which has been given ought not to have been given, it may give to the person to whom it was given a notice withdrawing the fixed penalty notice.

(2) Where a notice under sub-paragraph (1) is given—

(a) the authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice; and

(b) no proceedings shall be commenced or continued against that person for the offence in question.

(3) The street authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

General and supplementary

8. The Department may, with the consent of the Department of Finance and Personnel, make regulations about—

(a) the application by street authorities (other than the Department) of fixed penalties paid under this Schedule;

(b) the keeping by such authorities of accounts, and the preparation and publication of statements of account, relating to fixed penalties paid under this Schedule.

9. The Department may by regulations—

(a) prescribe circumstances in which fixed penalty notices may not be given;

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- (b) modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there;
- (c) prescribe the method or methods by which penalties may be paid.”.