

2015 No. 378

HIGHWAYS, ENGLAND

**The Delegation of Functions (Strategic Highways Companies)
(England) Regulations 2015**

<i>Made</i> - - - -	<i>2nd March 2015</i>
<i>Laid before Parliament</i>	<i>5th March 2015</i>
<i>Coming into force</i> - -	<i>1st April 2015</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 7 of the Infrastructure Act 2015(a):

Citation, commencement and application

1.—(1) These Regulations may be cited as the Delegation of Functions (Strategic Highways Companies) (England) Regulations 2015 and shall come into force on 1st April 2015.

(2) These Regulations apply to England.

Interpretation

2.—(1) In these Regulations—

“the 1980 Act” means the Highways Act 1980(b);

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

“highway” has the meaning given in section 328 of the 1980 Act;

“highway authority” has the meaning given in section 1(d) of the 1980 Act;

“highway connected land” means land which does not form part of a highway but which has been acquired by a strategic highways company, in connection with a highway, under section 239(1) or (4)(e) or section 246(f) of the 1980 Act or otherwise; and

“street works” has the meaning given in section 48(3) of the 1991 Act.

(a) 2015 c.7.

(b) 1980 c.66.

(c) 1991 c.22.

(d) Section 1(1)(aa) was inserted by the New Roads and Street Works Act 1991 (c.22), section 21(2). Section 1(1) was also amended by the Infrastructure Act 2015 (c.7), section 1(6) and Schedule 1, paragraph 2(1) and (2). Subsection (1A) was inserted by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 2(3). Section 1(2), (3) and (4) were amended by the Local Government Act 1985 (c.51), sections 8 and 102 and Schedule 4, Part I, paragraph 1(a), (b) and (c) and Schedule 17, and the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 2(4). Subsection (3) was also amended by the Greater London Authority Act 1999 (c.29) (“the 1999 Act”), section 259(1) and (3). Subsection (2A) was inserted by the 1999 Act, section 259(1) and (2) and subsection (3A) was inserted by the Local Government (Wales) Act 1994 (c.19) (“the 1994 Act”), section 22(1), and Schedule 7, Part I, paragraph 1(1) and (2). Subsection (5) was inserted by the 1994 Act, section 22(1) and Schedule 7, Part I, paragraph 1(1) and (3).

(e) Section 239 was amended by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 45.

(f) Section 246 was amended by the Planning and Compensation Act 1991 (c.34), sections 68(2) and 70 and Schedule 15, paragraph 26, and the Acquisition of Land Act 1981 (c.67), section 34 and Schedule 4, paragraph 31.

(2) In Schedule 1, any expression used in a reference to a provision of the 1980 Act has the same meaning as it has in that Act.

(3) In Schedule 2, any expression used in a reference to a provision of the 1991 Act has the same meaning as it has in that Act.

Delegation of functions

3. Any function of a strategic highways company which is listed in Schedule 1, 2 or 3 may be exercised by, or by employees of, such person (if any) as may be authorised to do so by the strategic highways company.

Signed by authority of the Secretary of State for Transport

2nd March 2015

John Hayes
Minister of State
Department for Transport

**FUNCTIONS CONFERRED BY OR UNDER THE 1980 ACT OR
REGULATIONS MADE UNDER THAT ACT**

1. Subject to paragraph 6, functions conferred on a strategic highways company, as the highway authority(**a**) for a highway, in relation to that highway or to highway connected land, by or under any of the following provisions of the 1980 Act—

- (a) section 41(1) and (1A)(**b**) (duty to maintain highways maintainable at public expense);
- (b) section 62(**c**) (general power of improvement);
- (c) section 64(**d**) (dual carriageways and roundabouts);
- (d) section 65 (cycle tracks);
- (e) section 66(**e**)(footways and guard-rails etc. for publicly maintainable highways);
- (f) section 68 (refuges);
- (g) section 69(1)(**f**) (subways);
- (h) section 70 (footbridges over highways);
- (i) section 71 (margins for horses and livestock);
- (j) section 75(1) and (2) (variation of widths of carriageways and footways);
- (k) section 76 (levelling of highways);
- (l) section 77 (alteration of levels);
- (m) section 78 (cutting off of corners);
- (n) section 80(1), (2) and (3)(**g**) (power to fence highways);
- (o) section 81 (provisions of highway boundary posts);
- (p) section 84 (maintenance of cattle-grids and by-passes);
- (q) section 90 (protection of bridges and railways);
- (r) section 90G(**h**) (powers to carry out traffic calming works);
- (s) section 92 (reconstruction of bridge maintainable at public expense);
- (t) section 96 (powers of highway and local authorities to plant trees, lay out grass verges etc.);

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- (a) A strategic highways company is the highway authority for certain highways by virtue of the Highways Act 1980 (c.66), section 1(1A) and the terms of its appointment by order under section 1(1) of the Infrastructure Act 2015.
 - (b) Section 41(1A) was inserted by the Railways and Transport Safety Act 2003 (c.20), section 111.
 - (c) Section 62(3)(ff) was inserted by the Transport Act 1981 (c.56), section 32(1) and Schedule 10, Part I, paragraph 1, and section 62(3)(fg) was inserted by the Traffic Calming Act 1992 (c.30), section 1(1). Sub-section (5) was repealed by the Local Government Act 1985, section 102 and Schedule 17.
 - (d) Section 64(4) was repealed by the Local Government Act 1985, section 102 and Schedule 17, and section 64(5) was repealed by the New Roads and Street Works Act 1991, section 168(2) and Schedule 9.
 - (e) Section 66(3) was amended by the Countryside and Rights of Way Act 2000 (c.37), section 70(1), and section 66(6) was amended by the Local Government Act 1985, section 8 and Schedule 4, Part I, paragraph 17.
 - (f) Section 69(2)(b) was repealed by the Local Government Act 1985, section 102 and Schedule 17, and section 69(3) was amended by the Local Government (Wales) Act 1994, section 22(1) and Schedule 7, Part I, paragraph 7.
 - (g) Section 80 is to be read with section 72(12) of the Wildlife and Countryside Act 1981 (c.69). Subsection (3)(c) was amended by the Planning (Consequential Provisions) Act 1990 (c.11), section 4 and Schedule 2, paragraph 45(4). Subsection (4) was amended by the Local Government Act 1985, sections 8 and 102 and Schedule 4, Part I, paragraph 19 and Schedule 17. Subsections (1)(b), (3) and (4) were also amended by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 25.
 - (h) Section 90G was inserted by the Traffic Calming Act 1992, section 1(2) and Schedule 1. Subsections (1) and (2) were amended by the Greater London Authority Act 1999, section 269(1), (2) and (3). Section 90G is to be read with section 90GA.

- (u) section 97(a) (lighting of highways);
- (v) section 99 (metalling of highways);
- (w) section 100(1) to (5)(b) (drainage of highways);
- (x) section 101 (power to fill in roadside ditches etc);
- (y) section 102 (provision of works for protecting highways against hazards of nature);
- (z) section 103 (provision of post to indicate depth of flood water);
- (aa) section 104 (mitigating nuisance of dust);
- (bb) section 105 (power to improve road-ferries);
- (cc) section 115H(1)(c) (duties to consult or obtain consent of other authorities);
- (dd) section 133 (damage to footways of streets by excavations);
- (ee) section 139(1) and (2) (control of builders' skips);
- (ff) section 140(2) (removal of builders' skips);
- (gg) section 141(2) (restriction on planting trees etc. in or near carriageway);
- (hh) section 150(1), (2) and (4) (duty to remove snow, soil etc. from highway), except insofar as they relate to an obstruction in a highway which is the property of any person;
- (ii) section 167(2), (5) and (6) (powers relating to retaining walls near streets);
- (jj) section 169(1), (2), (3) and (4)(d) (control of scaffolding on highways);
- (kk) section 171 (control of deposit of building materials and making of excavations in streets), except insofar as the functions conferred by or under section 171(7) relate to the removal of the property of any person; and
- (ll) section 178(1) (restriction on placing rails, beams etc. over highway).

2. Subject to paragraph 6, functions conferred on a strategic highways company by or under any of the following provisions of the 1980 Act—

- (a) section 63(e) (relief of main carriageway of trunk road from local traffic); and
- (b) sections 112(3) and (5)(f) (provision of picnic sites and public conveniences for users of trunk roads), except insofar as the functions in subsection (5) relate to the provision of public sanitary conveniences.

3. Subject to paragraph 6, functions conferred on a strategic highways company, by or under section 288(g) of the 1980 Act (power to require gas and water pipes to be moved), insofar as that provision applies to the exercise of any other function listed in this Schedule.

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- (a) Section 97 was amended by the Infrastructure Act 2015, section 1(6) and paragraph 29 of Schedule 1.
 - (b) Section 100(5), which, for the purpose of the drainage of a highway, confers on a highway authority certain powers of a sewerage authority under the Water Industry Act 1991 (c.56), was amended by the Water Act 1989 (c.15), section 190(1) and Schedule 25, paragraph 62(4)(a) and by the Water Consolidation (Consequential Provisions) Act 1991 (c.60), section 2(1) and Schedule 1, paragraph 36(1).
 - (c) Section 115H was inserted by the Local Government (Miscellaneous Provisions) Act 1982 (c.30), section 20 and Schedule 5, Part I, paragraph 1. Subsection (1) was amended by the Local Government Act 1985 ("the 1985 Act"), section 8 and Schedule 4, Part I, paragraph 23 and by the Planning (Consequential Provisions) Act 1990, section 4 and Schedule 2, paragraph 45(7). Subsection (2) was repealed by the 1985 Act, section 102 and Schedule 17. Subsection (3) was amended by the 1985 Act, section 8 and Schedule 4, Part I, paragraph 23. Subsection (4) was amended by the Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), article 2 and Schedule 1, Part 1, paragraph 7(1) and (3).
 - (d) Section 169(4) was amended by the Telecommunications Act 1984 (c.12), section 109, Schedule 4, paragraph 76(8) and Schedule 7, Part I, the Water Act 1989, section 190(3) and Schedule 27, Part I, the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22), section 13(1) and Schedule 4, paragraph 3(1) and (7), the New Roads and Street Works Act 1991, section 168(1) and Schedule 8, Part I, paragraph 4, the Postal Services Act 2000 (Consequential Modifications No.1) Order 2001 (S.I. 2001/1149), article 3(1) and Schedule 1, paragraph 49(1) and (3) and the Communications Act 2003 (c.21), section 406(1) and Schedule 17, paragraph 56(1)(b) and (2)(a).
 - (e) Section 63 was amended by the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 22.
 - (f) Section 112(3) and (5) were amended by the Road Safety Act 2006 (c.49), sections 55(b) and (d) and 59 and Schedule 7, and the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 37.
 - (g) In relation to section 288, the Public Utilities Street Works Act 1950 (c.39) was repealed by the New Roads and Street Works Act 1991, section 168(2) and Schedule 9. Provisions relating to relations between an authority carrying out road alterations and undertakers whose apparatus is affected are now contained in sections 83 to 85 of that Act.

4. Subject to paragraph 6, functions conferred on a strategic highways company, as a competent authority, by virtue of their being the highway authority for a highway, by or under any of the following provisions of the 1980 Act—

- (a) section 143(1)(a) (power to remove structures from highways);
- (b) section 154(1) and (2)(b) (cutting or felling etc trees etc that overhang or are a danger to roads or footpaths); and
- (c) section 185(c) (power to install refuse or storage bins in streets).

5. Functions conferred on a strategic highways company, as the highway authority for a highway, by or under any of the following provisions of the Walkways Regulations 1973(d)—

- (a) regulation 3(1) (modification of statutory provisions);
- (b) regulation 4(1) (rights of statutory undertakers etc);
- (c) regulation 5(3) (periodic and temporary closure of walkways); and
- (d) regulation 6 (stopping up of walkway by building owner).

6. Where section 338 of the 1980 Act (saving for works, etc of dock, harbour and canal undertakers) or 339 of that Act(e) (saving for works etc of drainage authorities etc) applies to the exercise of any functions listed in paragraphs 1 to 4, those functions shall be construed as including any additional requirements imposed by those sections.

SCHEDULE 2

Regulation 3

FUNCTIONS CONFERRED BY OR UNDER THE 1991 ACT OR REGULATIONS MADE UNDER THAT ACT

1. Functions conferred on a strategic highways company, as the street authority(f) for a street, by or under any of the following provisions of the 1991 Act—

- (a) section 53(g) (the street works register);
- (b) section 54(1), (4), (4A) and (4B)(h) (advance notice of certain works);
- (c) section 55(1), (4) and (8)(i) (notice of starting date of works);
- (d) section 56(1), (1A) and (4)(j) (power to give directions as to timing of street works);
- (e) section 56A(1), (3) and (8)(k) (power to give directions as to placing of apparatus);
- (f) section 57(2)(l) (notice of emergency works);

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- (a) Section 143(1)(a) was amended by the Local Government Act 1985, section 8 and Schedule 4, Part I, paragraph 25.
 - (b) Section 154(1) was amended by the Countryside and Rights of Way Act 2000, section 65, the Local Government Act 1985, section 8 and Schedule 4, Part I, paragraph 27, and the Infrastructure Act 2015, section 1(6) and Schedule 1, paragraph 41.
 - (c) Section 185(1) was amended by the Local Government (Wales) Act 1994, section 22(1) and Schedule 7, Part I, paragraph 16. Subsection (3)(b) was amended by the Water Act 1989, section 190(1) and Schedule 25, paragraph 62(7) and by the Postal Services Act 2000 (Consequential Modifications No.1) Order 2001 (S.I. 2001/1149) (“the 2001 Order”), article 3(1) and Schedule 1, paragraph 49(1) and (7)(a). Subsection (3A) was inserted by the 2001 Order, article 3(1) and Schedule 1, paragraph 49(1) and (7)(b).
 - (d) S.I. 1973/686, as amended by S.I. 1974/735, S.I. 2001/1149 and S.I. 2011/2085. These Regulations have effect as if made under section 35 of the Highways Act 1980.
 - (e) Section 339(1) and (4) were amended by the Environment Act 1995 (Consequential Amendments) Regulations 1996 (S.I. 1996/593), regulation 2 and Schedule 1 and by the Water Consolidation (Consequential Provisions) Act 1991, section 2 and Schedule 1, paragraph 36(2). Subsection (1) was also amended by the Water Act 1989, section 190(1) and Schedule 25, paragraph 62(13).
 - (f) Section 49 of the New Roads and Street Works Act 1991 contains a definition of “street authority”.
 - (g) Section 53 is prospectively amended by the Traffic Management Act 2004 (c.18), section 45.
 - (h) Section 54(4A) and (4B) were inserted by the Traffic Management Act 2004, section 49(1)(b).
 - (i) Section 55(8) was inserted by the Traffic Management Act 2004, section 49(2).
 - (j) Section 56(1) was amended by the Traffic Management Act 2004, section 43(1) and (2). Subsection (1A) was inserted by section 43(1) and (3) of that Act.
 - (k) Section 56A was inserted by the Traffic Management Act 2004, section 44.
 - (l) Section 57(2) was amended by the Traffic Management Act 2004, section 52(3)(b).

- (g) section 58(a) (restriction on works following substantial road works);
- (h) section 58A and Schedule 3A, paragraphs 1(1), 2(1) and (4), 3(1) and 4(1), (6), (8), (9) and (10), and 5(2)(b) and (3)(b) (restriction on works following substantial street works);
- (i) section 59(c) (general duty of street authority to co-ordinate works);
- (j) section 60(1) (general duty of undertakers to co-operate);
- (k) section 61 (protected streets), except for sub-paragraph (b) in the second paragraph of subsection (1);
- (l) section 65(5) (safety measures);
- (m) section 66(3) and (4) (avoidance of unnecessary delay or obstruction);
- (n) section 68(1) (facilities to be afforded to street authority);
- (o) section 70(3) and (4A)(d) (duty of undertaker to reinstate);
- (p) section 72(e) (powers of street authority in relation to reinstatement);
- (q) section 75(f) (inspection fees);
- (r) section 81 (duty to maintain apparatus);
- (s) section 82(1) (liability for damage or loss caused);
- (t) section 87(4) (prospectively maintainable highways); and
- (u) section 94(1) and (2) (power of street authority or district council to undertake street works).

2. Functions conferred on a strategic highways company, as the traffic authority(g) for a highway, by section 65(2) of the 1991 Act (safety measures).

3. Functions conferred on a strategic highways company, as a relevant authority, other than a street authority, by or under any of the following provisions of the 1991 Act—

- (a) section 81 (duty to maintain apparatus); and
- (b) section 82(1) (liability for damage or loss caused).

4. Functions conferred on a strategic highways company, as the highway authority for a highway or as the bridge authority(h) for a bridge, by or under any of the following provisions of the 1991 Act—

- (a) section 83(i) (works for road purposes likely to affect apparatus in street);
- (b) section 84(1), (3) and (4) (measures necessary where apparatus affected by major works);
- (c) section 85(1) and (3) (sharing of cost of necessary measures); and
- (d) section 88(4)(j) and (5) (bridges, bridge authorities and related matters).

5. Functions conferred on a strategic highways company, as the responsible authority, by or under section 90 of the 1991 Act(k) (provisions as to reinstatement of sewers, drains or tunnels).

(a) Section 58 was amended by the Traffic Management Act 2004, sections 40(1) and (2) and 51 and Schedule 1.
 (b) Section 58A and Schedule 3A were inserted by the Traffic Management Act 2004, section 52(1) and (2) and Schedule 4.
 (c) Section 59 was amended and is prospectively amended by the Traffic Management Act 2004, section 42.
 (d) Section 70(3) was substituted, and (4A) inserted, by the Traffic Management Act 2004, section 54(1) and (3). Subsections (3) and (4A) were further amended by the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951), regulation 17.
 (e) Section 72 is prospectively amended by the Traffic Management Act 2004, sections 53(1) and 58(1).
 (f) Section 75 is prospectively substituted by the Traffic Management Act 2004, section 58(2).
 (g) Section 105(1) of the New Roads and Street Works Act 1991 contains a definition of “traffic authority”.
 (h) Section 88 of the New Roads and Street Works Act 1991 contains a definition of “bridge authority”.
 (i) Section 83(3) was amended by the Traffic Management Act 2004, section 40(1) and (2) and Schedule 1.
 (j) Section 88(4) was amended by the Traffic Management Act 2004, section 52(6).
 (k) Section 90 is prospectively amended by the Traffic Management Act 2004, section 53(2).

6. Functions conferred on a strategic highways company, as the street authority for a street in England, by or under regulation 3 of the Street Works (Inspection Fees) (England) Regulations 2002**(a)** (inspection fees).

7. Functions conferred on a strategic highways company, as the street authority for a street in England, by or under regulation 3 of the Street Works (Reinstatement) Regulations 1992**(b)** (street authority's power to give notice affecting the standard of reinstatement required).

8. Functions conferred on a strategic highways company, as the highway authority for a highway or as the bridge authority for a bridge, by or under any provision of the Street Works (Sharing of Costs of Works) (England) Regulations 2000**(c)**.

9. Functions conferred on a strategic highways company, as the street authority for a street in England, under regulation 3 or 4 of the Street Works (Maintenance) Regulations 1992**(d)** (street authority's power to execute works to enable it to inspect an undertaker's apparatus and to execute any emergency works needed).

10. Functions conferred on a strategic highways company, as the highway authority for a highway in England, under any provision of the Street Works Register (Registration Fees) Regulations 1999**(e)** (undertaker to pay the appropriate highway authority a fee on the registration of prescribed information).

11. Functions conferred on a strategic highways company, as the street authority for a street in England, the highway authority for a highway in England or the bridge authority for a bridge in England by or under any of the following provisions of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007**(f)**—

- (a) regulation 4(4) and (5) (street works registers);
- (b) regulation 6 (manner of service of notices);
- (c) regulation 7 (manner of service of copies of notices);
- (d) regulation 9(1), (2) and (3) (notice of starting date of works);
- (e) regulation 10(1) and (2) (procedure for giving directions under section 56 or 56A);
- (f) regulation 11(3), (5) and (9) (restriction on works following substantial road works);
- (g) regulation 12(3), (4) and (7) (restriction on works following substantial street works);
- (h) regulation 14(3) (designation of streets as protected);
- (i) regulation 15(3) (designation of streets as having special engineering difficulties); and
- (j) regulation 16(6) (designation of streets as traffic-sensitive).

12. Functions conferred on a strategic highways company, as the street authority for a street in England, under regulation 5(1) or (6) of the Street Works (Fixed Penalty) (England) Regulations 2007**(g)** (manner of service of a fixed penalty notice or a notice withdrawing a fixed penalty notice).

13. Functions conferred on a strategic highways company, as the highway authority for a highway, by or under any of the following provisions of the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009**(h)**—

- (a) regulation 6 (notices);
- (b) regulation 9(1) (prescribed charges);

(a) S.I. 2002/2092, as amended by S.I. 2009/104.

(b) S.I. 1992/1689, as amended by S.I. 1992/3110 and in relation to England by S.I. 2002/1487.

(c) S.I. 2000/3314.

(d) S.I. 1992/1691.

(e) S.I. 1999/1048.

(f) S.I. 2007/1951.

(g) S.I. 2007/1952.

(h) S.I. 2009/303, as amended by S.I. 2012/2272.

- (c) regulation 10 (estimates of duration of works); and
- (d) regulation 11 (further and revised estimates of duration of works).

SCHEDULE 3

Regulation 3

FUNCTIONS CONFERRED BY MISCELLANEOUS ENACTMENTS

1. Functions conferred on a strategic highways company, as the highway authority for a highway, by or under section 153(a) of the Public Health Act 1875(b) (power to require gas and water pipes to be moved).

2. Functions conferred on a strategic highways company, as the highway authority for a highway, by or under section 14(c) of the Public Health Act 1925(d) (public drinking fountains, seats, etc, in streets).

3. Functions conferred on a strategic highways company, by or under section 5(1) or (2) of the Local Government (Miscellaneous Provisions) Act 1953(e) (consents to exercise of powers under section 4 (provision of omnibus shelters, etc)).

4. Functions conferred on a strategic highways company, by or under section 5(6) of, and Schedule 1 to, the Litter Act 1983(f) (litter bins in England and Wales).

5. Functions conferred on a strategic highways company, as the highway authority for a highway, by or under section 72(1) of the Road Traffic Regulation Act 1984(g) (powers exercisable by parish or community councils).

6. Functions conferred on a strategic highways company, as the highway authority for a highway, by or under section 4 (provision of barriers in cycle tracks, etc) or 5(1) (compensation) of the Cycle Tracks Act 1984(h).

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- (a) Section 153 is to be read with section 180 of, and paragraphs 23 and 29 of Schedule 14 to, the Local Government Act 1972 (c.70).
 - (b) 1875 c.55 (38 and 39 Vict).
 - (c) Section 14 is to be read with section 180 of, and paragraphs 23 and 28 of Schedule 14 to, the Local Government Act 1972 (c.70).
 - (d) 1925 c.71.
 - (e) 1953 c.26.
 - (f) 1983 c.35.
 - (g) 1984 c.27.
 - (h) 1984 c.38.

EXPLANATORY NOTE

(This note is not part of these Regulations)

Part 1 of the Infrastructure Act 2015 (c. 7) makes provision for the Secretary of State to appoint a strategic highways company to act as the highway authority in respect of the areas and highways specified in the appointment. As a consequence of its appointment a strategic highways company will exercise certain statutory powers and functions under highways-related and other legislation.

These Regulations, which apply only to England, enable a strategic highways company to authorise another person, or that person's employees, to exercise certain of its functions in relation to maintenance, improvement and other dealings with highways, mainly in its capacity as a highway authority. The functions which may be delegated in this way are listed in Schedules 1, 2 and 3.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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