
STATUTORY INSTRUMENTS

2023 No. 923

The A38 Derby Junctions Development Consent Order 2023

PART 3
STREETS

Application of the 1991 Act

12.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highways works) of that Act; or
- (b) they are works which, had they been executed by the local highway authority, might have been carried out in exercise of the powers conferred by section 64(1) (dual carriageways and roundabouts) of the 1980 Act or section 184(2) (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act references to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56(3) (power to give directions as to timing of street works);
- (b) section 56A(4) (power to give directions as to placing of apparatus);
- (c) section 58(5) (restriction on works following substantial road works);
- (d) section 58A(6) (restriction on works following substantial street works); and
- (e) Schedule 3A(7) (restriction on works following substantial street works).

(4) The provisions of the 1991 Act referred to in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (temporary stopping up and restriction of use

(1) Section 64 was amended by Schedule 17 to the Local Government Act 1985 (c. 51) and Schedule 9 to the 1991 Act.
(2) Section 184 was amended by sections 35, 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48), section 4 of, and paragraph 45(11) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 168 of, and paragraph 9 of Part 1 of Schedule 8 and Schedule 9 to, the 1991 Act.
(3) Section 56 was amended by sections 40 and 43 of and paragraph 1 of Schedule 1 to the Traffic Management Act 2004 (c. 18).
(4) Section 56A was inserted by section 44 of the Traffic Management Act 2004.
(5) Section 58 was amended by section 51 of the Traffic Management Act 2004.
(6) Section 58A was inserted by section 52(1) of the Traffic Management Act 2004.
(7) Schedule 3A was inserted by section 52(2) of, and Schedule 4 to, the Traffic Management Act 2004.

of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

- (5) The provisions of the 1991 Act⁽⁸⁾ referred to in paragraph (4) are—
- (a) section 54⁽⁹⁾ (advance notice of certain works), subject to paragraph (6);
 - (b) section 55⁽¹⁰⁾ (notice of starting date of works), subject to paragraph (6);
 - (c) section 57⁽¹¹⁾ (notice of emergency works);
 - (d) section 59⁽¹²⁾ (general duty of street authority to co-ordinate works);
 - (e) section 60 (general duty of undertakers to co-operate);
 - (f) section 68 (facilities to be afforded to street authority);
 - (g) section 69 (works likely to affect other apparatus in the street);
 - (h) section 75 (inspection fees);
 - (i) section 76 (liability for cost of temporary traffic regulation); and
 - (j) section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 13 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87 (prospectively maintainable highways) of the 1991 Act;
- (b) means that the undertaker is by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (c) has effect in relation to street works to which the provisions of Part 3 of the 1991 Act apply.

⁽⁸⁾ Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to the Traffic Management Act 2004.

⁽⁹⁾ Section 54 was also amended by section 49(1) of the Traffic Management Act 2004.

⁽¹⁰⁾ Section 55 was also amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.

⁽¹¹⁾ Section 57 was also amended by section 52(3) of the Traffic Management Act 2004.

⁽¹²⁾ Section 59 was amended by section 42 of the Traffic Management Act 2004.