
WELSH STATUTORY INSTRUMENTS

2009 No. 1267

**The Traffic Management Permit
Scheme (Wales) Regulations 2009**

PART 8

Other Enactments

Modification of enactments

37.—(1) The following provisions of the 1991 Act are modified as follows in relation to specified works in specified streets.

(2) Section 58 has effect as if —

- (a) in subsection (3)(d) for “given notice under section 54 (advance notice of certain works) of his intention to execute street works” there were substituted “applied for a provisional advance authorisation for street works to be carried out”; and
- (b) subsections (5) to (7A) were omitted.

(3) Section 73A(2)(a) (which, when in force, will allow street authorities to require undertakers to re-surface streets)(1) has effect as if for “given notice under section 54 or 55 of, or made a notification under paragraph 2(1)(d) of Schedule 3A in respect of, proposed street works”, there were substituted “submitted an application for a permit or for a provisional advance authorisation in respect of specified works in a specified street”.

(4) Section 74(2) has effect as if —

(a) there were inserted after subsection (2) the following —

“(2ZA) For the purpose of the definition of “a reasonable period” in subsection (2), the specification in a permit (including as a result of a variation of the permit) of a period as one during which specified works may be carried out in a specified street —

- (a) does not constitute agreement to a period by the authority and the undertaker, and
- (b) is to be disregarded on an arbitration.”; and

(b) subsections (3) and (4) were omitted.

(5) Section 88(4) (bridges, bridge authorities and related matters)(3) has effect as if —

- (a) for “giving notice under section 55 (notice of starting date), or making a notification under paragraph 2(1)(d) of Schedule 3A (notification of proposed works),” there were substituted “submitting an application for a permit or for a provisional advance authorisation”, and
- (b) after “to the works”, there were inserted “or undertaking any works which are exempt from the requirement to be authorised by a permit”.

(1) Section 73A is prospectively inserted by the Traffic Management Act 2004, section 55(1).

(2) Section 74(2A) was inserted by the Transport Act 2000, section 256.

(3) Section 88(4) was amended by the Traffic Management Act 2004, section 52(6).

- (6) Section 89(2) (public sewers, sewer authorities and related matters)(4) has effect as if —
- (a) for “giving notice under section 55 (notice of starting date), or making a notification under paragraph 2(1)(d) of Schedule 3A (notification of proposed works),” there were substituted “submitting an application for a permit or for a provisional advance authorisation”; and
 - (b) after “to the works”, there were inserted “or undertaking any works which are exempt from the requirement to be authorised by a permit”.
- (7) Section 93 (works affecting level crossings or tramways)(5) has effect as if —
- (a) in subsection (2), for the words from “give the prescribed notice” to “under subsection (1) of that section”, there were substituted “send a copy of the application for a permit or for a provisional advance authorisation to the relevant transport authority at the same time as he or she sends the application to the Permit Authority”;
 - (b) in subsection (5), for the words from “give notice” to “under subsection (2) of that section”, there were substituted “send a copy of the application for a permit or for a provisional advance authorisation to the relevant transport authority at the same time as he or she sends the application to the Permit Authority”; and
 - (c) there were inserted after subsection (5) the following —
 - “(6) An undertaker who fails to comply with subsection (2) or (5) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
 - (7) In proceedings against a person for such an offence it is a defence for him or her to show that—
 - (a) the failure was attributable to his or her not knowing the identity or address of a relevant transport authority, and
 - (b) his or her ignorance was not due to any negligence on his or her part or to any failure to make inquiries which he or she ought reasonably to have made.”.
- (8) Section 105 (minor definitions) has effect as if there were inserted after subsection (5) the following—
- “(6) An expression used in this Part and in permit regulations within the meaning of section 37 of the Traffic Management Act 2004) has the same meaning in this Part as in those regulations.”.
- (9) Schedule 3A has effect as if —
- (a) For paragraph 1, there were substituted —
 - “1. This Schedule applies where a Permit Authority receives an application for a permit or for a provisional advance authorisation in respect of specified works in a specified street”;
 - (b) in paragraph 2(1)(a) for “the proposed works” there were substituted “the works that are the subject of the application”;
 - (c) in paragraph 2(1)(b), for “street works” there were substituted “specified works in the street to which the application relates”;
 - (d) in paragraph 2(1)(c) for “highway” there were substituted “street”;
 - (e) in paragraph 2(1)(d) —
 - (i) for “undertakers” there were substituted “persons”;
 - (ii) for “street works in that part of the highway” there were substituted “specified works in that part of the street”;

(4) Section 89(2) was amended by the Traffic Management Act 2004, section 52(7).

(5) Section 92(2) was amended by the Traffic Management Act 2004, section 49(3).

- (iii) for “notify the authority of” there were substituted “apply for a permit or provisional advance authorisation, as applicable, in respect of”;
- (f) in paragraph 2(4) for “highway”, in each place where that word occurs, there were substituted “street”;
- (g) in paragraph 2(4)(d), for the words from “given notice” to “street works” there were substituted “applied for a permit or for a provisional advance authorisation in respect of specified works”;
- (h) sub-paragraphs (5) and (6) of paragraph 2 were omitted;
- (i) paragraph 3 were omitted;
- (j) in paragraph 4(1) the words “and before completion of the works referred to in paragraph 3(1)(a) to (c)” were omitted;
- (k) in paragraph 4(2) for the words from “the execution” to the end there were substituted “the availability of permits in relation to the part of the street specified under paragraph 2(1) (c) for such period as may be specified in the direction”;
- (l) paragraph 4(4), (5) and (7) were omitted;
- (m) in paragraph 4(9) “ceases to have effect by virtue of sub-paragraph (7), or” were omitted; and
- (n) for paragraph 5 there were substituted —

“5.—(1) This paragraph applies where —

- (a) a direction under paragraph 4 has effect; and
 - (b) an application for a permit, or for a provisional advance authorisation, relating to the part of the street to which the direction relates is made after the expiry of the notice period.
- (2) The Permit Authority must, when considering the application have regard to —
- (a) whether the application could reasonably have been made during the notice period; and
 - (b) the desirability of ensuring that specified works are not carried out in that street during the period specified in the direction”.