

Draft for consultation.

Draft Order laid before Parliament under section 77(2) of the Deregulation and Contracting Out Act 1994, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2008 No. XXXX

CONTRACTING OUT

**The Local Authorities (Contracting Out of Highway Functions)
Order 2008**

<i>Made</i>	- - - -	2008
<i>Coming into force</i>	- -	2008

The Secretary of State for Transport makes the following Order in exercise of the powers conferred by sections 70 and 77(1) of the Deregulation and Contracting Out Act 1994(a).

In accordance with section 77(2) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Local Authorities (Contracting Out of Highway Functions) Order 2008 and shall come into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order—

“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 local highway authority in connection with a highway under section 239(1) or (4) or section 246 of the 1980 Act or otherwise;

“local highway authority” has the meaning given in section 329(1) of the 1980 Act [but does not include Transport for London]; and

(a) 1994 c.40. Section 79(1) contains a definition of “local authority”.

(b) 1980 c.66.

(c) 1991 c.22.

(d) 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 by the Greater London Authority Act 1999 (c.29), section 259(1) and (3). Sub-section (2A) was inserted by the Greater London Authority Act 1999 (c.29), section 259(1) and (2) and sub-section (3A) was inserted by the Local Government (Wales) Act 1994 (c.19), section 22(1), and Schedule 7, Part I, paragraph 1(1) and (2). Sub-section (5) was inserted by the Local Government (Wales) Act 1994 (c.19), section 22(1) and Schedule 7, Part I, paragraph 1(1) and (3).

Draft for consultation.

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

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

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

Contracting out of functions of local highway authorities

3. Any function of a local authority which is listed in Schedule 1, 2 or 3 to this Order may be exercised by, or by employees of, such person (if any) as may be authorised to do so by the authority whose function it is.

Revocation and transitional provisions

4.—(1) Subject to paragraph (2), the Local Authorities (Contracting Out of Highway Functions) Order 1999(a) (“the 1999 Order”) and the Local Authorities (Contracting Out of Highway Functions) (England) Order 2001(b) are revoked.

(2) In relation to street works in England in respect of which notice has been given to a local highway authority as the street authority for a street, under section 54(1), 55(1) or 57 of the 1991 Act before 1st April 2008, paragraphs 1(o) and 12 of Schedule 2 to this Order shall not apply and paragraphs 1(l) and 10 of Schedule 2 to the 1999 Order shall continue to apply as if they had not been revoked(c).

Signed by authority of the Secretary of State for Transport

Date

Name
Parliamentary Under Secretary of State,
Department for Transport

SCHEDULE 1

Article 3

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

1. Subject to paragraph 8, functions conferred on a local highway authority as the highway authority(d) 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)(e) (duty to maintain highways maintainable at public expense);
- (b) section 62(f) (general power of improvement);
- (c) section 64(g) (dual carriageways and roundabouts);
- (d) section 66(a) (footways and guard-rails etc for publicly maintainable highways);

(a) S.I.1999/2106.

(b) S.I. 2001/4061.

(c) See regulation 19 (transitional arrangements) of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951) and article 8 (duty to notify street authority of reinstatement) of the Traffic Management Act 2004 (Commencement No.4 and Transitional Provisions) Order 2007 (S.I. 2007/1890 (C.71)).

(d) A local highway authority is the highway authority for certain highways by virtue of sections 1(2) to (5) and 329 of the Highways Act 1980 (c.66).

(e) Section 41(1A) was inserted by the Railways and Transport Safety Act 2003 (c.20), section 111.

(f) 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 (c.51), section 102 and Schedule 17.

(g) Section 64(4) was repealed by the Local Government Act 1985 (c.51), section 102 and Schedule 17, and section 64(5) was repealed by the New Roads and Street Works Act 1991 (c.22), section 168(2) and Schedule 9.

- (e) section 68 (refuges);
- (f) section 69(1)(b) (subways);
- (g) section 70 (footbridges over highways);
- (h) section 71 (margins for horses and livestock);
- (i) section 75(1) and (2) (variation of widths of carriageways and footways);
- (j) section 76 (levelling of highways);
- (k) section 77 (alteration of levels);
- (l) section 78 (cutting off of corners);
- (m) section 80(1), (2) and (3)(c) (power to fence highways);
- (n) section 81 (provision of highway boundary posts);
- (o) section 84 (maintenance of cattle-grids and by-passes);
- (p) section 90 (protection of bridges and railways);
- (q) section 90G(d) (powers to carry out traffic calming works);
- (r) section 90GA(2) and (3)(e) (special procedure for certain traffic calming works in London);
- (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);
- (u) section 97 (lighting of highways);
- (v) section 99 (metalling of highways);
- (w) section 100(1) to (5)(f), (6)(g) and (6B)(h) (drainage of highways) except insofar as they relate to the power to enter premises under section 168 of the Water Industry Act 1991(i) (entry for works purposes);
- (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 posts to indicate depth of flood water);
- (aa) section 104 (mitigating nuisance of dust);
- (bb) section 105 (power to improve road-ferries);
- (cc) section 114(j) (provision of public conveniences by county council for users of roads for which they are the highway authority);

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- (a) 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 (c.51), section 8 and Schedule 4, Part I, paragraph 17.
 - (b) Section 69(2)(b) was repealed by the Local Government Act 1985 (c.51), section 102 and Schedule 17, and section 69(3) was amended by the Local Government (Wales) Act 1994 (c.19), section 22(1) and Schedule 7, Part I, paragraph 7.
 - (c) Section 80 is to be read with section 72(12) of the Wildlife and Countryside Act 1981 (c.69). Sub-section (3)(c) was amended by the Planning (Consequential Provisions) Act 1990 (c.11), section 4 and Schedule 2, paragraph 45(4).
 - (d) Section 90G was inserted by the Traffic Calming Act 1992 (c.30), section 1(2) and Schedule 1. Sub-sections (1) and (2) were amended by the Greater London Authority Act 1999 (c.29), section 269(1), (2) and (3). Section 90G is to be read with section 90GA.
 - (e) Section 90GA was inserted by the Greater London Authority Act 1999 (c.29), section 269(1) and (4). Section 90GA(1)(b) was amended, and 90GA(4) inserted, by the Greater London Authority (Miscellaneous Amendments) Order 2000 (S.I. 2000/1435, article 2 and the Schedule, Part I, paragraphs 1 and 7(1) to (4)).
 - (f) 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).
 - (g) Section 100(6) was amended by the Water Act 1989 (c.15), section 190(1) and Schedule 25, paragraph 62(4)(b); by the Water Consolidation (Consequential Provisions) Act 1991 (c.60), section 2(1) and Schedule 1, paragraph 36(1), and by the Local Government Act 1985 (c.51), section 8 and Schedule 4, Part I, paragraph 21.
 - (h) Section 100(6B) was inserted by the Local Government (Wales) Act 1994 (c.19), section 22(1) and Schedule 7, Part I, paragraph 9.
 - (i) 1991 c.56.
 - (j) Section 114(1) and (3) were amended by the Local Government Act 1985 (c.51), section 8 and Schedule 4, Part I, paragraph 22; section 114(2A) and (2B) were inserted by the Local Government (Wales) Act 1994 (c.19), section 22(1) and Schedule 7, Part I, paragraph 10, and section 114(4) was amended by the Building Act 1984 (c.55), section 133(2) and Schedule 7.

- (dd) section 115H(1)(a) (duties to consult or obtain consent of other authorities);
- (ee) section 133 (damage to footways of streets by excavations);
- (ff) section 139(1) and (2) (control of builders' skips);
- (gg) section 140(2) (removal of builders' skips);
- (hh) section 141(2) (restriction on planting of trees etc in or near carriageway);
- (ii) 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;
- (jj) section 167(2), (5) and (6) (powers relating to retaining walls near streets);
- (kk) section 169(1), (2), (3) and (4)(b) (control of scaffolding on highways);
- (ll) 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 property of any person; and
- (mm) section 178(1) (restriction on placing rails, beams etc over highways).

2. Subject to paragraph 8, functions conferred on a local highway authority by or under section 288(c) 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.

3. Subject to paragraph 8, functions conferred on a local highway authority as a competent authority, by virtue of its being the highway authority for a highway, by or under any of the following provisions of the 1980 Act—

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

4. Functions conferred on a local authority by section 144(4)(b)(g) of the 1980 Act (power to erect flagpoles etc on highways).

5. Functions conferred on a local authority by section 167(5) of the 1980 Act (powers relating to retaining walls near streets) insofar as that authority is a local highway authority.

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- (a) Section 115H was inserted by the Local Government (Miscellaneous Provisions) Act 1982 (c.30), section 20 and Schedule 5, Part I, paragraph 1. Sub-section (1) was amended by the Local Government Act 1985 (c.51), section 8 and Schedule 4, Part I, paragraph 23 and by the Planning (Consequential Provisions) Act 1990 (c.11), section 4 and Schedule 2, paragraph 45(7). Sub-section (2) was repealed by the Local Government Act 1985 (c.51), section 102 and Schedule 17. Sub-section (3) was amended by the Local Government Act 1985 (c.51), section 8 and Schedule 4 Part I, paragraph 23. Sub-section (4) was amended by the Transport for London (Consequential Provisions) Order 2003 (S.I. 2003/1615), article 2 and Schedule 1, Part I, paragraph 7(1) and (3).
 - (b) Section 169(4) was amended by 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), the Telecommunications Act 1984 (c.12), section 109(6) and Schedule 7, Part I and by the Water Act 1989 (c.15), section 190(3) and Schedule 27, Part I. It was also amended by the New Roads and Street Works Act 1991 (c.22), section 168(1) and Schedule 8, Part I, paragraph 4, the Telecommunications Act 1984 (c.12), section 109(1) and Schedule 4, paragraph 76(8), the Communications Act 2003 (c.21), section 406(1) and Schedule 17, paragraph 56(1)(b) and (2)(a) and by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22), section 13(1) and Schedule 4, paragraph 3(1) and (7).
 - (c) 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(c.22), section 168(2) and Schedule 9. Provisions relating to relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby are now contained in sections 83 to 85 of the 1991 Act.
 - (d) Section 143(1)(a) was amended by the Local Government Act 1985 (c.51), section 8 and Schedule 4, Part I, paragraph 25.
 - (e) Section 154(1) was amended by the Countryside and Rights of Way Act 2000 (c.37), section 65 and by the Local Government Act 1985 (c.51), section 8 and Schedule 4, Part I, paragraph 27.
 - (f) Section 185(1) was amended by the Local Government (Wales) Act 1994 (c.19), section 22(1) and Schedule 7, Part I, paragraph 16. Sub-section (3)(b) was amended by the Water Act 1989 (c.15), 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), article 3(1) and Schedule 1, paragraph 49(1) and (7)(a). Sub-section (3A) was inserted by the Postal Services Act 2000 (Consequential Modifications No.1) Order (S.I. 2000/1149), article 3(1), and Schedule 1, paragraph 49(1) and (7)(b).
 - (g) The definition of "local authority" in section 144(6) was amended by the Local Government Act 1985 (c.51), section 102 and Schedule 17.

6. Functions conferred on a London borough council by or under section 301A(2) and (3) (London borough council exercising powers so as to affect another authority's roads) insofar as those provisions apply to the exercise of any other function listed in this Schedule.

7. Functions conferred on a local highway authority as the highway authority for a highway by or under the following provisions of the Walkways Regulations 1973(**a**)—

- (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).

8.—(1) Paragraphs 1 to 3 shall not include—

- (a) any functions conferred by or under section 294 of the 1980 Act (entry, etc, of premises by highway authority or council for certain purposes); or
- (b) any function to the extent that the function confers a power or right of entry into or on any premises or land of which the local highway authority is not the owner or occupier.

(2) Where section 338 of the 1980 Act (saving for works, etc, of dock, harbour and canal undertakers) or 339 of that Act(**b**) (saving for works etc of drainage authorities etc) applies to the exercise of any functions listed in paragraphs 1 to 3, those functions shall be construed as including any additional requirements imposed by those sections.

SCHEDULE 2

Article 3

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

1. Functions conferred on a local highway authority as the street authority(**c**) for a street by or under any of the following provisions of the 1991 Act—

- (a) section 53(**d**) (the street works register);
- (b) section 54(1), (4), (4A) and (4B)(**e**) (advance notice of certain works);
- (c) section 55(1), (4) and (8)(**f**) (notice of starting date of works);
- (d) section 56(1), (1A) and (4)(**g**) (power to give directions as to timing of street works);
- (e) section 56A(1), (3) and (8)(**h**) (power to give directions as to placing of apparatus);
- (f) section 57(2)(**i**) (notice of emergency works);
- (g) section 58(**j**) (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)(**a**) and (3) (restriction on works following substantial street works);

(a) S.I.1973/686, as amended by S.I.1974/735 and 2001/1149.

(b) 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(c.60), section 2 and Schedule 1, paragraph 36(2). Sub-section (1) was also amended by the Water Act 1989 (c.15), section 190(1) and Schedule 25, paragraph 62(13).

(c) Section 49(1) of the New Roads and Street Works Act 1991 (c.22) contains a definition of "the street authority".

(d) Section 53 is prospectively amended by the Traffic Management Act 2004 (c.18), section 45.

(e) Section 54(4A) and (4B) were inserted by the Traffic Management Act 2004 (c.18), section 49(1)(b).

(f) Section 55(8) was inserted by the Traffic Management Act 2004 (c.18), section 49(2). There are other amendments and prospective amendments which are not relevant to this Order.

(g) Section 56(1) was amended by the Traffic Management Act 2004 (c.18), section 43(1) and (2). Sub-section (1A) was inserted by section 43(1) and (3) of that Act. There are other amendments and prospective amendments which are not relevant to this Order.

(h) Section 56A was inserted by the Traffic Management Act 2004 (c.18), section 44.

(i) Section 57(2) was amended by the Traffic Management Act 2004 (c.18), section 52(3)(b).

(j) Section 58 was amended by the Traffic Management Act 2004 (c.18), section 51.

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- (i) section 59**(b)** (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 insofar as they relate to the power to designate a street as protected;
- (l) section 65(5) (safety measures);
- (m) section 66(3) and (4) (avoidance of any unnecessary delay or obstruction);
- (n) section 68(1) (facilities to be afforded to street authority);
- (o) section 70(3) and (4A)**(c)** (duty of undertaker to reinstate);
- (p) section 72**(d)** (powers of street authority in relation to reinstatement);
- (q) section 75**(e)** (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);
- (u) section 94(1) and (2) (power of street authority or district council to undertake street works).

2. Functions conferred on a local highway authority as the traffic authority**(f)** for a highway by section 65(2) of the 1991 Act (safety measures).

3. Functions conferred on a local highway authority as a relevant authority other than a street authority by or under 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 local highway authority as the highway authority for a highway or as the bridge authority for a bridge by or under any of the following provisions of the 1991 Act—

- (a) section 83**(g)** (works for road purposes likely to affect apparatus in the 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)**(h)** and (5) (bridges, bridge authorities and related matters).

5. Functions conferred on a local highway authority as the responsible authority by or under section 90 of the 1991 Act**(i)** (provisions as to reinstatement of sewers, drains or tunnels).

6. Functions conferred on a local highway authority as the street authority for a street by or under the following—

- (a) regulation 3 of the Street Works (Inspection Fees) (England) Regulations 2002**(j)** (undertaker required to pay the street authority a fee for each chargeable inspection carried out by the street authority in England); and
- (b) regulation 3 of the Street Works (Inspection Fees) (Wales) Regulations 2006**(k)** (undertaker required to pay the street authority a fee for each chargeable inspection carried out by the street authority in Wales).

(a) Section 58A and Schedule 3A were inserted by the Traffic Management Act 2004 (c.18), section 52(1) and (2).

(b) Section 59 is prospectively amended by the Traffic Management Act 2004 (c.18), section 42.

(c) section 70(3) was substituted and (4A) inserted by the Traffic Management Act 2004 (c.18), section 54(1) and (3).

(d) Section 72 is prospectively amended by the Traffic Management Act 2004 (c.18), sections 53(1) and 58(1).

(e) Section 75 is prospectively substituted by the Traffic Management Act 2004 (c.18), section 58(2).

(f) Section 105(1) of the New Roads and Street Works Act 1991 (c.22) contains a definition of “traffic authority”.

(g) Section 83(3) was amended by the Traffic Management Act 2004 (c.18), section 40(1) and (2) and Schedule 1.

(h) Section 88(4) was amended by the Traffic Management Act 2004 (c.18), section 52(6).

(i) Section 90 is prospectively amended by the Traffic Management Act 2004 (c.18), section 53(2).

(j) S.I.2002/2092, as amended by S.I. 2004/572, 2007/584 and 2008/[].

(k) S.I. 2006/1532 (W.150) as amended by S.I. 2007/1713 (W.150).

7. Functions conferred on a local highway authority as the street authority for a street by or under regulation 3 of the Street Works (Reinstatement) Regulations 1992(**a**) (street authority's power to give notice affecting the standard of reinstatement required).

8. Functions conferred on a local highway authority as the highway authority for a highway, as the bridge authority for a bridge or as the transport authority for a transport undertaking by or under any provision of—

- (a) the Street Works (Sharing of Costs of Works) (England) Regulations 2000(**b**); and
- (b) the Street Works (Sharing of Costs of Works) (Wales) Regulations 2005(**c**).

9. Functions conferred on a local highway authority as the street authority for a street under regulations 3 and 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 local highway authority as the highway authority for a highway under the Street Works Register (Registration Fees) Regulations 1999(**e**).

11. Functions conferred on a local highway authority as the street authority for a street in Wales, the highway authority for a highway in Wales or the bridge authority for a bridge in Wales by or under any of the following provisions of the Street Works (Registers, Notices, Directions and Designations) Regulations 1992(**f**)—

- (a) regulation 3(2) and (3) (street works registers);
- (b) regulation 5 (prescribed manner of service of notices);
- (c) regulation 7 (notice of starting date of works);
- (d) regulation 8 (procedure for giving directions);
- (e) regulation 11(3) (designation of protected streets);
- (f) regulation 12(3) (designation of streets with special engineering difficulties); and
- (g) regulation 13(3) (designation of streets as traffic-sensitive).

12. Functions conferred on a local highway authority 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(**g**)—

- (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

(a) S.I.1992/1689, as amended by S.I.1992/3110, in relation to England by S.I. 2002/1487 and in relation to Wales by S.I. 2006/2932 (W.265) and 2006/2934 (W.266).

(b) S.I.2000/3314.

(c) S.I. 2005/1721 (W.133).

(d) S.I.1992/1691.

(e) S.I.1999/1048.

(f) S.I.1992/2985; as amended by S.I.1995/990 and 2128 and 1999/1049. These Regulations were disappplied as respects England by the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 (S.I. 2007/1951).

(g) S.I.2007/1951.

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- (j) regulation 16(6) (designation of streets as traffic-sensitive).

13. Functions conferred on a local highway authority as the street authority for a street in England by or under regulation 5(1) and (6) of the Street Works (Fixed Penalty) (England) Regulations 2007(**a**) (manner of service of a fixed penalty notice or a notice withdrawing a fixed penalty notice).

14. Functions conferred on a local highway authority as the highway authority for a highway in England by or under the following provisions of the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2008(**b**)—

- (a) regulation 6 (notices);
- (b) regulation 7(3) and (7)(c) (prescribed charges and prescribed period);
- (c) regulation 8 (estimates of duration of works); and
- (d) regulation 9 (further and revised estimates of duration of works).

SCHEDULE 3

Article 3

FUNCTIONS CONFERRED BY MISCELLANEOUS ENACTMENTS

1. Functions conferred on a local highway authority as the highway authority for a highway by or under section 153(**c**) of the Public Health Act 1875(**d**) (power to require gas and water pipes to be moved).

2. Functions conferred on a local highway authority as the highway authority for a highway by or under section 14(**e**) of the Public Health Act 1925(**f**) (public drinking fountains, seats, etc, in streets).

3. Functions conferred on a local highway authority by or under section 5(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1953(**g**) (consents to exercise of powers under section 4 (provision of omnibus shelters, etc)).

4. Functions conferred on a local highway authority by or under section 5(1) and (2) of the Parish Councils Act 1957(**h**) (provisions as to consents and access).

5. Functions conferred on a local highway authority as the highway authority for a highway by or under the following provisions of the Public Health Act 1961(**i**)—

- (a) section 45 (attachment of street lamps to buildings); and
- (b) section 81(**j**) (summary recovery of damages for negligence).

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- (a) S.I. 2007/1952.
 - (b) S.I.2008/[].
 - (c) 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).
 - (d) 1875 c.55.
 - (e) 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).
 - (f) 1925 c.71.
 - (g) 1953 c.26. Section 4(4) was amended by the Transport Act 1980 (c.34), section 43 and Schedule 5, Part II and by the Public Passenger Vehicles Act 1981 (c.14), section 88 and Schedule 7, paragraph 1.
 - (h) 1957 c.42; section 5(1) was amended by the Road Traffic Act 1960 (c.16), section 267(1) and Schedule 18 and by the Local Government Act 1985 (c.51), section 8 and Schedule 4, Part II, paragraph 49.
 - (i) 1961 c.64. Sections 45 and 81 are to be read with section 97(4) of the Highways Act 1980 (c.66). All functions of a Minister of the Crown under this Act, except functions exercisable as the appropriate authority under section 45 and Schedule 4 in respect of certain descriptions of buildings, so far as exercisable in relation to Wales, are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1.
 - (j) Section 81 was partially repealed by the Local Government Act 1985 (c.51), section 102(2) and Schedule 17.

Draft for consultation.

6. Functions conferred on a local highway authority by or under section 5(6) of, and Schedule 1 to, the Litter Act 1983(**a**) (litter bins in England and Wales).

7. Functions conferred on a local highway authority as the highway authority for a highway by or under section 72(1) of the Road Traffic Regulation Act 1984(**b**) (powers exercisable by parish or community councils).

8. Functions conferred on a local highway authority as the highway authority for a highway by or under sections 4 (provision of barriers in cycle tracks, etc) and 5(1) (compensation) of the Cycle Tracks Act 1984(**c**).

(a) 1983 c.35. All functions of a Minister of the Crown under this Act, so far as exercisable in relation to Wales, are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and schedule 1.

(b) 1984 c.27.

(c) 1984 c.38.

Draft for consultation.

EXPLANATORY NOTE

(This note is not part of the Order)

Subject to minor transitional provisions, this Order replaces, with modifications, the Local Authorities (Contracting Out of Highway Functions) Order 1999 and the Local Authorities (Contracting Out of Highway Functions) (England) Order 2001.

It enables local authorities to authorise another person, or that person's employees, to exercise certain of their functions, mainly as the highway authority, in relation to maintenance, improvement and other dealings with highways.