



Street works overrun legislation - Regulatory Impact Assessment

Purpose and Intended Effect

(i) Identify the Issue and Objective

There have been long standing concerns about the disruption, delay and inconvenience caused to road users, including businesses, public transport, private motorists, pedestrians and disabled people, by street works carried out by undertakers. At the same time, the Government recognises that undertakers - such as those in the field of gas, water or telecommunications - have statutory rights to carry out street works as part of providing the public with services which are regarded as essential in a modern society. The Government wishes, therefore, to reach a balance between the right of undertakers to carry out their works and the right of road users not to have to suffer unnecessary disruption.

The New Roads and Street Works Act 1991 (NRSWA) provides a legislative framework for street works activities, and it is supported by regulations and codes of practice. Section 74 of the 1991 Act provides for Ministers to issue regulations allowing highway authorities to charge undertakers where the latter fail to complete works by a deadline agreed between the two sides. However, these powers have not been activated before now.

A consultation was held in October 1999 on possible options, with penalties, for reducing the disruption caused by overrunning street works. Having considered the responses to the consultation, in April 2000 the Government pledged to activate the powers under section 74. These regulations fulfil that pledge, and are intended to reduce the time undertakers unnecessarily occupy road space in carrying out their works on, or adjacent to, the highway, and so to minimise the disruption to road users.

(ii) Risk Assessment

The risk of not taking sufficient action to deal with street works-related disruption is the costs that this disruption imposes upon road users, businesses and the economy as a whole. The increasing competition in the telecommunications industry in particular, could mean that current levels of disruption will increase without corrective action being taken.

Options

(i) Options identified

The October 1999 consultation paper identified three main options for dealing with the problem of disruption from street works:

introduce regulations allowing highway authorities to charge undertakers where their street works overrun an agreed deadline;

introduce powers allowing highway authorities to charge undertakers from the outset of works (so-called "lane rental");

make more effective use of the existing powers in NRSWA.

(ii) Issues of equity and fairness

Most of the organisations affected are substantial bodies - utility companies and highway authorities. Some contractors carrying out work on behalf of the utilities would be smaller scale organisations. The regulations provide for highway authorities to waive or reduce the level of charges where they believe that circumstances, such as the performance of the undertaker, justify this. Efficient undertakers that completed their works to deadline and did not occupy the highway unnecessarily would, of course, incur no charges.

Benefits

(i) Identify the Benefits

Street works inevitably cause some disruption to road users where the carriageway is reduced or the footway taken over by the works. This can lead to congestion and delay or longer journeys for traffic, additional pollution where congestion is made worse and inconvenience to pedestrians. The aim of these regulations is to reduce unnecessary occupation of the road and footway and thereby reduce the adverse effects described. Those benefiting will include businesses, private motorists, public transport operators and passengers and pedestrians.

(ii) Quantifying and valuing the benefits

These are not quantifiable at this stage, as it will depend upon how far the performance of undertakers improves in completing street works to deadline, but they include reduced delays to all road users. This would benefit commercial and business traffic as well as other traffic and pedestrians. Reductions in pollution will benefit people living, working or travelling in the areas affected.

Compliance costs for Business, Charities and Voluntary Organisations

(i) Business sectors affected

Statutory undertakers, such as water, gas, electricity and telecommunications companies. They will be required to provide highway authorities with formal notices, containing details of works to be carried out, including commencement and completion dates, and to pay charges to the authorities where the works are not completed by a date previously agreed between the two parties. There will be no impact on charities or voluntary organisations, except in the infrequent cases where they are also undertakers.

(ii) Compliance costs for a "typical" business

These are not quantifiable at the current time as it will depend upon how many highway authorities decide to take up the option of charging utilities for the overrun of works, but it is clear that efficient undertakers which did not overrun their agreed times would incur no charges.

There would, however, be some cost to undertakers in operating the scheme, although these would be relatively small. However, the introduction of the Electronic Transfer of Notifications scheme should make the transfer of information between undertaker and highway authority easier and cheaper.

(iii) Total Compliance Costs

See (i) and (ii) above.

Consultation with small business

There was wide consultation held with interested parties such as highway authorities and individual undertakers both large and small. Separate consultation was held in October 1999 on the options paper and in autumn 2000 on the draft regulations themselves.

Other costs

It is likely that highway authorities would incur some additional costs in operating the new arrangements and in monitoring undertakers' performance. Whilst it is difficult to estimate the likely costs of this, authorities will, in any case, be able to use the charges collected from undertakers to offset any costs they incur. In addition, authorities have the option not to take up the powers, if they choose.

Results of consultations

Consultation on the draft regulations and on the revised version of the related Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters (the "Co-ordination Code") was carried out between September and November 2000. A weeklong Workshop was also held in November with representatives of the highway authorities and undertakers to consider how the draft regulations and Co-ordination Code should be amended in the light of the consultation.

Summary and recommendations

That the regulations (having been amended in the light of the consultation) should be laid so as to come into force on 1 April 2001.

Enforcement, Sanctions, Monitoring and Review

The Co-ordination Code will be issued at the same time as the regulations, and will include detailed advice on operating the charging for overrunning scheme.

The regulations make clear that it is an offence for undertakers, without reasonable cause, to fail to provide authorities with the relevant notices of works.

The Government will be appointing advisers to monitor the effects of the new arrangements and how far these prove successful in reducing disruption. Highway authorities will also need to make their own arrangements to monitor performance in their area.

The Government has made clear that it will review the success of the section 74 regulations in reducing current disruption levels, before coming to a decision on whether to activate further powers allowing highway authorities to charge undertakers lane rental.

Contact point and date

For further information, please contact Tim Barrow, Traffic Management and Tolls Division, Department of the Environment, Transport and the Regions, Zone 3/17, Great Minster House, 76 Marsham Street, London SW1P 4DR; e-mail - Tim.Barrow@dft.gsi.gov.uk.