

CONDITIONS FOR ROAD OPENING CONSENT

1. Procedure

The Operation shall be carried out so as to cause as little inconvenience as possible to the public, and in such a way as not to interrupt the thoroughfare.

2. Signing / Protection of Works

Fencing and lighting shall be in accordance with Section 60 of the Roads (Scotland) Act 1984 (see annexation below for the text of that section) and the holder of the Consent shall comply with the recommendations contained in Chapter 8 of the Traffic Signs Manual and/or Safety at Street Works and Road Works - A Code of Practice.

At all times the holder of the consent shall provide means of passage alongside works for pedestrians. Such passage shall be protected from vehicular traffic and any dangers from the works being undertaken by the holder of the consent. Full and adequate access shall be maintained for pedestrians and vehicles to properties abutting on the operations. Nothing in this condition shall absolve the holder of the consent of his liabilities with regard to the requirements of the various Utility Companies listed in Condition 7. The holder of the consent shall supply and maintain all road signs, lighting, traffic cones, barriers, temporary traffic signals, lock-outs and manual control or such other means of traffic control as shall be required and shall provide passage for pedestrians segregated from vehicular traffic.

Where temporary traffic signals are required as part of the works, separate consent must be obtained from the Roads Authority. A board displaying an emergency telephone number must be provided for contacting in the event of anyone being required outside normal working hours for repairs, etc. If in the event of Roads personnel of the Council finding any works unlit or inadequately protected, the cost of any precautions required such as the placing of lighting, cones, barriers, etc., by the Roads personnel will be recovered from the consent holder. This consent may be withdrawn if, in the opinion of the Police or the Roads Authority, traffic conditions are such that this is necessary. If this consent is withdrawn operations must cease. If the holder of the consent is instructed to do so, the site must be cleared.

3. Excavations

a) When a carriageway or footway is disturbed unless the Roads Authority is notified in writing of any paving defects, including any kerb defects, before the excavation is carried out, it will be assumed that the same is in good order and the holder of the consent shall be held responsible for any defects found after the restoration of the opening.

b) All excavated material except for unbroken slabs, natural stone slabs and honoured stone surfacing shall be removed from site and the backfill of openings be carried out using Type 1 granular sub-base to Clause 803 of the current specification for Road and Bridge Works published by the Department of Transport and shall be compacted using a vibrating roller, vibro tamper or vibrating plate compactor.

c) The permanent restoration of concrete slabs, natural stone slabs, and honoured surfaces shall be carried out immediately after the backfill of the opening by laying the slabs and stone slabs on a 50mm bed of 1:6 lime/sand mix, and they shall be grouted and key pointed using a 3:1 sand/cement mortar and honoursing should have whin dust brushed into the interstices.

NOTE: For public safety reasons a ban has been placed on the use of Stihl saws for cutting slabs within the highway unless they are of the water suppressed type.

d) With all other surfaces the Consent holder shall immediately on the completion of his operations carry out an interim reinstatement using a deferred set bituminous material, which shall be 75mm deep on carriageways, and 25mm deep on footways all on Type 1 granular sub-base backfill.

e) In the case of sett paved roads the backfill shall be carried out to such a level as will allow setts to be placed in the excavation to match the pattern of the remainder of the road and have a 50mm running surface of deferred set bituminous material laid.

f) The consent holder must maintain the interim reinstatement in a satisfactory condition at all times *and on completing the permanent restoration, will be responsible for any defects in the opening for a period of twenty four months.*

All work done by the consent holder under this condition shall be in accordance with:

- 1) The Road Authority's specification in force at the time the works are carried out; and
- 2) The Construction (General Provisions) Regulations 1961 (Statutory Instrument 1961 No 1580) as amended;
- 3) The Road Works (Qualifications of Supervisors and Operatives) (Scotland) Regulations 1992.

Plant must be placed so as to prevent damage to footways, carriageways or kerbs to prevent complaints from adjoining occupiers. All pneumatic tools must be fitted with silencers.

4. Cranes

Where a portion of the road is to be used for a mobile crane for a short period, arrangements shall be made with the Roads Authority and the Police at least seven days in advance of the operations. Such operations shall be restricted to dates and times to be fixed by the Roads Authority and the Police.

5. Footway Crossings

Where the operation for which consent is granted includes the formation of a crossing over a footway, the crossing shall be constructed in accordance with the Roads Authority standard specification, copies of which can be obtained from the Roads Authority, and shall be completed by the consent holder to that specification.

6. Apparatus & services belonging to others.

This consent does not carry with it any right to interfere with the apparatus or services belonging to others. The position of any apparatus which may be affected by the carrying out of the works must be ascertained by the holder of the consent and the permission in writing of the said parties obtained before any work commences.

All underground pipes, mains, ways or other services for sewerage, water, gas, electricity, telephone or telegraphs, must be adequately protected from damage, and must not be interfered with. In the event of damage being caused thereto, the holder of the consent must immediately contact the body whose apparatus has been damaged. The holder of the consent shall be liable for all expenses, which any such Utility Company or the Council may incur in making good the damage.

7. Indemnity

The granting of this Roadworks Consent signifies this Services approval of the proposed road works. It is not however, an exhaustive design check and the applicant is responsible for ensuring that the finished roads comply with all relevant requirements.

The applicant shall indemnify the Council as Roads Authority from and against all actions, claims, demands, costs, charges, damages, losses and expenses of whatsoever kind of nature which may be brought or made against them or incurred by them in respect of the negligence, omission or default of the holder of the consent or those to whom the holder is responsible arising in respect of any operation authorised by this consent unless due to the negligence or other breach of legal duty on the part of the Council or of any person for whom the Council are responsible.

8. Road Closure

This consent does not carry with it the right to close any public road or roads.

9. Use of Builder's Skip

This consent does not carry with it the right to deposit a builder's skip on the road. Separate permission must be sought from the Roads Authority.

10. General

i. The mixing of materials, particularly concrete, grout and mortar on the surface of carriageways and footways will not be permitted. Where such mixing is essential for work on the road, it must be carried out on properly constructed mixing boards or steel trays, and spillage on the surface of the road must be prevented. The cleaning of the site and the mixing boards must be done in such a manner that none of the mixed material reaches a gully, and any damage caused shall be made good at the expense of the consent holder causing the damage.

ii. No tracked vehicle is to be driven on the public road.

11. Interpretation

Road means, subject to subsection (3) below, any way (other than a waterway) over which there is a public right of passage (by whatever means) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes, and any references to a road includes part thereof.

(3) The Roads (Scotland) Act 1984 does not confer any power or impose any duty as regards a road or proposed road which:

a) being a footpath only, is a public path created under Section 30 of the Countryside (Scotland) Act 1967 (power of planning authority to create public paths by agreement);

b) being a footpath only, forms part of a long-distance route the proposals for which have been approved by the Secretary of State under Section 40(1) of that Act (approval of proposals relating to a long-distance route); or

c) forms part of land owned or managed by an islands or council and used by them for the provision of facilities for recreational, sporting, cultural or social activities in the discharge of their duties, under Section 14 of the Local Government and Planning (Scotland) Act 1982.

"Statutory Undertakers" has the same meaning as in Section 275 of the Town and Country Planning (Scotland) Act 1972 except that it includes the Post Office and, except in Sections 133 and 140(4) of this act, the operator of any telecommunications code system.

Annexation referred to:-

Roads (Scotland) Act 1984

Section 56....

Section 59....

Section 60....

56(1) Subject to section 61 of this Act and without prejudice to any requirement imposed by, under or by virtue of any other enactment, no works shall be executed in, or excavation made under, a public road except with the Roads Authority's consent in writing and in accordance with any reasonable conditions which they think fit to attach to the consent.

(2) An application for the consent of a Roads Authority under subsection (1) above shall be in writing. On receipt of the application they shall give the applicant notice of all statutory undertakers whose apparatus is, in the opinion of the authority, likely to be affected by the works or excavation and the applicant shall then forthwith in writing intimate the application to those undertakers of whom he has received such notice.

(3) This Section does not apply to works or excavations to which the street works code, as contained in the New Roads and Street Works Act 1991, applies.

(4) A person shall, as soon as reasonably practicable after he:-

(a) executes such works as are, or

(b) makes such excavation as is,

mentioned in subsection (1) above, make good any damage in the road occasioned by the works or excavations and shall immediately thereafter give notice to the authority that the damage is made good; and without prejudice to section 66 of this Act, until twelve months have elapsed from the authority certifying that the damage has been made good to their satisfaction (which certificate shall not be withheld unreasonably) the person shall maintain so much of the road as is made good.

(5) At the completion of the works or excavation mentioned in subsection (1) above any opening left in the road shall be provided with a door or cover by the person executing the works or making the excavation; and such door or cover shall be constructed in such a manner, and of such materials, as may be specified by the Roads Authority.

(6) A person who contravenes -

(a) subsection (1) above; or

(b) subsection (5) above,
commits an offence.

Roads (Scotland) Act 1984 - Sections 56, 59, 60 & 61

(7) Works executed, or an excavation made, in contravention of subsection (1) above may be removed, or as the case may be filled in, by the roads authority; and the authority may recover such expenses as are reasonably incurred in so doing or in maintaining an excavation which has under this subsection been filled in, from the person who executed those works or made that excavation.

(8) The Roads Authority shall, where practicable, notify the persons mentioned in subsection (7) above about anything removed under that subsection; but if the person cannot be traced, or if he has not recovered the thing within a reasonable period of time after being so notified, the authority may dispose of the thing.

(9) Any Proceeds of a disposal under subsection (8) above, shall be used to meet any such expenses in relation to the removal or filling in as are mentioned in subsection (7) above. Thereafter any surplus shall be given to the person so mentioned if he can be traced and if he cannot may be retained by the Roads Authority.

(10) Where a person contravenes subsection (4) (other than by a failure duly to give information) or (5) above, the roads authority may make good the damage to the road, or as the case may be provide a door or cover for the opening, and recover from him such expenses as are reasonably incurred in so doing.

59(1) Subject to subsection (6) below, nothing shall be placed or deposited in a road so as to cause an obstruction except with the road authority's consent in writing and in accordance with any reasonable conditions which they think fit to attach to the consent.

(2) A person who contravenes subsection (1) above *commits an offence*.

(3) Without prejudice to subsection (2) above, a person who contravenes subsection (1) above may be required by the roads authority or by a constable in uniform to remove the obstruction forthwith and commits an offence if he fails to do so.

(4) Where

- (a) a requirement under subsection (3) above is not complied with
- (b) the person who placed or deposited the obstruction cannot readily be traced; or
- (c) the case is one of emergency

the Roads Authority or a constable may remove the obstruction (or cause it to be removed) and recover such expenses as are reasonably incurred in so doing from the said person.

(5) Subsections (8) and (9) of Section 56 of this Act shall apply in relation to anything removed under subsection (4) above as they apply in relation to anything removed under subsection (7) of that Section, except that where the removal is by a constable the said subsections (8) and (9) shall be read as if any reference therein to the roads authority were a reference to the police authority.

(6) The foregoing provisions of this Section do not apply:-

- (a) where Section 58, 85 or 86 of this Act or Section 2 of the Refuse Disposal (Amenity) Act 1978 (penalty for unauthorised dumping of motor vehicles etc) applies.
- or
- (b) to works to which the street works code as contained in the New Roads and Street Works Act 1991, applies.

60(1) Without prejudice to Section (8) of the New Roads and Street Works Act 1991 (which sets out requirements as to safety, obstruction and other matters to be observed during and in conjunction with the execution of certain works by statutory undertakers), or to Sections 57 to 59 or Section 85 of this Act, where any person places or deposits anything on a road so as to cause an obstruction or executes works in a road, he shall, whether or not the obstruction is, or works are, on or in the road with the consent of the Roads Authority.

(a) cause the obstruction or works to be marked in such manner and with such materials as may, for the purpose of making it or them immediately visible to oncoming traffic, be specified;

(b) erect such lighting of the obstruction or works during the hours of darkness as is necessary for preventing danger to traffic and for warning traffic of danger;

(c) erect such fences, barriers and traffic signs for preventing danger to traffic, for regulating traffic and for warning traffic of danger, as may be necessary and remove them as soon as they cease to be necessary therefore; and

(d) in the case of an obstruction or works whose nature so requires, cause any building adjoining the road

to be shored up or otherwise protected.

(2) If the person referred to in subsection (1) above fails to fulfil a requirement imposed on him by that subsection, the roads authority may fulfil the requirement and recover the expenses reasonably incurred by them in so doing from that person.

(3) A person who fails to fulfil a requirement imposed on him by subsection (1) above commits an offence.

(4) A person who, without lawful authority or reasonable excuse, takes down, alters or removes any fence, barrier, shoring or other support or protection, or any traffic sign erected in pursuance of subsection (1) or (2) above, or removes, interferes with or extinguishes any light placed in pursuance of either of those subsections to indicate an obstruction or works on or in any road commits an offence.

(5) In this Section

"hours of darkness" means the time between half an hour after sunset and half an hour before sunrise; and
"specified" means specified by the Secretary of State in regulations.

The Road Works (Qualifications of Supervisors and Operatives) (Scotland) Regulations 1992

EXPLANATORY NOTE TO 3f (3)

(This note is not part of the Regulations)

These Regulations prescribe the qualifications needed for supervisors (Regulation 3) and trained operatives (Regulation 4), one of each of whom is required by Section 126(1) and (2) of the New Roads and Street Works Act 1991 (subject to exceptions) to supervise or be on site at all times when an undertaker* executes road works involving, in the case of both supervisors and trained operatives, breaking up the road, or any sewer, drain or tunnel under it, or tunnelling or boring under the road and, in the case of trained operatives, opening the road.

A supervisor or a trained operative has a prescribed qualification if an approved body has issued them a certificate of competence showing that he has been assessed as having achieved the relevant units of competence for the work being executed as set out in Schedules 1 and 2 (operatives) and Schedule 3 and 4 (supervisors). Provision is made for the recognition of equivalent qualifications obtained in another member state of the European Community (Regulations 3(1)(b) and 4(1)(b)). Regulation 5 prescribes the City and Guilds of London Institute, the Scottish Vocational Education Council ("SCOTVEC") and the Certification and Assessment Board for the Water Industry as the approved bodies for the issuing of certificates of competence and provides that SCOTVEC is the approved registration body to keep the register of certificates. Regulation 5(4) provides that the Secretary of State may withdraw approval from a named body if it fails satisfactorily to discharge its functions.

Regulation 6 makes transitional provisions and Regulation 7 and 8 provide that prescribed qualifications may relate to all or any types of works to be done by a supervisor or trained operative. Finally, Regulation 9 provides that a certificate expires after 5 years, but may be re-registered.

*Definition of undertaker under NRSWA 1991:-

An undertaker is a person or organisation carrying out street works or road works under either:

- i. A statutory right (such as the Utility organisation - cable television communications, electricity, gas, sewerage, telecommunications, water etc) or



EAST LOTHIAN COUNCIL

**Partnerships and Community Services
Infrastructure - Road Services**

Roads (Scotland) Act 1984 - Sections 56, 59, 60 & 61

Licence / Application No:

Licence Type:

Location of Structure(s):

Reference:

Start Date:

End Date:

CERTIFICATION OF REINSTATEMENT

Name:

Address:

I hereby certify that the work referred to above has been reinstated in accordance with the Conditions for Consent.

Date reinstatement completed:.....(date)

The reinstatement is now ready for inspection by the Business Manager Road Services or his representative.

Signed: Qualifications:.....

Date: Designation:

Firm:

Address:

.....

This form is issued on behalf of the Road Services Manager, Road Services, East Lothian Council, John Muir House, Haddington EH41 3HA

The reinstatement has been inspected and I hereby certify that the opening has been made good to my satisfaction.

Signed (on behalf of Road Services Manager)