

SCHEDULE 19
STATUTORY UNDERTAKERS

Part 1
Authorised Functions

1. Functions conferred on the Secretary of State as Street Authority by or under any of the following provisions of the 1991 Act:
 - 1.1 Section 53 (the street works register);
 - 1.2 Sections 54(1) and (4) (advance notice of certain works to be given to the Street Authority and compliance with requirements imposed by the Street Authority);
 - 1.3 Sections 55(1) and (4) (notice to be given to the Street Authority of the starting date of works and prohibition on starting works without notice except with the consent of the Street Authority);
 - 1.4 Sections 56(1) and (4) (Street Authority's power to give directions as to the timing of street works and duty to have regard to the Code of Practice in exercising power);
 - 1.5 Section 58 (restriction on works following substantial road works);
 - 1.6 Section 59 (general duty of Street Authority to co-ordinate works);
 - 1.7 Section 60(1) (general duty of Statutory Undertaker to co-operate with the Street Authority with respect to the execution of street works);
 - 1.8 Section 61 (protected streets) except in so far as they relate to the power to designate a street as protected;
 - 1.9 Section 65(5) (Street Authority's power to take steps where Statutory Undertaker has failed to comply with certain obligation, and to recover costs incurred);
 - 1.10 Sections 66(3) and (4) (Street Authority's power to give notice to Statutory Undertaker to mitigate and discontinue obstruction, to take necessary steps and recover costs incurred);
 - 1.11 Section 68(1) (Statutory Undertaker to afford reasonable facilities to the Street Authority);
 - 1.12 Sections 70(3) and (4) (Statutory Undertaker to inform the Street Authority of completion of interim and permanent reinstatement);
 - 1.13 Section 72 (powers of Street Authority in relation to reinstatement);
 - 1.14 Section 81 (duty to maintain Apparatus);
 - 1.15 Section 82(1) (payment of compensation to Street Authority); and

- 1.16 Sections 94(1) and (2) (power of Street Authority to enter into an agreement with a Statutory Undertaker for the execution of street works).
2. Functions conferred on the Secretary of State as Traffic Authority by or under Section 65(2) of the 1991 Act (Statutory Undertaker to comply with directions given by Traffic Authority).
3. Functions conferred on the Secretary of State as a relevant authority other than a Street Authority by or under Section 81 of the 1991 Act (duty to maintain Apparatus).
4. Functions conferred on the Secretary of State as Highway Authority or as Bridge Authority by or under the following provisions of the 1991 Act:
 - 4.1 Section 83 (Works for Road Purposes likely to affect Apparatus in the street);
 - 4.2 Sections 84(1), (3) and (4) (Statutory Undertaker and Bridge or Highway Authority to take steps where Apparatus affected by Major Highway Works and requirement to pay compensation in certain circumstances);
 - 4.3 Sections 85(1) and (3) of the 1991 Act (Highway and Bridge Authority to bear allowable costs of necessary measures where Statutory Undertaker's Apparatus affected by Major Highway Works and right to recover Statutory Undertaker's costs from third parties); and
 - 4.4 Sections 88(4) and (5) (consultation with Bridge Authority prior to execution of certain works, provision of reasonable facilities for Bridge Authority to monitor works, and compliance with directions of Bridge Authority).
5. Functions conferred on the Secretary of State by or under Section 90 of the 1991 Act (provisions as to reinstatement of sewers, drains or tunnels).
6. Functions conferred on the Secretary of State as Street Authority by or under regulation 3 or 10 of the Street Works (Reinstatement) Regulations 1992 (SI 1992/1689, amended by SI 1992/3110) (Street Authority's power to give notice affecting the standard of reinstatement required and extension of the period for completion by agreement between the Statutory Undertaker and the Street Authority).
7. Functions conferred on the Secretary of State as Highway Authority or as Bridge Authority by or under any provision of the Street Works (Sharing of Costs of Works) Regulations 1992 (SI 1992/1690).
8. Functions conferred on the Secretary of State as Street Authority for a street under Regulations 3 and 4 of the Street Works (Maintenance) Regulations 1992 (SI 1992/1691) (Street Authority's power to execute works to enable it to inspect Statutory Undertaker's Apparatus and to execute any emergency works needed).

SCHEDULE 19
STATUTORY UNDERTAKERS

Part 2
Services in Relation to the Secretary of State's Functions

1. The DBFO Co shall in respect of the Project Facilities carry out the following services in relation to functions conferred on the Secretary of State as Street Authority under any of the following provisions of the 1991 Act:
 - 1.1 Section 53: provide to the holder of the official street works register such information as may be prescribed pursuant to Section 53 and such other information of which it becomes aware which is eligible for registration and make such payment or payments as the Secretary of State may require pursuant to Section 53(5);
 - 1.2 Section 54(1): receive the prescribed advance notice of works from Statutory Undertakers, copy such notices to the holder of the official street works register and to the Department's Nominee;
 - 1.3 Section 54(4): prepare for issue by the Secretary of State appropriate directions to be given to Statutory Undertakers relating to the provision of information and other procedural steps necessary for the co-ordination of the Statutory Undertakers' proposed works and advise the Secretary of State on the necessity for the same;
 - 1.4 Section 55(1): receive notices of starting date of works, copy such notices to the holder of the official street works register and to the Department's Nominee;
 - 1.5 Section 55(4): prepare for issue by the Secretary of State appropriate consents to be given to the Statutory Undertakers and advise the Secretary of State on the necessity for the same;
 - 1.6 Sections 56(1) and (4): prepare for issue by the Secretary of State appropriate directions as to the timing of street works to comply with the Codes of Practice and advise the Secretary of State on the necessity for the same;
 - 1.7 Section 58:
 - 1.7.1 prepare for issue by the Secretary of State appropriate notices to be given restricting street works following substantial road works and advise the Secretary of State on the necessity for the same;
 - 1.7.2 advise the Secretary of State on reinstatement of unauthorised works pursuant to Section 58(6); and
 - 1.7.3 advise the Secretary of State on costs incurred in reinstating the highway and assist the Secretary of State in recovering such sums from the Statutory Undertakers;

1.8 Sections 59 & 60:

- 1.8.1 without prejudice to the provisions of Clause 27.2 (Primary Duty of Co-ordination), advise the Secretary of State with regard to the co-ordination of the execution of works of all kinds affecting the Project Facilities in the manner set out in Sections 59(1)(a), (b) and (c);
- 1.8.2 advise the Secretary of State with regard to the steps necessary to ensure co-ordination with other Street Authorities pursuant to Section 59(2);
- 1.8.3 advise the Secretary of State if a Street Authority is not discharging its general duty of co-ordination and advise the Secretary of State on steps which need to be taken in consequence;
- 1.8.4 prepare for issue by the Secretary of State directions pursuant to Section 59(5) and advise the Secretary of State on the necessity for the same;
- 1.8.5 prepare for issue by the Secretary of State directions or further directions pursuant to Section 59(6) and advise the Secretary of State on the necessity for the same; and
- 1.8.6 advise the Secretary of State if a Statutory Undertaker has failed to comply with Sections 60(1) and 60(2) and advise on steps which need to be taken in consequence;

1.9 Section 61:

- 1.9.1 prepare for issue by the Secretary of State consents pursuant to Section 61(1) and advise the Secretary of State in relation to the same;
- 1.9.2 agree with the Secretary of State the appropriate fee to be paid by the Statutory Undertaker to the Secretary of State pursuant to Section 61(3) and then assist the Secretary of State in recovering such fees from the Statutory Undertakers;
- 1.9.3 advise the Secretary of State on placing conditions upon his consent and on contributing to expenses under Section 61(5); and
- 1.9.4 participate in or if so instructed by the Secretary of State conduct any arbitration under Section 61(6);

1.10 Section 65(5): advise the Secretary of State if a Statutory Undertaker has failed to comply with Section 65(1) or (2) and advise on steps which need to be taken in consequence. Advise the Secretary of State on costs incurred in taking such steps and assist the Secretary of State in recovering such costs from the Statutory Undertaker;

1.11 Section 66:

- 1.11.1 prepare for issue by the Secretary of State appropriate notices to be given to Statutory Undertakers requiring them to take steps to mitigate or discontinue obstructions and advise the Secretary of State on the necessity for the same; and
- 1.11.2 advise the Secretary of State if Statutory Undertakers fail to comply with notices served under Section 66(3) and advise on steps which should be taken in consequence. Assist the Secretary of State in recovering costs incurred in consequence of the Statutory Undertakers' failure;

1.12 Section 68(1): carry out such inspections or investigatory works on the Project Facilities as may be necessary to ascertain whether Statutory Undertakers have complied with their duties under the 1991 Act provided always that no charge will be made for any Sample Inspections;

1.13 Section 70: receive notices from Statutory Undertakers pursuant to Sections 70(3) and (4) and supply copies to the Department's Nominee;

1.14 Section 72:

- 1.14.1 carry out such investigatory works as may be necessary to ascertain whether Statutory Undertakers have complied with their duties with respect to reinstatement and advise the Secretary of State accordingly;
- 1.14.2 prepare for issue by the Secretary of State appropriate notices pursuant to Section 72(3) and advise the Secretary of State on the necessity for the same; and
- 1.14.3 advise the Secretary of State on the necessity to carry out works pursuant to Section 72(4). If required by the Secretary of State, arrange the carrying out of such works and notify the Secretary of State of the costs of such works. Assist the Secretary of State in recovering such costs from the Statutory Undertakers. In such circumstances prepare for issue by the Secretary of State appropriate notices pursuant to Section 72(4);

1.15 Section 81:

- 1.15.1 check that the Statutory Undertakers' Apparatus is being properly maintained and advise the Secretary of State accordingly;
- 1.15.2 if the Apparatus is not being properly maintained then advise the Secretary of State whether emergency works need to be executed in consequence of such failure;
- 1.15.3 if required by the Secretary of State arrange the carrying out of such emergency works;
- 1.15.4 assist the Secretary of State in recovering sums pursuant to Section 81(5); and

- 1.15.5 in such circumstances prepare for issue by the Secretary of State appropriate notices pursuant to Section 81(6); and
 - 1.16 Section 82:
 - 1.16.1 advise the Secretary of State if any of the events described in Section 82(2) occur; and
 - 1.16.2 assist the Secretary of State in recovering sums pursuant to Section 82(1).
- 2. The DBFO Co shall in respect of the Project Facilities carry out the following services in relation to functions conferred on the Secretary of State as Traffic Authority by or under Section 65(2) of the 1991 Act:
 - 2.1 prepare for issue by the Secretary of State appropriate directions concerning traffic signs and advise the Secretary of State on the necessity for the same; and
 - 2.2 check whether Statutory Undertakers comply with such directions and advise the Secretary of State accordingly.
- 3. The DBFO Co shall in respect of the Project Facilities carry out the following services in relation to functions conferred on the Secretary of State as a relevant authority other than a Street Authority by or under Section 81 of the 1991 Act:
 - 3.1 check that the Statutory Undertakers' Apparatus is being properly maintained and advise the Secretary of State accordingly;
 - 3.2 if the Apparatus is not being properly maintained then advise the Secretary of State whether emergency works need to be executed in consequence of such failure;
 - 3.3 if required by the Secretary of State arrange the carrying out of such emergency works;
 - 3.4 assist the Secretary of State in recovering sums pursuant to Section 81(5); and
 - 3.5 in such circumstances prepare for issue by the Secretary of State appropriate notices pursuant to Section 81(6).
- 4. The DBFO Co shall in respect of the Project Facilities carry out the following services in relation to functions conferred on the Secretary of State as a Highway Authority or as a Bridge Authority, by or under the following provisions of the 1991 Act:
 - 4.1 Section 83: prepare for issue by the Secretary of State appropriate notices informing Statutory Undertakers of Works for Road Purposes likely to affect their Apparatus;
 - 4.2 Section 84:
 - 4.2.1 on behalf of the Secretary of State liaise with the Statutory Undertakers in identifying measures and settling specifications in

- connection with Diversionary Works and co-ordinate such Diversionary Works with the carrying out of Operations;
- 4.2.2 participate in or if so instructed by the Secretary of State conduct any arbitration proceedings brought pursuant to Section 84(3); and
- 4.2.3 assist the Secretary of State in recovering sums under Section 84(4); and
- 4.3 Section 88: monitor the execution of works by Statutory Undertakers and advise the Secretary of State accordingly. Advise the Secretary of State on requirements to be imposed on the Statutory Undertaker for the protection of bridges or for securing access. Prepare for issue by the Secretary of State appropriate notices setting out such requirements.
5. The DBFO Co shall in respect of the Project Facilities carry out the following services in relation to functions conferred on the Secretary of State by or under Section 90 of the 1991 Act:
- 5.1 prepare for issue by the Secretary of State appropriate notices to Statutory Undertakers requiring them to carry out remedial works to sewers drains or tunnels owned by the Secretary of State, and advise the Secretary of State on the necessity for the same;
- 5.2 advise the Secretary of State on what works need to be carried out in consequence of a failure by a Statutory Undertaker to comply with such notices. If required by the Secretary of State arrange the carrying out of such works. Assist the Secretary of State in recovering the costs of such works; and
- 5.3 where the Statutory Undertaker has failed to comply with its duties to reinstate and this is causing a danger to the users of the street, advise the Secretary of State accordingly. Advise the Secretary of State on what works need to be carried out in consequence. If required by the Secretary of State arrange the carrying out of such works. Assist the Secretary of State in recovering the costs of such works from the Statutory Undertaker. In such circumstances prepare for issue by the Secretary of State appropriate notices pursuant to Section 90(3).

SCHEDULE 19
STATUTORY UNDERTAKERS

Part 3
Other Services

The DBFO Co shall in respect of the Project Facilities:

1. prepare for issue by the Secretary of State appropriate notices, consents or directions to Statutory Undertakers pursuant to Sections 62(2), 62(3), 62(4), 74(3) and 74(4) of the 1991 Act and advise the Secretary of State on the necessity for the same;
2. advise the Secretary of State on the granting of Street Works Licences, including the preparation for issue by the Secretary of State of such licences in such form as the Secretary of State may from time to time authorise, such licences not to inure beyond the Contract Period;
3. agree with the Secretary of State the reasonable fee to be charged in relation to the issue of a Street Work Licence and then seek to recover directly from the licensee the amount of such fee;
4. agree with the Secretary of State the costs incurred in connection with obtaining any orders pursuant to the Road Traffic Regulations Act 1984 which are to be charged to Statutory Undertakers and then seek to recover the same directly from the Statutory Undertakers;
5. if Regulations under Section 74 of the 1991 Act are brought into force, and then subject to such Regulations, agree with the Secretary of State the fee to be charged to Statutory Undertakers for the occupation of the Project Facilities where works carried out by Statutory Undertakers have been unreasonably prolonged and then seek to recover the same directly from the Statutory Undertakers;
6. prepare for issue by the Secretary of State notices required pursuant to Section 51(4) of the 1991 Act and advise the Secretary of State on the necessity for the same. If the Statutory Undertaker fails to comply with such notice the DBFO Co shall if required by the Secretary of State arrange the removal of unauthorised Apparatus from the Project Facilities. Assist the Secretary of State in recovering the costs of such removal from the Statutory Undertaker;
7. participate in or, if so instructed by the Secretary of State, conduct any conciliation or arbitration brought by or against the Secretary of State under the 1991 Act; and
8. receive notices pursuant to Section 57(2) and copy such notices to the holder of the official street works register and to the Department's Nominee.