

**A Guide for Members of the
Public Wishing to Undertake Works
Which Involve Excavation in the
Public Highway within the
Metropolitan Borough of Barnsley**



Introduction

1

There are few members of the public who do not benefit, at least in part, from the provision of services provided by the Electricity, Gas, Water, and Communications companies. For most however the services they provide are taken for granted with little or no consideration of the implications and difficulties their very existence creates. It is a fact of life that the provision of those services requires pipes, cables and other apparatus to be placed in the Highway and from time to time these items of apparatus require maintenance or replacement and as a consequence Street Works have become a necessary bane on our lives. The various Utility Acts provide the Utility Companies with powers to perform those necessary works as of right, bestowing upon them the status of Undertaker. Exercising those powers is subject to certain procedures.

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The procedures are enshrined in a document called the New Roads and Street Works Act 1991. This Act of Parliament places obligations upon all Undertakers in the performance of their works and upon the Highway Authority to monitor such works for the greatest benefit of the public.

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The Act, which came into force in January 1993, introduced rules and procedures covering:

- a. **Notification of Works.** All works involving excavation have to be notified in advance. The length of such advance notification can vary dependant on the nature and expected duration of the works.
- b. **Coordination of Works.** The Highway Authority oversees the notification procedures and endeavours to coordinate the works for the optimum benefit of all highway users.
- c. **Standards.** These are laid down in codes of practice and include specifications on material, methods of use and performance in use. It is the duty of the Undertaker to ensure that these standards are adhered to. The Highway Authority has a monitoring role to ensure compliance.
- d. **Qualification.** To assist in achieving the standards laid down new qualifications, Accredited Supervisors and Accredited Operatives were introduced. It became a legal requirement that all Street Works would have an accredited Operative in attendance throughout the works and all works would be supervised by an Accredited Supervisor. The Act recognised that it would take time to train staff to the appropriate standards and therefore the implementation of these rules was deferred, in the case of Accredited Supervision the requirement was implemented in August 1995 and in the case of Accredited Operatives it will be implemented in August 1997. Failure to introduce these measures at the appropriate times is an offence against the Act and attracts a fine of up to £1000 for each offence.

- e. **Private Works.** The Act also takes into account the necessary activities of private individuals who may have the need to perform works in the street, either, to maintain their own apparatus, or to install new apparatus. Such works are subject to the same rules of notification, coordination, standards of work and quality of supervision. So, if you are a Property Owner or Tenant, and you wish to carry out works associated with a property which you own or occupy and those works involve excavating in a street the Act applies to you. To perform the works, or have the works performed on your behalf you must first become an Undertaker. This status may only be granted to the Owner or Occupant of the premises to be served by the apparatus.

IT IS AN OFFENCE TO HAVE WORK PERFORMED IN THE HIGHWAY IF YOU DO NOT POSSESS UNDERTAKER STATUS.

4

To assist you in negotiating the maze of legislation which affects works in the public highway this series of leaflets has been developed. You are advised to read this leaflet carefully. It provides a general overview of the procedures to be followed and aims to avoid unnecessary mistakes which could cause delays or even infringement of the law.

Definitions

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To begin it is useful to be aware of some important definitions. These are critical in the understanding of the Act and these leaflets.

6

“Street”

a. A street is:

- I. Any highway, road, lane, footway, alley or passage.
- II. Any square or court or any land laid out as a way.

b. In general it can be assumed that the street is the highway and comprises:

- I. The carriageway (the running surface for vehicles) and footways
- II. Any verges out to a district boundary line such as a hedge, garden wall or building line.

c. The Highway will not necessarily include village greens or open plan gardens. If there is any doubt, a definitive answer can be obtained from the Barnsley Metropolitan Borough Council office (see “Who to Contact”).

7

“Street Authority”

- a. If the street is maintainable at public expense the “Street Authority” is the Highway Authority. (In Barnsley, that is Barnsley Metropolitan Borough Council).
- b. If the street is not maintainable at public expense, the “Street Authority” is the street

Manager. (i.e. the body or person responsible to the public for the maintenance or repair of that street). If no such body or person exists, it is the body or person having the management or control of the street.

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8 “Accredited Supervisors”

Accredited Supervisors are course qualified individuals. Their function is to provide technical guidance to site personnel and ensure maintenance of standards. Their function is to provide technical guidance to site personnel and ensure maintenance of standards. They possess a Registration Card like the one shown here. If they do not possess a card they are not accredited. This qualification requirement came into effect in August 1995.



Qualifications held are shown on back of card.

9

9 “Accredited Operatives”

Accredited Operatives are course-qualified individuals. Their function is to carry out the work on site. From August 1997 works will not be able to proceed if an Accredited Operative is not present on site at all times. They possess a Registration Card like the one shown here. If they do not possess a card they are not accredited.



10

10 “Undertaker”

The only persons or organisations that may excavate in the street are those who possess the status of “Undertaker”. The following persons or organisations are Undertakers:

- a. Statutory Undertakers are:
 - I. Organisations who are empowered by virtue of a Statutory Instrument with providing an essential service (Electricity Companies, Gas Companies, Water Companies etc.).
 - II. Who are empowered by virtue of a licence issued by the Secretary of State for Trade and Industry with providing a service (Communications Companies, Cable Television Companies etc).
- b. Private Undertakers are: persons or companies who are Owners or Occupants of premises. They may be given status (by the issues of a licence) or possess status as of

right (as in the case of sewer connections to a public main), which enables them to perform, or have performed on their behalf, works in the street for a specific purpose in a specific place. For you to excavate in the street you would have to be, or become, a Private Undertaker.

An Undertaker may carry out the works if they are duly qualified, or if they employ another person who is duly qualified, to act on their behalf in performing the works. It must be remembered that legal responsibility for the conduct of the works is that of the Undertaker and that legal responsibility cannot be delegated to a contractor. Serious consideration should be given to employing a reputable, experienced and qualified contractor at an early stage.

Accredited Operatives & Supervisors

One of the most important obligations is to ensure that the works are supervised by an Accredited Supervisor, and to have in attendance on site at all times when works are being performed, an Accredited Operative. You are advised to employ such a person at an early stage. They will be familiar with the requirements of the Act and will be able to assist in making sure that your obligations are met.

Indemnity

As an Undertaker you indemnify the Highway Authority (Barnsley Metropolitan Borough Council) against all and any claim made by a third party in connection with any aspect of your works. As Highway Authority, we require you to have Public Liability insurance with a minimum of £5 million cover. Your liability for the works is for a period of 2 years (3 years in case of deep excavations). You also have an ongoing liability for the apparatus which must be maintained in a serviceable condition. Also should it fail and/or cause injury to another person or damage to another person's property you may be held accountable.

Who To Contact

Any questions regarding works in the highway should be directed to:

Barnsley Metropolitan Borough Council
 Environmental Services
 PO Box 601
 Barnsley
 S70 9FA

Tel: 01226 773555
 Fax: 01226 772196
 E-mail: streetworks@barnsley.gov.uk

The following leaflets offer additional information and guidance and can be obtained from:

Barnsley Metropolitan Borough Council
Environmental Services
PO Box 601
Barnsley
S70 9FA

General Information

Guide to Obtaining a Licence

Guide to Installing a sewer

Obtaining Special Permission to Excavate

Working on Existing Apparatus and Sewers

Guide to Notification, Performance and
Registration of the Works

Guide to Charges and Fees

Undertakers Address List

These leaflets are amended from time to time. Please check that the document you are using is current.