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STATUTORY INSTRUMENTS

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**2013 No. 2389**

**HIGHWAYS, ENGLAND**

**The Traffic Management (Surrey County  
Council) Permit Scheme Order 2013**

*Made - - - - 18th September 2013*

*Coming into force - - 11th November 2013*

The Secretary of State for Transport having approved the Surrey County Council Permit Scheme under section 34(2) of the Traffic Management Act 2004<sup>(1)</sup> makes this Order in exercise of the powers conferred by sections 34(4) and (5) and 39(2) of that Act.

**Citation and commencement**

1. This Order may be cited as the Traffic Management (Surrey County Council) Permit Scheme Order 2013 and comes into force on 11th November 2013.

**Interpretation**

2. In this Order—

“the Surrey County Council Permit Scheme” means the permit scheme set out in the Schedule to this Order in terms commonly known as the “South East Permit Scheme” which was prepared and submitted to the Secretary of State by Surrey County Council and has been approved by the Secretary of State; and

“specified streets” has the meaning given by regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007<sup>(2)</sup>.

**Commencement of Permit Scheme**

3. The Surrey County Council Permit Scheme comes into effect on 11th November 2013.

**Application of Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007**

4. Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 shall apply to the specified streets within the Surrey County Council Permit Scheme.

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(1) 2004, c.18.  
(2) S.I. 2007/3372.

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**Status:** *This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.*

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Signed by authority of the Secretary of State for Transport

18th September 2013

*Norman Baker*  
Parliamentary Under Secretary of State  
Department for Transport

SCHEDULE

Article 2

THE SURREY COUNTY COUNCIL PERMIT SCHEME

**THE SOUTH EAST PERMIT SCHEME  
FOR  
ROAD WORKS AND STREET WORKS**

**THE PERMIT SCHEME**

## The South East Permit Scheme

### 1 INTRODUCTION

#### 1.1 **Background**

Part 3 of the Traffic Management Act 2004, (TMA), introduced permit schemes as a new way in which activities in the public highway could be managed and to improve authorities' abilities to minimise disruption from street and road works.

#### 1.2 **Relationship to NRSWA**

The scheme provides a change from the 'notification system' of the New Roads and Street Works Act 1991 (NRSWA). Instead of informing the street authority about its intention to carry out works in the area, a statutory undertaker will need to book time on the highway through a permit, as would the highway authority, its partners and agents, for its own works.

Under the scheme both statutory undertaker's activities and highway authority activities are treated in the same way with regard to co-ordination and the setting of conditions. The Permit Authority shall demonstrate at all times parity between activity promoters ensuring non-discrimination between permit applicants.

#### 1.3 **The Permit Scheme**

This permit scheme, to be known as the South East Permit Scheme, (hereinafter referred to as The Permit Scheme) which will be operated under the powers of the Traffic Management Act 2004 (TMA), has been introduced, to enable any South East Local Highway Authority (hereinafter referred to as the Permit Authority) to better manage activities on their highway network, as well as minimising disruption from utility companies' street works and the Council's own highway works, both of which are covered by the scheme.

It is based on Part 3 of the TMA and the Traffic Management Permit Schemes (England) Regulations 2007, (hereinafter referred to as the regulations) and has been prepared with regard to the Statutory Guidance issued by the Secretary of State and in accordance with the requirements set out in the Regulations. Promoters should make themselves aware of the content of these documents and also The Code of Practice for Permits alongside which the Permit Scheme will be operated. For consistency with the Statutory Guidance and Code of Practice, in the Permit Scheme the term "promoters" is used where the sense includes both utility companies and highway authorities, and "activities" is used rather than "works", even though the scheme applies at present only to street works and highway works.

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## 2 SCOPE OF PERMIT SCHEME AND DEFINITIONS

### 2.1 **Areas and Streets**

2.1.1 A Permit Authority operating the Permit Scheme will operate the scheme across the whole of the area encompassed by that authority's boundaries. The area covered by the Permit Scheme is the Permit Authorities geographical area of operation; this is the "specified area" as set out in the Regulations.

2.1.2 All streets, for which the Permit Authority is the highway authority, i.e. publicly maintained by or on behalf of the highway authority, are included in the Permit Scheme; these are the "specified streets" as set out in the Regulations.

2.1.3 Trunk roads and motorways for which the Highways Agency is the highway authority are not included in the scheme.

2.1.4 Privately maintained streets are also not included in the scheme, but will be added if they are subsequently adopted by the highway authority and shown as such in the street gazetteer.

### 2.1.5 **Street Gazetteer**

The street gazetteer for the street authority, used for NRSWA, will be used for the Permit Scheme, including the Unique Street Reference Numbers (USRN) and the Additional Street Data. This forms part of the National Street Gazetteer (NSG) held centrally on behalf of all local highway authorities by a concessionaire. Streets subject to the Permit Scheme will be identified in the Additional Street Data. In relation to permits, the term "street" refers to an individual USRN.

2.1.6 Streets with special controls designated under NRSWA as protected streets, streets with special engineering difficulty (SED) and traffic-sensitive streets will have the same designations under the Permit Scheme. Where those designations are revised, the criteria and procedures in the NRSWA Code of Practice for the Co-ordination of Works will be followed.

2.1.7 In addition to the designations carried across from NRSWA, the Permit Authority may designate in the Additional Street Data certain streets as especially vulnerable to traffic disruption and where an early warning of immediate activities on streets is required. In these cases, the promoter must telephone the authority's specified number given in the Additional Street Data as soon as it is identified that an activity becomes necessary.

2.1.8 Reinstatement categories of streets, where used in the Permit Scheme, are the same as the reinstatement categories under NRSWA, as defined in the Specification for the Reinstatement of Openings in the Highway. If there are revisions to the definitions of category 0 – 4 streets in the Specification, these will be translated into the Permit Scheme.

### 2.1.9 **Main and minor roads**

The Permit Scheme distinguishes between main roads and minor roads in certain circumstances.

- Main roads – all streets with reinstatement category 0, 1, or 2 and streets in reinstatement category 3 and 4 that are designated as traffic-sensitive for all or part of the time.
- Minor roads – streets with reinstatement category 3 or 4 which are not designated as traffic-sensitive at any time.

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### Permit for Standard Activities

Standard Activities are those activities, other than immediate or major activities, that have a planned duration of between 4 and 10 working days inclusive. (Activities lasting less than 10 working days will be classified as major activities if they require a temporary traffic regulation order, e.g. to close a street or ban a turn.)

### Permit for Minor Activities

Minor Activities are those activities, other than immediate or major activities, where the planned working is 3 working days or less.

### Permit for Immediate Activities:

Immediate Activities comprise:

- Emergency works as defined in section 52 of NRSWA; and
- Activities (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required)—
  - (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter;
  - (ii) to avoid substantial loss to the promoter in relation to an existing service; or
  - (iii) to reconnect supplies or services where the promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; including works that cannot reasonably be severed from such works.

These are the equivalent of "urgent works" as defined in the 2007 Notices Regulations under NRSWA

These permit categories of major, standard, minor and immediate activities, have broadly the same definition, as those given in the "interpretation" for works categories in The Street Works (Registers Notices Directions and Designations) (England) Regulations 2007, with the following amendments;

- 'streetworks' replaced with 'activity'
- 'undertaker' replaced with 'promoter' and
- 'street authority' replaced with 'permit authority'

It should be noted that The Street Works (Registers Notices Directions and Designations) (England) Regulations 2007 are subject to change from time to time, and it is the intention of the Permit Scheme that the above permit definitions may change, in line with any changes to these Regulations.

## 2.3 Phasing of Activities

- 2.3.1 One permit can only contain one phase of an activity. A phase of an activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of the activities, where all the works described in the works description are completed, unless it can be demonstrated that those works have been legitimately interrupted. The dates

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- given in a permit application and in the issued permit will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site.
- 2.3.2 A promoter must clarify that an activity is planned to be carried out in phases on the application. Each phase will require a permit. With the exception of remedial activities (see 2.5) and the permanent reinstatement of interim works, a major activity will require a Provisional Advance Authorisation (PAA), which will be cross referenced to the subsequent permits.
- 2.3.3 If a promoter is unable to complete all the activity in the permit in one phase for operational or weather reasons and will require a subsequent permit at a later date to complete the activity, they must advise the permit authority and seek agreement on the timing of the subsequent permit. Failure to do so could result in the permit authority treating the subsequent application as an illegitimate use of activity phases (see 5.2.3).
- 2.3.4 Phased activities must relate to the same works. These could be a single or multiple-but-linked excavation, or a trench dug progressively along the street as part of a continuous operation. Or they could be where an interim reinstatement is made and the permanent reinstatement is completed at a later date.
- 2.4 *Linked Activities*
- 2.4.1 Linked activities carried out at separate locations in a street must be treated as belonging to the same set of works. However, unconnected activities carried out by the same promoter in one street must not be treated as parts, or phases, of a single set of works. A new main or cable run, which includes new customer connections, can be classed as one activity if all the work is completed in a single occupation of the street.
- 2.4.2 Even if an activity involving more than one street forms part of one project in management and contractual terms, separate permits and PAAs must be obtained for each street or USRN.
- 2.5 *Remedial Works*
- 2.5.1 Remedial works will require a new permit. Applications for remedial works should be submitted as a new phase of the original activity using the same activity reference. Where remedial works fall within the definition of a major activity then a PAA will not be required.
- 2.6 *Interrupted Activities*
- 2.6.1 In the event of an activity being interrupted and delayed, for instance due to damage to a third party's plant or while specialist apparatus is acquired, the promoter shall contact the Permit Authority to agree what action should be taken. Where no works activity takes place for 24 hrs on a permitted working day (unless further activity is waiting materials curing) the promoter must contact the Permit Authority within 2 hours of the start of the next working day to agree what action should be taken
- 2.6.2 Where the Permit Authority is satisfied that the excavation can remain open while the repairs are implemented or the equipment obtained, then a variation will be required. However, where it is considered that the opening should be reinstated and the road returned to full traffic use then the promoter will need to apply for a further permit to complete the work at a later date.

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### 3 HOW TO MAKE PERMIT APPLICATIONS

#### 3.1 General

##### 3.1.1 Co-ordination and forward planning information

3.1.1.1 The Permit Authority will use the processes and principles in the co-ordination process in the Permits Code of Practice issued by the Department for Transport (DfT). Forward planning by all promoters is an essential part of co-ordination, therefore activity promoters must follow the forward planning information process in the Permits Code of Practice issued by the DfT. They are encouraged to maximise use of non statutory Forward Planning Information Notices (FPIN) to better aid co-ordination.

##### 3.1.2 Requirement to obtain a permit

3.1.2.1 Any promoter of a registerable activity, who wishes to carry out such an activity on a street designated as requiring a permit must obtain a permit from the Permit Authority. The permit will allow the promoter to:

- carry out the specified activity;
- at the specified location;
- between the dates shown; and
- subject to any generic condition that may apply to the permit and
- any specific conditions that may be included in the permit.

3.1.2.2 Any permit granted by the Permit Authority will include all of the information as supplied by the promoter in the application to which it refers.

3.1.2.3 The intention is to better control activities to minimise disruption and inconvenience and for these activities to be carried out in a manner that takes account of the needs of others.

3.1.2.4 Although the Permit Scheme applies to all registerable activities on both main and minor roads, the Permit Authority will not levy a fee for permits granted for those activities which are less likely to have significant impact on the Authority's Road Network; standard, minor and immediate activities undertaken on Non Traffic Sensitive Type 3 and 4 Roads

##### 3.1.3 Types of permit application

3.1.3.1 The Permit Scheme contains two types of permit applications:

- Provisional Advance Authorisation (PAA) – only required for major activities, i.e. those which are large and/or likely to be more disruptive. Effectively this is an early provisional permit issued before the final details of an activity have been worked out. For street works PAAs are similar to section 54 notices under NRSWA, in terms of providing early information about planned activities;
- Permits – full permits with final proposed details -for all registerable activities. For street works these are similar to section 55 notices under NRSWA in terms of providing full details of the proposed activities.

##### 3.1.4 Timing of permit applications

3.1.4.1 The timing of applications will vary according to the proposed activity. Larger activities and those taking place on busier roads, which thus have the potential to be more disruptive to road users, require more time and effort for co-ordination and planning and hence applications should be submitted earlier than the minimum period required by the scheme. Permit approvals will be based on



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conditions under which the work may take place, so it is in the best interests of the promoter to contact the Permit Authority early. That way conditions can be discussed and, if possible, an agreement can be reached so that the application contains the required conditions and is approved quickly. Early applications will improve the co-ordination process; it will enable the Permit Authority to better control all the activities that take place on the highway and will help promoters plan their works more effectively. Table 1, within section 4.3 shows permit application and response times.

#### **3.2 *Method of Making Permit Applications***

3.2.1 Permit applications, including PAAs and variations, must be made to the Permit Authority electronically via Electronic Transfer of Notifications (EToN) unless there is a failure in the electronic system, or the applicant is a one-off promoter, whereby e-mail applications are acceptable.

3.2.2 Recipients of copies of permit applications or of other material relevant to those applications, e.g. transport authorities or frontagers, are unlikely to have access to EToN. In such circumstances applications or other information will be given either by e-mail or by post.

#### **3.2.3 *System failures***

3.2.3.1 Failure lasting up to 24 hour duration - The Permit Authority will accept applications for permits for immediate works only by e-mail following pre-agreement with the Permit Authority. These applications must be accompanied by a telephone call to the appropriate contact number.

3.2.3.2 Failure lasting between 24 hours and 3 days - The Permit Authority will accept applications for permits for immediate works and works of Activity Type Minor only by email following pre-agreement with the Permit Authority. These applications must be accompanied by a telephone call to the appropriate contact number.

3.2.3.3 For both failure durations following recovery of service, a copy of the application or notice should then be sent through EToN to ensure that the information on the works is correctly recorded. To avoid receiving erroneous FPNs, activity promoters should endeavour to advise the Permit Authority of any significant system downtime.

3.2.3.4 In the event of system failure, any permit variation applications or to seek further information or discussion should be made by telephone to the appropriate contact number. The officer concerned will issue an individual reference number. This number must be displayed on an electronic application through EToN following recovery of service to ensure correct cross referencing.

#### **3.3 *Content of Permit Applications***

3.3.1 All applications must comply with the definitive format and content of both paper and electronic permit applications given in the Technical Specification for EToN. The description of activities and other information should be in plain English without any industry specific jargon.

#### **3.4 *An Application Must Contain Only One Street***

3.4.1 Each application must contain information about one activity in one street, where a street equates to a single USRN. To improve co-ordination, projects covering more than one street must cross-reference all related applications. This is particularly important when applying for PAAs. Under no circumstances will an application containing activities in more than one street be acceptable.

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#### 3.8.3 Main roads

- 3.8.3.1 On main roads, i.e. all category 0, 1 & 2 streets and category 3 & 4 streets that are traffic-sensitive for all or part of the time, the duration of the activity will exactly match the time from the start date to the end date unless another duration is a specific condition of the permit.
- 3.8.3.2 For example: start date Wednesday 1st June, end date Friday 10th June, duration eight (working) days. The permit start date will be the proposed start date of the activity. If the activity cannot begin on the permit start date, the promoter should, where it is known, inform the Permit Authority the day before the permit start date by means specified by the Permit Authority at its co-ordination meetings. This must be confirmed via an EToN works comment. There is no automatic extension of the permit in these circumstances. If the promoter thinks that they could still complete the work before the permit end date, then they could begin the activity on a subsequent day, submitting a start of works notice under section 74 of NRSWA.
- 3.8.3.3 If the promoter could not complete the activity before the permit end date, they must apply for a permit variation. This would be required even if the extra days were at a weekend (in the above example the permit expires at midnight on Friday night). The Permit Authority may or may not agree to an extension, depending on the circumstances, and the activity promoter may be subject to over-run charges if the over-run days are working days.

#### 3.8.4 Minor roads

- 3.8.4.1 On minor roads, i.e. category 3 and 4 streets that are not traffic-sensitive at any time, the permit will be issued with start and end dates, and implied duration for the activity. The start date will allow for a flexible window of 5 working days for major and standard activities and 2 working days for minor activities, from the initial estimated start date. The end date will be amended accordingly depending on the original duration.
- 3.8.4.2 Unless a different duration is a specified condition in the permit, or a duration variation has been granted and the Permit Authority has issued a Duration Challenge to limit the Reasonable Period, the duration will be the time from the actual start date to the appropriate end date.
- 3.8.4.3 Thus the start date on the permit will be the planned start date for the activity but the end date may subsequently change due to the activity starting on any day up to the last day of the starting window.
- 3.8.4.4 Once the promoter has notified the actual start of the activity within the window, the permit start and end dates will be re-set so that the permit start date is now the actual start date and the permit end date is then fixed by the duration from the actual start.
- 3.8.4.5 The normal working day rules apply, i.e. weekdays, although there may be conditions placed on the permit that affect the ability of an activity promoter to make use of weekends or Bank Holidays to work.
- 3.8.4.6 The activity start date cannot be later than the last day of the starting window.
- 3.8.4.7 If the promoter could not complete the activity before the permit fixed end date (following the submission of the actual start date) they must apply for a permit variation. This would be required even if the extra days were at a weekend. The Permit Authority may or may not agree to an extension, depending on the

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circumstances, and the promoter may be subject to over-run charges if the over-run days are working days.

#### 3.9 *Information Required in a Permit Application, Including PAA Applications*

3.9.1 In deciding whether to include any conditions in a permit; the Permit Authority will consider the information that has been provided in support of the application. The Permit Authority recognises that full information may not be fully known at the time an application for a Provisional Advance Authorisation is made. However, activity promoters should make every effort to provide the most accurate information available at each stage. Required information should be provided in the appropriate EToN field or in the description text where no field exists.

3.9.2 Each application must include a unique reference number. Details of the numbering system are given in the Technical Specification for EToN.

3.9.3 A detailed description of the activity must be provided to enable the Permit Authority to assess its likely impact -similar to that already required under NRSWA.

#### 3.9.4 **Location**

3.9.4.1 Activity promoters must provide the USRN and also an accurate location based on NGR, for small excavations this must be one NGR in the centre of the excavation and, where there are trenches, this must be a number of co-ordinate pairs representing a poly-line, as detailed in the technical specification for EToN. This requirement is a minimum and may not be sufficient to indicate the space to be occupied, so the Permit Authority may seek additional information by way of descriptive text or a works plan (if not provided with the application).

3.9.4.2 Ideally the dimensions of the total space taken up by the activity in the street in the form of a polygon (also covered in the Technical Specification for EToN) should be provided. That space needs to cover all the area used by the activity, including for storage of materials, working space, safety zone, provision for pedestrians and traffic management, but excluding advance warning signs such as road works ahead.

3.9.4.3 Promoters applying for permits for immediate activities should do so only once they have begun excavation (see 2.2.6). Even if they find that the location in which they have started digging is not where the activity is ultimately required, a permit is still required because they have broken open the street. A permit variation must be obtained if the location has to be changed as the activities progress (see 5.2.6 multiple excavations).

#### 3.9.5 **Timing and duration**

3.9.5.1 Each application for a permit must include proposed start and end dates and a proposed duration, where the duration is inferred from the start and end dates. If the activity promoter proposes to undertake activity on weekends or Bank Holidays to speed up the activity and reduce disruption, then they must specify this in their application.

3.9.5.2 To assist the Permit Authority when determining permit dates and requiring a condition on duration, the following information must be supplied.

- For traffic-sensitive streets, indicate if the activity will take place within or outside traffic sensitive times.

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- For all streets indicate if the start or finish time for any activity is to be carried out outside the normal working day\* 8:00am to 6:00pm or if the activity requires night working.
- If, for a major activity, the dates on a permit application differ from those on the preceding PAA, the promoter must explain the reason(s) for the change.

\*The normal working day referred to in the bullet point above is not the working day defined in section 98(2) of NRSWA, as any day except weekends and public and bank holidays.

That working day is assumed to be 08:00 to 16:30. The times are significant only for calculating notice periods. It does not define the day for any other purposes.

In order to allow the Permit Authority to identify works which may have detrimental environmental impacts to residents/businesses, and for it to place conditions on works as appropriate it is essential for them to know if works are proposed to be executed outside the times specified.

#### 3.9.6 Illustration

3.9.6.1 PAA applications and 'Major over 10 days' Activity Permit applications must be accompanied by an illustration(s) of the works and should include details of the activity, the extent of highway occupancy, and where the relevant traffic flow information is available to promoters via the Permit Authority website, a disruption effect score as defined in Appendix G of the Permits Code of Practice. The illustration will comprise plans, sections, digital photographs and similar material.

3.9.6.2 Illustrations may be required for more than just major activities as a small excavation in a critical junction may well be much more disruptive. Therefore where it appears to the promoter that any activity may be significant in terms of potential disruption, due to the position or size of the activity, an illustration should be included with the permit application. If the Permit Authority considers that any particular activity may potentially be significant in terms of disruption they may request an illustration as further information to enable them to consider the application.

3.9.6.3 Activities on those streets or parts of a street, subject to a SED designation will in any case require a plan and section or other specified information. Approvals for an SED must be obtained before the full permit application is made. The preferred method of submitting the plan and section is via an EToN illustration. Details of how illustrations can be transmitted as attachments can be found in the Technical Specification for EToN.

#### 3.9.7 Technique to be used for underground activities

Details of the planned techniques, such as open cut, trench share, minimum dig technique or no dig must be provided.

#### 3.9.8 Traffic Management, Parking and Traffic Regulation Orders

3.9.8.1 The activity promoter must supply details of traffic management proposals together with any requirement for action by the traffic authority including, but not limited to:

- the need for Temporary Traffic Regulation Orders (TTROs);
- the lifting of any parking restrictions; and
- notification or approval for portable light signals.

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- 3.11 *Error Correction*
- 3.11.1 The process detailed in the Permits Code of Practice and the EToN specification must be followed.

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## 4 ISSUE OF A PERMIT AND INCLUSION OF CONDITIONS

### 4.1 General

4.1.1 When considering applications for permits, including PAAs, and deciding the terms of a permit and of any specific conditions, The Permit Authority will act reasonably, for example:

- taking account of the proposed activity's potential to cause congestion and disruption;
- recognising the needs of other users of the highway, and the integrity of the highway itself;
- taking account of how feasible it is for the activity promoter to comply e.g. given the area of occupancy and the restrictions imposed by the available industry resources and technical capabilities;
- allowing works to be carried out in compliance with statutory guidance and codes of practice especially in relation to safety (such as *Safety at Street Works and Road Works*).

4.1.2 The permit for an activity will specify the activity it allows in detail and will include any specific conditions. This information will be drawn from the application. As a minimum, any constraints in the original application will be reflected in the terms of the permit. A typical example would be, if the activity is in a street which is traffic-sensitive in some places and/or at some times and the application stated that the activity was to be outside the traffic-sensitive places and times, this would then become a term of the permit; or if a minimum dig method is proposed then that would become a term. However, this does not restrict the Permit Authority from imposing such conditions as it considers appropriate, taking all factors into account.

### 4.2 Granting Approved Permits

4.2.1 When the Permit Authority is content with an application from an activity promoter, it will issue a permit. Each application will lead to a separate permit. The permit will contain the location and description of the activity, the start and end dates of the period for which the permit is valid, the implied duration and any conditions imposed by the Permit Authority. The permit will also include reference to any associated documentation such as drawings. Where the drawings have been submitted as EToN attachments they will be accessible electronically through the permits register.

4.2.2 The Permit Authority will grant permits electronically using EToN. If the electronic system is down or unavailable for any reason then permits will be issued by e-mail. Each permit will be given a unique reference, which must be displayed on the site information board. Variations to permits will be denoted by the use of the same unique reference with a suffix to denote the variation.

4.2.3 Where other parties have expressed an interest in a street and the application for a permit has been copied to them, the permit will also be copied to those parties by the Permit Authority when it grants the permit to the activity promoter.

### 4.3 Response Times

4.3.1 The Permit Authority intends to respond to all permit applications and PAA applications within the timescales set out in Table 1 below. That response will be to approve the permit, or to refuse the permit. Prior to refusing the Permit Authority will contact the promoter to discuss possible variations to the permit or to seek further information or clarification about the application. If the further

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deemed to be granted in the terms of the application. The proposed start and end dates, description, location, duration, etc. will be carried across into the permit and any condition in the application will become conditions for that activity. Those permit terms and the conditions will then be binding on the activity promoter as they would for a permit actively issued by the Permit Authority; breaching them will be an offence.

#### *4.6 Time when a Permit is Valid*

4.6.1 A permit is valid only for the period between the start date and end date (inclusive) on the permit.

4.6.2 On main roads (i.e. category 0, 1, and 2 streets and category 3 and 4 streets that are traffic-sensitive for all or part of the time), the start and end of the permit period will match the start and finish dates for the activity. The activity promoter must not carry out any activity, including delivery and storage of materials on site, outside of these times without applying for and obtaining a permit variation from the Permit Authority.

4.6.3 Activities on minor roads (i.e. category 3 and 4 streets that are non traffic-sensitive streets at any time) will be less disruptive. On these streets the promoter will be allowed some flexibility in the start date but once the activity is started it must be completed within the activity duration period specified in the permit. The start date will allow for a flexible window of 5 working days for major and standard activities and 2 working days for minor activities, from the initial estimated start date. The end date will be amended accordingly depending on the original duration. Noting that the last day of the starting window would then be day 1 of the activity duration.

4.6.4 The permit start and end dates will be in calendar days. This will prevent ambiguity as to whether the permit is valid, even at weekends or on Bank Holidays.

4.6.5 The permit terms will always include the duration of the activity which is automatically derived from the Start and End dates i.e. the number of consecutive calendar days that the activity can take place.

4.6.6 If the permit allows working at weekends or on Bank Holidays, then the permit start and end dates will accommodate that, even though those calendar days will not count towards the activity s74 duration or, on category 3 and 4 non traffic sensitive streets, the starting window.

#### *4.7 Location and Description*

4.7.1 The permit will contain the location of the activity, including national grid reference(s) and a description of the activity. This information is drawn directly from the application information.

#### *4.8 Contact Details*

4.8.1 Contact details for the activity promoter will be included on the permit.

4.8.2 The Permit Authority will provide its contact details, including the out of hours contact information, on its website.

#### *4.9 Conditions Included in Permits*

4.9.1 A permit granted by the Permit Authority will specify in detail the activity that has been allowed. Except in the case of an Authority-imposed variation, the entire promoter's information contained within the permit will be taken from the application, including any associated conditions.

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- 4.9.2 The seven categories of conditions detailed below are included in the Permit Scheme and shall be utilised as required.
- 4.9.3 Where there exists statutory guidance or a Code of Practice relating to a condition that the permit authority wishes to impose, they will not impose conditions that contradict the requirements of that guidance or CoP.
- 4.9.4 However, under the Permit Scheme the Permit Authority can define standard conditions that will be applied to all permits or when particular criteria are met. An example is the display of permit reference numbers. Standard conditions will be published on the Permit Authorities website and activity promoters will be notified in advance of any new conditions at the quarterly SEHAUC meetings.
- 4.9.5 **Timing and duration of activity**  
The terms of every permit will contain the maximum duration, in calendar days, of the activity, as implied by the permit start and end dates.  
Other conditions may include:
- Dates between the start and completion dates on which works should not take place, which may also include periods when the site should also be cleared of all plant, materials and equipment, including all traffic management measures and signing, lighting and guarding (plating of excavations may be appropriate where agreed with the Permit Authority).
  - The times of calendar day at which works cannot be carried out;
  - Whether the duration prohibits weekend or Bank Holiday working.
  - A specified duration other than the number of days as implied by the permit start and end dates.
- If the activity cannot be completed within the duration or timeframe specified in a permit condition, the promoter must apply for a variation.
- 4.9.6 **Road space**  
The amount of space that activities in the highway occupy can have a major impact on congestion and disruption levels. If associated plant and excavated material take up a greater area, possibly resulting in lane restrictions and temporary traffic control measure, the impact could be magnified considerably. The area occupied could be reduced if unnecessary plant and excavated material is removed swiftly. Where no work force is on site and as a result no activity is taking place, safety zones should be reduced as per the NRSWA Safety Code of Practice.  
The following road space conditions may, for example, be attached to the permit:
- whether materials and plant can be stored on site;
  - the width and/or length of road space that can be occupied -including allowing for signing, lighting and guarding -at any one time, during the period of the works;
  - the road space that is to be available to all traffic including pedestrians at certain times of day.
- 4.9.7 **Traffic management provisions**  
Activity promoters must include their traffic management proposals within the permit applications.  
The Permit Authority may require traffic management conditions, for instance:
- that the road, or relevant section, should be closed to traffic during the works under section 14 of the Road Traffic Regulation Act;



### **The South East Permit Scheme**

the same.

#### **4.11 Conditions for Immediate Activities**

- 4.11.1 Standard conditions will apply to immediate activities for the period before a permit is issued. Standard conditions will be published on the Permit Authority website and activity promoters will be notified of any new conditions at the quarterly SEHAUC meetings. Following discussions with the promoter, the Permit Authority may require additional conditions for individual immediate activities before a permit is issued.
- 4.11.2 All activity promoters carrying out immediate activities on certain designated streets are required to contact the Permit Authority, by telephone, immediately after identifying the activity. These designated streets have been indicated with an ASD record in the NSG.

## The South East Permit Scheme

### 5 VARIATIONS TO PERMITS

#### 5.1 *General Principles*

5.1.1 Within the Permit Scheme the Permit Authority has the powers under Permit Regulation 15, to review, vary or revoke permits and permit conditions. However, the Permit Authority is under no obligation to allow activities to continue beyond the permitted period.

5.1.2 A PAA cannot be varied. If a full permit has not yet been issued, and the activity promoter needs to make changes, then the promoter must inform the Permit Authority of the proposed changes and make a revised application for a PAA or permit. If the Permit Authority requires changes to the PAA then, after discussion with the promoter, the promoter must make a new application but in this case no fee will be charged.

#### 5.2 *Variations Initiated by the Activity Promoter*

##### 5.2.1 **For a variation – by promoters**

5.2.1.1 From time to time an activity promoter may need to apply for a justifiable variation to a permit and/or its conditions, including an extension of the agreed duration.

5.2.1.2 The purpose of the Permit Scheme is not to prevent necessary activity, so an application for a justifiable variation is likely to be granted, although the Permit Authority will consider the wider network implications of the changes and other relevant factors.

##### 5.2.2 **Extensions**

5.2.2.1 The Permit Authority is under no obligation to let works run beyond the permitted period.

5.2.2.2 Whilst the Permit Authority will grant the extension to minimise disruption in many cases, there may be occasions where the activity promoter will have to vacate the street to allow other activities to take place and submit an application for a new permit to complete their activity at a later date. Plating of excavations may be appropriate where agreed with the Permit Authority.

5.2.2.3 Activities which exceed the duration in the permit without good reason will potentially be subject to overrun charges under s74 of NRSWA. In these instances, the Permit Authority may decide to extend the end date of the permit to allow the activity to be completed, depending on the co-ordination of other works in the area. However the reasonable period for s74 purposes will not be extended, and the issue of a Duration Challenge will enable s74 charges to apply even though a valid permit is in force.

##### 5.2.3 **Illegitimate phasing of activities**

Where the Permit Authority can establish to its reasonable satisfaction that a subsequent permit application has been made at any given location as a result of:

- The closure of works following a refusal by the permit authority to grant an extension to the duration of a previous permit, or
- The premature closure of the activity by the promoter, before all those works specified in the activity description given by the promoter are completed, to avoid an overrun under s74 occurring.

### **The South East Permit Scheme**

#### *5.5 Cancelling a Permit or Withdrawing a Permit Application*

- 5.5.1 If a promoter wishes to cancel a permit or withdraw a permit application for which they have no further use, they should use the cancellation notice containing the relevant number (see Technical Specification for EToN for more details). There is no cancellation fee.
- 5.5.2 Where a permit has been issued, the fee for the cancelled permit will normally remain payable. However, if a permit is cancelled through no fault of the promoter, the fee will be credited back to the promoter.
- 5.5.3 An activity promoter will be committing an offence if it works or continues to work after cancelling a permit.

### The South East Permit Scheme

## 6 CONFLICT WITH OTHER LEGISLATION AND LEGAL LIABILITY

- 6.1 The Permit Authority will try to ensure that any conditions applied to a permit do not conflict with the activity promoter's obligations under separate legislation. The Permit Authority's intention is that an activity promoter should not be put in a position where they cannot escape being in breach of either permit conditions or other relevant legislation.
- 6.2 The activity promoter should bring such conflicts or potential conflicts to the attention of the Permit Authority as soon as is practicable. The Permit Authority will be responsible for resolving the issue with the other body or bodies concerned, e.g. Environmental Health officials, and amending the permit conditions accordingly.
- 6.3 The applicant will be liable for all actions, costs, claims, demands, charges and expense arising out of any activity covered by Permit Scheme, including those which may arise out of, or be incidental to, the execution of the works.
- 6.4 Part 8 of the Regulations provides for the disapplication of certain sections of NRSWA, details of which are contained in section 2.12 of this document.

### The South East Permit Scheme

- 8.3.4 There will be a reduction of 30% for the permit, and when submitted, the PAA fee for all applicants working together. All applications, including the first to be received, must indicate that they are being submitted together (within 3 days).

Examples of such situations could be;

- Where a promoter submits several permit applications at the same time for activities which are part of the same project but which are carried out in more than one street. The term “project” does not cover area-wide activities but activities of a scale which could be carried out in one street, but which happens to cover two or more streets;
- Where several activity promoters working within the same site submit applications at the same time. The primary promoter will require a permit with full information about the activities, and the other promoters will also require a permit each so that the authority knows who is working there. If in these circumstances one of the promoters is the highway authority, the utility company promoters will be eligible for the reduced fee.

#### 8.4 *Fee Reviews*

- 8.4.1 The Permit Authority will review fees annually. Any significant variation between the expected income and expenditure in operating the Permit Scheme will be dealt with in accordance with review arrangements in effect at the time.
- 8.4.2 The Permit Authority is committed to adjust fees if either a surplus or deficit exists between costs and income. In the event that there is a surplus in a given year, the money should be applied towards the costs of the scheme in the next year and the fee levels adjusted accordingly. If a sustained surplus/ deficit occur the fee levels will be adjusted accordingly.
- 8.4.3 The outcome of annual fee reviews will be displayed on the Permit Authority's public website.

### The South East Permit Scheme

## 9 OVERRUN CHARGING SCHEME

- 9.1. The Permit Authority intends to run a scheme for overrun charging under s74 of NRSWA to operate alongside the Permit Scheme. The requirements for overrun charging are set out in regulations made under s74 of NRSWA (the s74 regulations as amended by the permit regulations). The procedure is contained in Chapter 16 of the Permits Code of Practice.
- 9.2. Where the permit Authority has reason to believe that overrun charges are being avoided by mis-use of permit phases, it will treat a subsequent permit application as an illegitimate use of phases (see 5.2.3).
- 9.3. Activities carried out by an activity promoter on behalf of a highway authority or by the highway authority themselves are not subject to s74 overrun charges. However, under the Permit Scheme, promoters of such activities will be required to follow the same procedures as promoters who are statutory undertakers. Key Performance Indicators (KPIs), as described in section 13, provide an indication of performance in relation to overrunning works.

### **The South East Permit Scheme**

Regulations will take actions as appropriate to the original noncompliance at the cost of the undertaker

- 10.7.2.3 For offences where it is NOT possible for some corrective action to be taken, an FPN will be given at the Permit Authority's discretion

#### **10.8 Other NRSWA Offences**

- 10.8.1 Any offences relating to sections of NRSWA which run in parallel to permit schemes will continue to apply. These include offences relating to reinstatements, overrunning and failure to send appropriate notices.

## The South East Permit Scheme

### 11 FIXED PENALTY NOTICES

#### 11.1 *Introduction*

11.1.1 The Permit Regulations provide for FPNs for permit schemes. The Permit Authority intends to use FPNs in conjunction with this Permit Scheme

11.1.2 These permit regulations provide for two offences to become fixed penalty offences. This means that they can be dealt with by FPNs, although prosecution through the Magistrates' Courts remains an option for the Permit Authority.

11.1.3 FPNs apply only to statutory undertakers and not to highway authorities, but the Permit Authority will monitor highway activities to ensure equal treatment across promoters. Situations will be recorded where highway activities would have been subject to a FPN, had they been carried out by an undertaker. The Permit Authority will use electronic FPNs where possible because they can be processed more easily, but other methods will be used if necessary. An example of a FPN form is in the permit regulations

#### 11.2 *Payment of the fixed penalty notice*

11.2.1 Part B of the FPN sets out the methods by which the penalty may be paid. The permit regulations schedule 1 gives more information about the arrangements for payment.

#### 11.3 *Giving an FPN*

11.3.1 The process for giving an FPN is in Chapter 18 of the Permits Code of Practice



#### **The South East Permit Scheme**

- 12.7.2 When applying for a permit for major works over 10 days duration, where the relevant traffic flow information is available to promoters via the Permit Authority website, a disruption effect score as defined in Appendix G of the Permits Code of Practice is required.
- 12.8 *Environmental Issues*
- 12.8.1 Activity promoters are strongly advised to liaise with the authority's arboriculture consultants and other environmental officials along with any necessary borough or district council officers when drawing up their proposals. This should ensure that wherever possible, and at reasonable cost, their requirements can be met.
- 12.8.2 A promoter considering burying plant and apparatus that is currently above ground should contact any other utility with similar apparatus to see whether it wishes to share the underground facility.

### The South East Permit Scheme

## 13 KEY PERFORMANCE INDICATORS FOR THE PERMIT SCHEME

### 13.1 *Background*

13.1.1 One requirement for permit schemes is to ensure that authorities apply a consistent approach to all activities and activity promoters.

13.1.2 The Permit Authority for the Permit Scheme is also a promoter of its own maintenance and other highway and traffic activities in its role as highway authority.

### 13.2 *Parity of Treatment*

13.2.1 The Permit Authority will demonstrate parity of treatment for all activity promoters, particularly between undertakers and its own activities as highway authority. The issue of equal treatment is emphasised in the Guidance on the Network Management Duty introduced under the TMA.

13.2.2 Parity will be measured through KPIs. The Permit Authority will produce an annual set of KPIs that identify the treatment of individual activity promoters. These results will be published.

### 13.3 *KPIs for the Permit Scheme*

13.3.1 The Permit Authority will use any mandatory KPIs, in the DfT statutory guidance and others as required. These will be published on the Permit Authority web site to demonstrate parity of treatment of promoters across the scheme.

13.3.2 The results of these KPIs will be published on an annual basis but will be transparent and available to any activity promoter at other times. The KPIs will be provided and discussed at the quarterly co-ordination meetings and other regular meetings held with promoters.

13.3.3 The Permit Authority will make the KPI data available to Government and other regulatory bodies

### The South East Permit Scheme

HA 1980	The Highways Act 1980.
Highway	As defined in section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway".
Highway Authority	As defined in sections 1 and 329 of the HA 1980.
Highway works	"works for road purposes" or "major highway works".
Immediate activities	immediate activities are defined in 2.2.8
In	As defined in section 105(1) of NRSWA
Land	As defined in section 329 of HA 1980, "land includes land covered by water and any interest or right in, over or under land".
Local authority	As defined in section 270(1) of the Local Government Act 1972 and includes the Common Council of the City of London.
Main roads	All streets in reinstatement categories 0, 1 and 2 and those streets in categories 3 and 4 which are traffic sensitive for all or part of the time.
Maintainable highway	As defined in section 329 of HA 1980
Maintenance	As defined in section 329 of HA 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly".
Major activities	Are defined in 2.2.8
Major highway works	As defined in section 86(3) of NRSWA
Minor activities	Are defined in 2.2.8
Minor roads	Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time.
National Grid Reference	Location reference using nationally defined eastings and northings The format in which it is presented must in all cases match that required by the Technical Specification for EToN.
National Street Gazetteer (NSG) –also referred to as Nationally Consistent Street Gazetteer	A database defined as "an index of streets and their geographical locations created and maintained by the local highway authorities" based on the BS7666 standard.

**Status:** This is the original version (as it was originally made). UK  
Statutory Instruments are not carried in their revised form on this site.

### The South East Permit Scheme

Network management duty	As stated in Part 2 of TMA.
NRSWA	New Roads and Street Works Act 1991.
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any "breaking up" of the street.
Permit	The approval of a permit authority for an activity promoter to carry out activity in the highway subject to conditions.
Permit application	See section 3. The application that is made by a promoter to the authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (section 55 of NRSWA) given under the Co-ordination regime.
Permit Authority	A local highway authority or other "highway authority" which has been given approval by the Secretary of State to operate a permit scheme on all or some of its road network.
Permit Scheme	A scheme approved by the Secretary of State under which permits for activities are sought and given.
Promoter	A person or organisation responsible for commissioning activities in the streets covered by the permit scheme. In the Permit Scheme promoters will be either statutory undertakers or the highway or traffic authority.
Protected street	are defined in NRSWA s61 (1)
Provisional Advance Authorisation (PAA)	The early provisional approval of activities in the highway. See 3.6.
Railway	As defined in section 105(1) of NRSWA, "railway includes a light railway other than one in the nature of a tramway".
Reasonable period	As defined in section 74(2) of NRSWA,
Registerable	Registerable activities correspond to street works or other descriptions of works that are required to be shown on the register in. <i>The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007</i> .
Reinstatement	As defined in section 105(1) of NRSWA, "reinstatement includes making good".
Relevant authority	As defined in section 49(6) of NRSWA,
Remedial work	Remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and the associated regulations.

#### **The South East Permit Scheme**

- (xii) every notice of works pursuant to s85(2) of NRSWA;
- (xiii) details of every street for which the Permit Authority is the street authority;
- (xiv) details of every street which is prospectively maintainable by the Permit Authority;
- (xv) details of every street of which the Permit Authority is aware over which the Permit Scheme would operate, which is a highway but for which it is not the highway authority;
- (xvi) details of every street which is a) a protected street; b) a street with special engineering difficulties; c) a traffic-sensitive street;
- (xvii) the road category of each street; and;
- (xviii) details of every street where early notification of immediate activities is required.

#### **B.4 Access to registers**

The Permit Authority will publish elements of their register's information on a public website in order that the information is available 24 hours a day, seven days a week, except for those occasional times when it will be unavailable due to upgrade and maintenance. Upgrading and maintenance will, wherever possible, be done outside normal office hours.

#### **B5 Restricted information**

Restricted information is anything certified by the Government as a matter of national security, or information which could jeopardise the promoter's commercial interests such as details of a contract under negotiation. The promoter must indicate restricted information on the relevant permit or PAA application. Restricted information will not be shown on the public websites.

#### **B.6 Retention of information**

Information about activities provided by means of or in relation to any permit application under the TMA (including for a PAA or permit variation) or notice under NRSWA will be retained on the register for at least six years after completion of the guarantee period of the activity referred to in the application or notice. Information about other activities will be retained on the register for at least six years after completion.

## The South East Permit Scheme

### APPENDIX C - PAYMENT METHODS FOR PERMIT FEES AND FPNs

Utility companies will be required to pay fees for permits to the Permit Authority and may have to pay a penalty to the Authority if they receive a Fixed Penalty Notice (FPN) for a permit related offence. Although the Permit Authority will keep the permit fees and FPN penalties separate for accounting purposes it is expected that utility companies will use the same means of paying for both. In most cases utility companies will already have arrangements in place for payments to the Permit Authority in relation to NRSWA e.g. for inspection or for s74 overrun charges and these arrangements can be used for permit fees and FPNs provided there is transparency over precisely which permit or which FPN a payment is for.

Payment for permit fees and any FPN should be made by means specified by the Permit Authority at its co-ordination meetings;

When the use of electronic payment methods is the required method, if a utility company normally uses that method and there is a system failure, paying by an alternate options is possible by contacting the Finance Department of the Permit Authority.

The utility company must set up payment facilities, provide contact details and agree methods of payment with the Finance Department of the Permit Authority and clarify what arrangements for payment will apply.

It is important that the authority is informed which FPNs or permit fees are being paid. This will not only provide an audit trail but will also ensure that payments can be made quickly and with the minimum of queries.

Therefore:

- For BACS, the utility company must support payment with details of the Permit or FPN numbers covered by the payment and the amount being paid in relation to each (including, for FPNs, the discounted or full amount).
- For any alternate option the payment must be accompanied by a list of the Permit or FPN numbers covered by the payment and the amount being paid in relation to each (including, for FPNs, the discounted or full amount).

**END OF DOCUMENT**

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order gives effect to the Surrey County Council Permit Scheme.

The Surrey County Council Permit Scheme is designed to control the carrying out of works in specified streets in Surrey by imposing an obligation to obtain a permit from Surrey County Council before undertaking the works.

*Article 3* gives effect to the permit scheme, which will come into effect on 11th November 2013. The permit scheme referred to in this article is set out in the Schedule to the Order.

*Article 4* applies Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (which makes provision for the disapplication and modification of enactments in relation to specified works in specified streets) to the specified works and specified streets within the Surrey County Council Permit Scheme.

A copy of the Surrey County Council Permit Scheme is deposited and can be inspected at the offices of Surrey County Council, County Hall, Penrhyn Road, Kingston Upon Thames, Surrey, KT1 2DN and is available to inspect on the Council's website <http://www.surreycc.gov.uk>.