

FORM SW1

**NEW ROADS AND STREET WORKS ACT, 1991
SECTION 50 - STREET WORKS LICENCES**

**NOTES FOR GUIDANCE FOR APPLICANTS WISHING TO BREAK OPEN A STREET TO
PLACE AND THEREAFTER MAINTAIN APPARATUS THEREIN**

1. The New Roads and Street Works Act makes it a criminal offence to excavate or place private apparatus in the street without a Street Works Licence. In order for the Street Authority to comply with its statutory duty you must apply for a Street Works Licence at least **4 weeks** in advance, or where a road closure is required, **3 months** in advance of the commencement of the proposed works. The person granted a Street Works Licence becomes an Undertaker for the purposes of the New Roads and Street Works Act 1991, and thereafter attracts the relevant duties and responsibilities imposed by the Act and its associated Codes of Practice.

The requirement to obtain a Street Works Licence applies to any person or organisation (other than anyone acting under a statutory right) who wishes to place, retain and thereafter inspect, maintain, alter or renew the apparatus, change its position or remove it from the highway. The term apparatus includes drains, cables, ducts, pipes, poles, kiosks etc. both under, across, along or upon the highway.
2. Those applicants not familiar with the requirements of the Act and associated legislation are strongly advised to appoint a contractor with the appropriate knowledge and accreditation to help complete the application and conduct the works on their behalf.
3. Your appointed contractor will indemnify the Street Authority against any claims arising from, or any operation connected with, the work. You must provide the Street Authority with proof of Public Liability Insurance. This must provide a minimum of £5m cover and be maintained from commencement of the works in the street up to the completion of temporary and/or permanent reinstatement.
4. In accordance with Section 67 of the Act, and the Street Works (Qualifications and Operatives) Regulations 1992, it is a requirement that any works being carried out which involves the breaking up or opening up of a street, or tunnelling or boring under a street, shall be supervised by a person holding the prescribed qualification as a Supervisor. It is also a requirement that there is on site at all times, when any such works are in progress, at least one person having a prescribed qualification as a Trained Operative. A register of accredited contractors, or further information, is available on request.
5. Applicants wishing to lay new apparatus in the highway shall use **Form SW2**, which must be completed in the name of the owner of the apparatus. This must be submitted to the Street Authority giving a minimum of **4 weeks** notice (**3 months** where a temporary road closure will be required), along with a 1:500 plan showing the exact location of the apparatus within the street. The application must be signed by the Owner of the apparatus.

6. Applicants wishing to carry out any works on existing apparatus shall use **Form SW2** and submit their application at least **3 working days** in advance of the commencement of the proposed works, where the works are expected to last for up to 3 days; or **10 working days** where the works are expected to last 4 days or more. These notification periods do not apply in Urgent or Emergency situations.
7. Following an application for a Street Works Licence to lay new apparatus, the Street Authority will request from the Statutory Utility companies, plans showing the approximate locations of any of their apparatus existing within the highway. Returned plans will be attached with the Licence. Applicants carrying out works on existing apparatus, where less than 4 weeks notice of the works is to be given, shall make their own applications to the Statutory Undertakers. It is the applicant's responsibility to locate the exact locations of any Statutory Undertakers' apparatus likely to be affected by the proposed works, and to liaise with those undertakers to ensure that any such apparatus is not damaged or disturbed. A list of the relevant Statutory Undertakers is provided with the application documents. Prior to issuing a new licence, the Street Authority must give at least 10 working days notice to the relevant Statutory Undertakers to inform them of its intent to issue a licence.
8. The Licensee shall ensure that all works comply with the regulations as defined in the New Roads and Street Works Act 1991, including all specifications and codes of practice, with particular reference to:-
 - a) the New Roads and Street Works Act 'Specification for the Reinstatement of Openings in Highways', Code of Practice
 - b) the Traffic Safety Measures for Road Works, Chapter 8, Traffic Signs Manual issued by the Department of Transport
 - c) the Traffic Management Act

The contractor carrying out the works must ensure that all safety measures are taken, e.g. provision of barriers, lamps, traffic signs, temporary traffic signals and removal of spoil.

9. The Licensee and his contractor must permit the Street Authority to monitor his, or his contractor's, performance throughout all stages of the street works. Inspections will be carried out (a) during the progress of the works, (b) within 6 months following interim or permanent reinstatement, (c) within 3 months preceding the end of the guarantee period (this period will begin from the date of the registered permanent reinstatement and will be for 2 years for excavations up to 1.5m deep, and 3 years for deeper excavations). During the guarantee period, the licensee shall be responsible for any maintenance works required in ensuring that a reinstatement conforms to the prescribed performance standards.
10. Following receipt of an application directions may be given regarding any traffic control measures deemed necessary, such as the need for temporary traffic signals or, where necessary, a temporary road closure. Temporary traffic signals require at least **5 clear working days** notice. Where the proposed works will necessitate the temporary closure of a highway a minimum of **3 months** notice in advance of the works must be given. The owner of the apparatus will be expected to bare all reasonable costs incurred by the Street Authority in preparing and implementing any road closure order. The Street Authority may require the applicant to restrict the hours of working.

11. Financial penalties may be imposed by the Street Authority against the licence holder for non-compliance with the relevant statutory duties or licence conditions. Applicants should note that this liability cannot be delegated to any other person or organisation.
12. The licensee's attention is drawn to Section 74 of the New Roads and Street Works Act (Charges for Prolonged Occupation of the Highway). A Street Authority may require an undertaker to pay the prescribed charges where the duration of any street works exceeds the prescribed completion date. The prescribed charges shall be as set out below, and shall be chargeable for each day (or part of a day) during which the street works continue beyond the prescribed completion date, unless otherwise authorised by the Street Authority.
 - (a) for minor works, emergency and urgent works in category Type 3 & 4 roads = **£100**
 - (b) for standard works in category Type 3 & 4 roads = **£250**
 - (c) for minor works, emergency or urgent works in roads other than category Type 3 & 4 roads = **£500**
 - (d) for standard works in roads other than category Type 3 & 4 roads = **£2,000**
13. A Street Works Licence will only be granted to the owner(s) of the apparatus or his Successor(s) in Title. Owners should note that it is their statutory duty to ensure that the apparatus is properly maintained at all times. The issue of a licence does not dispense the Licensee from obtaining any other consent, licence or permission that may be required. The Licensee must make his own arrangements with such owners in cases where their consent is needed.
14. Before a Street Works Licence can be issued the applicant must make payment of **£300.00** to cover the Statutory inspection fees and administration charges;

Cheques to be made payable to **Amey L G Ltd**.

15. Where the apparatus in respect of which an application for a Street Works Licence has been made is to be placed or retained on a line crossing the street, and not along the line of the street, a person aggrieved by the following may appeal to the Secretary of State:
 - (a) The refusal of the Street Authority to grant a licence
 - (b) The refusal of the Street Authority to grant a licence except on terms prohibiting it's assignment
 - (c) Any terms or conditions of the licence granted to him
16. Where the private apparatus is to connect to, discharge to, or extract from any other privately owned apparatus or public system, the applicant must make a separate application to the owner/s or manager/s of that system to obtain the requisite consent or authorisation to make such a connection, discharge, or extraction; i.e. where the apparatus is to;

• Connect to a private drain or sewer	- the owner of that private drain or sewer
• Connect to the public sewer	- the public sewer authority
• Connect to a Council highway drain	- Herefordshire Council, Engineering Services
• Connect to a mains water supply	- the water authority
• Connect to mains gas supply	- the gas supplier
• Discharge or extract to/from a water course	- the Environment Agency

17. A Street Works Licence is granted to the owner/s of the apparatus and his successors in title. Where the licensee proposes to part with the interest in the apparatus, any existing licence must be transferred in the name of the new owner/s. Written notice shall be given to the Street Authority stating that ownership is to be transferred and to whom, whereupon **Form SW7** (Application for Transfer of Licence Ownership) shall be issued for completion and return by the new owner/s.
18. In case of difficulty or for further information, please contact:-

Amey Herefordshire
Unit 3, Thorn Business Park
Rotherwas
Hereford HR2 6JT

ask for:

NRSWA Co-ordinator
Tel: 01432 261800
Fax: 01432 263774

Or email streets@herefordshire.gov.uk