

3 BACKGROUND

This chapter provides a simplified explanation of the work undertaken by highway, road, transport, and bridge authorities and undertakers - it is not intended to be exhaustive or prescriptive.

3.1 Major Highway Works and Major Road Works*

The role of the highway or road authority to maintain, reconstruct and improve the highway or road system in the interests of the public must be recognised. Every endeavour should be made to keep overall costs of such works to a minimum. The law allows the public to pass and repass along the highway or road and to have continued access to land and properties adjoining the highway or road except as may be limited by specific legislation. Such rights must be protected.

For England and Wales 'Major highway works' within the meaning of section 86(3) of the Act are:

"works of any of the following descriptions executed by the highway authority in relation to a highway which

consists of or includes a carriageway -

- (a) reconstruction or widening of the highway,
- (b) works carried out in exercise of the powers conferred by section 64 of the Highways Act 1980 (dual carriageways and roundabouts),
- (c) substantial alteration of the level of the highway,
- (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway,
- (e) the construction or removal of a road hump within the meaning of section 90F of the Highways Act 1980,
- (f) works carried out in exercise of the powers conferred by section 184 of the Highways Act 1980 (vehicle crossings over footways and verges),
- (g) provision of a cattle-grid in the highway or works ancillary thereto, or
- (h) tunnelling or boring under the highway."

For Scotland 'Major works for road purposes' within the meaning of section 145(3) of the Act are:

- (j) reconstruction or widening of the road,
- (k) substantial alteration of the level of the road,
- (l) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the road,
- (m) the construction or removal of a road hump within the meaning of Section 40 of the Roads (Scotland) Act 1984,
- (n) works carried out in exercise of the powers conferred by Section 63 of the Roads (Scotland) Act 1984 (new access over verges and footways),
- (p) provision of a cattle-grid in the road or works ancillary thereto, or
- (q) tunnelling or boring under the road.

As the Code applies to 'highways or roads which consist of or include a carriageway' it does not apply to footpaths or bridleways which are not associated with a carriageway.

Major highway or major road works as defined, are undertaken either by a contractor under contract to the authority, by the highway or road authority itself through its Direct Labour Organisation (DLO) or other body under licence from the highway authority.

Some major highway or major road may be undertaken in whole or part by a third party, such as a private developer. The main impact is on financial arrangements as described in Chapter 9.

3.2 Major Bridge Works

For the purpose of the Code, a bridge means a structure carrying a highway or road or a structure over a highway or road. A bridge authority means the authority, body or person in whom a bridge is vested. It may be any of a variety of authorities, e.g. a highway authority, a road authority, a transport authority (Rail, Waterways and other).

'Major bridge works' within the meaning of the Act in section 88(2) for England and Wales and section 147(2) for Scotland are works for the replacement, reconstruction or substantial alteration of a bridge.

In the case of a bridge carrying the highway or road, undertakers have certain powers to lay apparatus in the highway or road, and the presence of this apparatus will affect any work undertaken to the bridge structure. By virtue of section 88 and section 147 of the Act, any statutory right to place apparatus in the street includes the right to place apparatus in, and attach apparatus to, the structure of the bridge.

However, section 88(5)(b) (for England and Wales) and section 147(5)(b) (for Scotland) require the undertaker to comply with any reasonable conditions the bridge authority may wish to impose for the protection of the bridge or access to it. Some undertakers' apparatus may be located elsewhere on the bridge structure and subject of a different form of agreement.

Bridge works may be undertaken as a part of major highway works, major road works, major transport works or other works. There may also be a need to reconstruct, alter or strengthen bridges, to meet current loading or other requirements. Such changes will almost certainly affect any undertakers' apparatus laid in the bridge and may affect apparatus attached to the bridge.

In the case of a bridge over the highway or road, apparatus laid in the highway or road, or attached to the bridge, may be affected by work undertaken to the bridge foundations, piers or abutments.

3.3 Major Transport Works

Under section 91(1)(b) of the Act (for England and Wales) and section 150(1)(b) of the Act (for Scotland) organisations which have statutory authority to carry on a railway, tramway, dock, harbour, pier, canal or inland navigation undertaking are collectively known as 'transport undertakings'. Transport undertakings may also carry out works in their property which affect the apparatus of undertakers in streets or roads.

As defined in section 91(2) and section 150(2) of the Act, Major Transport Works are "substantial works required for the purposes of the transport undertaking and executed in property held or used for the purposes of the transport undertaking".

Where Major Transport Works are proposed, the transport authority and the undertaker must:

- Identify any apparatus belonging to the undertaker that may be affected.
- Agree on the necessary measures to be taken in relation to that apparatus.
- Ensure that all actions are in accordance with the procedures set out in this Code of Practice.

3.4 Highway or Road Construction

Highways and roads are designed to national standards to meet the demands of traffic loading and ground conditions.

The highway or road construction serves the following purposes:

- i. To ensure that the load-carrying capacity of the subgrade is not exceeded.
- ii. To provide a waterproof surface to protect the subgrade from damage by water penetration.
- iii. To provide a satisfactory wearing surface for pedestrian and vehicular traffic.

3.5 Redundant Highways, Roads and Bridges

Highways may become redundant because of redevelopment or the construction of an alternative or diverted road (see section 6 of this Code). Similarly, bridges may become redundant because the highway or road has closed. A highway, road or bridge becoming redundant will have implications for an undertaker with apparatus in it (see chapter 8 of this Code).

3.6 Undertakers

Undertakers have a fundamental requirement, which may be imposed by statute, to maintain adequate service while their apparatus is modified or diverted. Any diversion or protective works will have technical features peculiar to the service affected. These requirements may, according to circumstances, be satisfied by a temporary interruption to the service, by diversion to a temporary route, or by permanent re-routing of the service.

Undertakers apparatus is any installed item owned by the undertaker for the purpose of their statutory undertaking. It includes any structure for the lodging therein of apparatus or for gaining access to apparatus.

More information on the types of undertakers' apparatus is set out in Appendix A and advice on material factors when apparatus is affected by authority major works is set out in Appendix B.