

SCOTTISH MINISTERS' REQUIREMENTS

SCHEDULE 3 PART 8

STATUTORY FUNCTIONS

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1. STATUTORY FUNCTIONS

1.1 General

- 1.1.1 The Operating Company shall be responsible for carrying out the Statutory Functions on behalf of the Scottish Ministers referred to in Annex 3.8/A of this Part.
- 1.1.2 When the Operating Company undertakes its duties in accordance with these Statutory Functions, it shall prepare and maintain any appropriate records and registers in accordance with the requirements of this Contract.
- 1.1.3 If an authorisation to carry out a Statutory Function on behalf of the Scottish Ministers referred to in Annex 3.8/A of this Part expires, or is withdrawn or revoked by the Scottish Ministers, the Operating Company shall cooperate with the Scottish Ministers as required to facilitate a transfer of such Statutory Functions to the Scottish Ministers or a replacement nominated by them in the timescales provided by the Scottish Ministers.
- 1.1.4 Before exercising any of the Statutory Functions of the Scottish Ministers referred to in Annex 3.8/A of this Part, the Operating Company shall notify any interested parties in writing of its intentions.
- 1.1.5 For the avoidance of doubt, the Operating Company shall not subcontract or delegate responsibility for any Statutory Functions of the Scottish Ministers referred to in Annex 3.8/A of this Part.
- 1.1.6 Where the Operating Company is either a private sector firm or a company, it shall be authorised within the Contract entered into between the Scottish Ministers and that firm, company or public private partnership to carry out the Statutory Functions of the Scottish Ministers referred to in Annex 3.8/A of this Part under the terms of *The Secretary of State's Trunk Road Functions (Contracting Out) (Scotland) Order 1996 (Statutory Instrument 1996 No. 878 (s.99))* ("the Contracting Out Order"), made under Section 69 of the *Deregulation and Contracting Out Act 1994*.

This is Annex 3.8/A to Schedule 3 Part 8 referred to in the foregoing Agreement between Scottish Ministers and BEAR Scotland Limited.

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ANNEX 3.8/A – Statutory Functions

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ANNEX 3.8/A – Statutory Functions

1. The function of the Scottish Ministers as roads authority conferred by or under section 2 of the *Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958* in relation to giving and withholding consent and attaching conditions to any consent.
2. The function of the Scottish Ministers as roads authority conferred by or under section 25(2) of the *Water (Scotland) Act* in relation to giving and withholding consent.
3. The function of the Scottish Ministers as persons having an interest in the land as roads authority conferred by or under section 7(4) of the *Litter Act 1983* in relation to giving and withholding consent and arranging terms of any consent.
4. The function of the Scottish Ministers as traffic authority conferred by or under section 65(1) of the *Road Traffic Regulation Act 1984* in relation to the power to cause or permit traffic signs to be placed on or near a road.
5. The functions of the Scottish Ministers as roads authority conferred by or under the following provisions of the *Roads (Scotland) Act 1984*:
 - (i) section 2(1) (powers and duties with respect to Trunk Roads etc),
 - (ii) section 4(1) (power of the Scottish Ministers to enter into agreements with local roads authorities for them to carry out their functions as roads authority for Trunk Roads etcetera) but only for carrying out those functions specified in sub paragraph (i) above and sub paragraphs (iii) to (xxx) inclusive of this Annex,
 - (iii) section 34 (duty of roads authority with respect to snow and ice on roads),
 - (iv) section 50 (power of roads authority to plant trees, shrubs etc within road boundary),
 - (v) section 51 (power of roads authority to consent to persons planting trees, shrubs etc within a road boundary),
 - (vi) section 56 (power of roads authority to consent to works and excavations in roads),
 - (vii) section 57 (power of roads authority with respect to dangerous works in roads),
 - (viii) section 58 (power of roads authority to permit occupation of parts of roads for the deposit of building materials etc),
 - (ix) section 59 (power of roads authority with respect to obstructions in roads),

- (x) section 60 (power of roads authority to fence and light obstructions and excavations in roads on default of person required to do so and to recover the expenses thereof),
- (xi) section 61 (power of roads authority to give permission to place and maintain etc appliances in roads),
- (xii) section 63 (power of roads authority with respect to new accesses over verges and footways),
- (xiii) section 64 (power of roads authority to consent to statutory Undertakers using appliances or vehicles on footways, footpaths and cycle tracks),
- (xiv) section 66 (power of roads authority with respect to maintenance of vaults and cellars etc under roads),
- (xv) section 67 (power of roads authority with respect to doors etc opening outwards into roads),
- (xvi) section 85 (power of roads authority to permit the deposit of builders' skips on roads),
- (xvii) section 86 (power of roads authority to remove or reposition builders' skips and to recover the expenses thereof),
- (xviii) section 87 (power of roads authority with respect to unauthorised structures on roads),
- (xix) section 88 (power and duty of roads authority with respect to projections impeding or endangering road users),
- (xx) section 89 (power and duty of roads authority with respect to accidental obstructions on roads),
- (xxi) section 90 (power of roads authority to consent to the placing of bridges, beams, rails, pipes, cables and other apparatus over roads),
- (xxii) section 91 (power of roads authority to prevent danger to a road from nearby vegetation and fences etc or from inadequate retaining walls) except sub-section (5),
- (xxiii) section 92 (power of roads authority with respect to trees etc planted within 5 metres of the edge of carriageways),
- (xxiv) section 93 (powers of roads authority to protect road users from roadside dangers),
- (xxv) section 94(1)(a) (power of roads authority to fill in unnecessary roadside ditches subject to the consent of owners and occupiers),
- (xxvi) section 95 (power of roads authority to recover expenses of removing mud etc deposited from vehicles onto roads so as to be dangerous),
- (xxvii) section 98 (power of roads authority with respect to stray and other animals on roads),
- (xxviii) section 99 (power of roads authority with respect to the prevention of the flow of water etc onto roads),
- (xxix) section 120 (duty of roads authority to have regard to the needs of disabled and blind persons in executing works etc in roads), and

- (xxx) section 141 (power of roads authority to execute works etc on default of persons required to do so) but only in relation to those functions specified in the foregoing sub-paragraphs of this paragraph).
6. The functions of the Scottish Ministers as road works authority conferred by or under the following provisions of *the New Roads and Street Works Act 1991*:
- More details on the requirements of the sections of the *New Roads and Streetworks Act 1991* listed below are contained in Schedule 7 Part 6, Annex 7.6/A.
- (i) section 109 (power of road works authority to permit execution of works and power to substitute existing permission with new one),
 - (ii) section 115 (power of road works authority to give directions as to the timing of road works),
 - (iii) section 117 (power of road works authority to restrict road works following substantial works carried out for road purposes),
 - (iv) section 118 (duty of road works authority to co ordinate execution of works of all kinds on roads),
 - (v) section 122 (power of road works authority to designate roads as having special engineering difficulties),
 - (vi) section 123 (power of road works authority to designate roads as traffic sensitive), and
 - (vii) section 131 (power of road works authority with respect to reinstatement of roads by Undertakers).
7. The function of the Scottish Ministers conferred by or under section 150 of the *Local Government etc (Scotland) Act 1994* (power of the Scottish Ministers to place mandatory traffic signs on roads in extraordinary circumstances).