

**This is Document “Schedule 3 Part 9” referred to in this Contract**

**SCOTTISH MINISTERS’ REQUIREMENTS**

**SCHEDULE 3 PART 9**

**STATUTORY FUNCTIONS**

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## **SCOTTISH MINISTERS' REQUIREMENTS**

### **SCHEDULE 3 PART 9**

#### **STATUTORY FUNCTIONS**

## **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 3.9/A of this Part 9 of this Schedule 3.

1.1.2 On each and every occasion when the Operating Company shall undertake duties in accordance with these Statutory Functions the Operating Company shall prepare and maintain appropriate records and registers.

1.1.3 If an authorisation to carry out a Statutory Function on behalf of the Scottish Ministers referred to in Annex 3.9/A of this Part 9 of this Schedule 3

(i) expires or

(ii) shall be withdrawn or revoked by the Scottish Ministers

then the Operating Company shall co-operate with the Scottish Ministers as necessary to facilitate a transfer of such Statutory Functions to the Scottish Ministers or a replacement nominated by them.

1.1.4 The Operating Company shall notify in writing any interested parties that it shall be authorised to exercise the Statutory Functions of the Scottish Ministers referred to in Annex 3.9/A of this Part 9 of this Schedule 3.

1.1.5 The Operating Company shall not sub-contract or delegate any Statutory Functions of the Scottish Ministers referred to in Annex 3.9/A of this Part 9 of this Schedule 3.

1.1.6 Where the Operating Company shall be a local council or a consortium of local councils it shall be authorised within this Contract entered into between the Scottish Ministers and that local council or consortium of local councils to carry out the Statutory Functions of the Scottish Ministers referred to in Annex 3.9/A of this Part 9 of this Schedule 3 all in terms of Section 4 of the Roads (Scotland) Act 1984.

1.1.7 Where the Operating Company shall be either

(i) a private sector firm

(ii) a company or

(iii) a public private partnership (whether that partnership shall be a joint venture company or shall be a consortium formed by a private sector company)

it shall be authorised within the Contract entered into between the Scottish Ministers and that firm or company or partnership to carry out the Statutory Functions of the Scottish Ministers referred to in Annex 3.9/A of this Part 9 of this Schedule 3 all in 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.

## **SCOTTISH MINISTERS' REQUIREMENTS**

### **SCHEDULE 3 PART 9**

#### **STATUTORY FUNCTIONS**

#### **ANNEX 3.9/A – Statutory Functions**

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## SCOTTISH MINISTERS' REQUIREMENTS

### SCHEDULE 3 PART 9

#### STATUTORY FUNCTIONS

##### ANNEX 3.9/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 1980 (c.45) 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<sup>(a)</sup> 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<sup>(b)</sup>
  - (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 etc) but only for carrying out those functions specified in sub paragraph (i) above and sub paragraphs (iii) to (xxx) inclusive of this Annex 3.9/A to Part 9 of this Schedule 3
  - (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)

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(a) 1983 c.35.

(b) 1984 c.54.

- (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 the like 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)
  - (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<sup>(c)</sup>
- (i) section 109 (power of road works authority to permit execution of works and power to substitute existing permission with new one)
  - (ii) section 112 (duty of road works authority to keep a road works register)
  - (iii) section 115 (power of road works authority to give directions as to the timing of road works)
  - (iv) section 117 (power of road works authority to restrict road works following substantial works carried out for road purposes)
  - (v) section 118 (duty of road works authority to co-ordinate execution of works of all kinds on roads)

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(c) 1991 c.22.

- (vi) section 122 (power of road works authority to designate roads as having special engineering difficulties)
  - (vii) section 123 (power of road works authority to designate roads as traffic sensitive)
  - (viii) 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<sup>(d)</sup> (power of the Scottish Ministers to place mandatory traffic signs on roads in extraordinary circumstances).

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(d) 1994 c.39.