



# **Transport for London**

## **Lane Rental Scheme**

### **(TLRS)**



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## 1. Foreword

The New Roads and Street Works Act 1991 (NRSWA), as amended by the Transport Act 2000 and the Traffic Management Act 2004 (TMA), contains provision for two forms of charge for works:

- Section 74 – Charge for occupation of the highway where works unreasonably prolonged; and
- Section 74A – Charge determined by reference to duration of works.

The Transport for London Lane Rental Scheme (TLRS), which applies charges determined by reference to the duration of works, and is based on the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 (the Lane Rental Regulations) made under Section 74A, is designed to operate in conjunction with Section 74 and the London Permit Scheme for Road Works and Street Works (LoPS), subject to certain exemptions on charges and fees contained within the TLRS.

Transport for London (TfL) has operated LoPS since January 2010 and all provisions of that scheme apply to the TLRS.

## 2. Introduction

TfL, in developing the TLRS, has had regard to the ‘Lane Rental Schemes: Guidance to English Local Highway Authorities’ dated January 2012 issued by the Department for Transport. TfL has consulted in line with the requirements of the DfT’s guidance for Lane Rental Schemes

The TLRS is designed to control the carrying out of specified works in specified traffic-sensitive locations by applying a daily charge for each day that the street is occupied by the works. The daily charge will however be disapplied or reduced if the works take place outside traffic sensitive times

The TLRS therefore provides a mechanism for providing all activity promoters with an incentive to change behaviour and minimise their occupation of the street at traffic-sensitive times at the most traffic sensitive locations.

Where the A13 Design, Build, Finance and Operate (DBFO) is in force then it will be necessary for the DBFO contractor to apply to operate the TLRS on TfL’s behalf.

In preparing the TLRS TfL has had regard to the requirements of the Public Sector Equality Duty under section 149 of the Equality Act 2010.



Section 59 of NRSWA places a duty on highway authorities to co-ordinate works of all kinds on the highway. Equally important is the parallel duty on activity promoters to co-operate in this process under Section 60 of NRSWA.

As well as the duty to co-ordinate under Section 59 of NRSWA, TfL has a duty under section 16 of the TMA to manage its road network (Network Management Duty) with a view to achieving, so far as may be reasonably practicable having regard to its other obligations, policies and objectives, the following overriding objectives:

- a) securing the expeditious movement of traffic on TfL's road network; and
- b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

The TLRS seeks to contribute to journey time reliability, by encouraging the undertaking of works at the least traffic-sensitive times, and an early completion of works. It also applies the following guiding principles:

- a) safety must be ensured;
- b) inconvenience to people using a street, including in particular people with a disability, must be minimised.

### **3. Objectives**

The TLRS has been prepared in accordance with the aforementioned statutory duties.

It is the objective of the TLRS to:

- a) treat all activity promoters on an equal basis,
- b) promote behaviour change to minimise the duration of occupation of the street at the busiest locations at traffic sensitive times on the network,
- c) minimise the number of works taking place during traffic sensitive times and
- d) contribute to journey time reliability as required under the Mayor's Transport Strategy



TfL will measure these objectives so as to evaluate whether they are being met. The means by which that will be achieved are set out in the monitoring and evaluation section of the cost benefit analysis document.

## **4. Scope of Scheme**

The TLRS has been designed to ensure that charges are only applied when works promoters occupy the highway at traffic sensitive times and to allow exemptions at other times to encourage promoters to adopt less disruptive working practices.

### **4.1 Specified Works where charging will apply**

The TLRS applies to all registerable activities that require a permit under Section 4 of LoPS and as referred to in the Code of Practice for Permits and the Statutory Guidance both dated March 2008.

In addition, unless covered by an exemption, any works would be liable to lane rental charges (whether carried out by an undertaker by virtue of a specific statutory right to carry out such works, or under a section 50 licence). Exempt activities are shown in Section 8 below.

The TLRS applies to works in a carriageway or cycle track, or works in a footway or verge which encroach on a carriageway or cycle track.

The TLRS does not apply to works that are carried out in a footway or verge of a lane rental chargeable road that do not involve any occupation of a carriageway or cycle track (such occupation includes use by any associated plant, vehicles, or materials, or for any temporary arrangements for providing a walkway for pedestrians, as a result of or as part of the works).

### **4.2 Specified Locations where charging will apply**

The TLRS will apply at the locations listed in the Transport for London, Lane Rental Scheme, Schedule of locations (TLRS Schedule), but only during the times specified. In some locations at particular times the TLRS will apply to works that affect traffic flowing in one direction only because of the nature of peak traffic flow.

Under the DfT's Lane Rental Guidance Document, Lane Rental charges (LR charges) are to be targeted at the most critical parts of an authority's street network in terms of high traffic flows (whether the traffic is vehicular or pedestrian), where disruption caused by street works has a significant impact, and which require the greatest support in contributing to journey time reliability. The streets selected on the TfL network are those where the LR charge will, by encouraging behaviour change, have the most effect in reducing disruption. The locations where LR charges will apply (specified locations), which may be the whole or part of a street or directional,



are detailed in the TLRS Schedule to this document, showing the locations, days, times and LR charges that will apply. The locations will also be identified on TfL's published Additional Street Data.

#### **4.3 Specified days when lane rental will apply**

LR charges under the TLRS will apply whenever a street is designated as traffic sensitive, including on Saturdays, Sundays and Bank Holidays. The traffic-sensitive times on a Bank Holiday will be the same as those for a Sunday at that location. No charges will apply on Christmas Day or Boxing Day.

#### **4.4 TfL works**

Activities carried out by or on behalf of TfL cannot legally be subject to charges under section 74A. However, since it is TfL's intention to minimise all disruptive occupation of the critical parts of the TfL network, as part of the TLRS TfL will apply the same LR charge to its own works as it will to undertaker works.

### **5. Lane Rental Charges**

For the purpose of the TLRS, the chargeable period of the works, other than for Immediate Works, is the period commencing on the day that works begin as stated on the Section 74 notice and ending on the date stated on the relevant Section 74 works clear or works closed notice.

For Immediate Works the chargeable period is the period commencing on the day that works begin as stated in the relevant permit application and ending on the date stated on the relevant Section 74 works clear or works closed notice. For Immediate Emergency Works TfL have chosen to waive the first 24 hours of any LR charge, see 6.4 below.

Therefore LR charges will be applied to works which obstruct the specified locations (see 4.2 above), during traffic sensitive times and will be based upon the information set out above, unless TfL or the promoter provide suitable evidence to demonstrate that this information is (for whatever reason) erroneous. In these circumstances charges will be applied according to the actual occupation.

For clarity, where LR charges apply, works will be considered as no longer subject to LR charges when the activity promoter has;

- (i) endeavoured to remove all signing, lighting and guarding in respect of the works (see 6.3 below for the limited charge applicable where this endeavour has not completely succeeded), and

- (ii) removed all remaining spoil, unused materials and other plant in respect of the works; and
- (iii) returned the highway fully to public use (including through the use of technology such as road plates)

## **5.1 Calculation of charges**

The LR charges will be calculated using the information provided in the relevant notices and permit applications and as set out in the Lane Rental Regulations subject to correction where information is misleading, mistaken or overtaken by events.

The LR charges will apply to individual works and will vary according to the location of the works. The range of charges are set out in the TLRS Schedule . If the works span more than one band of charging for the whole duration of the works then the higher rate will apply for the whole of the duration of the works.

However where the individual works move along a street and between different charging bands then the promoter should make TfL aware of these changes through the permit variation process. In these circumstances the respective charge level will apply whenever the works are solely undertaken within that charge band, but again the higher level will apply where the works footprint spans two charging bands.

All permit applications must include proposed start and end dates and times so that the estimated duration can be calculated. This is required for co-ordination purposes.

TfL may challenge the dates and duration using the application and response processes described in the appropriate sections of LoPS and the Section 74 Regulations.

Section 74 overrun charges will apply in accordance with the Section 74 Regulations following the end of the reasonable period, in addition to LR charges.

## **5.2 Information required on permit applications**

As the TLRS allows for works to avoid incurring a charge if undertaken during non-traffic-sensitive times, it is imperative that activity promoters inform TfL of the times during which works will take place.

Model Condition MC5 in the LoPS, suitably adapted, will therefore be mandatory on all permit applications and LR charging will apply based on the times specified within MC5 of LoPS, unless these are shown to be incorrect as set out in Section 7 below.



It will also be mandatory on all permit and provisional advance authorisation applications that activity promoters state where, on the footway, carriageway or verge, works and associated plant and materials will be.

Works that are undertaken during traffic-sensitive times for only part of the works duration must be clearly identified on the permit application as must works that occupy lane rental chargeable areas for only part of the works duration. In such cases the activity promoter may, for clarity, wish to apply for separate permits and link all permits that relate to the same works

### **5.3 Variations to works**

Unforeseen circumstances can delay the completion of activities. An activity promoter must apply for and obtain a variation of its permit if the activity is likely to extend beyond the reasonable period. Such an application must provide full justification for the extension. LoPS describes the process for obtaining variations to permits and the timing of applications.

The charging rules outlined in section 5.1 will apply to permits that are varied.

In order to avoid paying an incorrect LR charge once works are complete in one charge rate section, it is imperative that activity promoters indicate on permit applications and subsequent permit variations, that works will move or have moved onto a different charge rate section, see section 5.1 above.

Similarly, as indicated in Section 5.2, works that are undertaken during traffic-sensitive times for only part of the works duration must be clearly identified on the permit application as must works that occupy lane rental chargeable areas for only part of the works duration.

### **5.4 Remedial Works**

Remedial works at traffic sensitive times to rectify defective reinstatements on the carriageway or on the footway or verge encroaching onto the carriageway will be charged at the maximum daily rate irrespective of the charge band of the street and irrespective of when the original works were undertaken.

## **6. Waiver and reduction of charges**

In accordance with the Lane Rental Regulations, TfL may reduce or waive LR charges as it deems appropriate. This section sets out a number of particular areas where this may occur but this should not be considered to be an exhaustive list.



## **6.1 Permit fees**

No permit or permit variation fee will be charged where a LR charge applies for any part of the works governed by the permit, however if no LR charge applies, then the permit fee will apply as per the fees set out in Section 13 of LoPS.

## **6.2 Collaborative Works**

Collaborative works that are carried out by two or more activity promoters, at the same location, will be charged proportionately across each of the activity promoters provided that the works are actually carried out concurrently. However where works by one or more of the promoters would normally have taken place outside of traffic sensitive times and TfL has directed that some or all of those works should take place in traffic sensitive times, then the LR charge for that or those promoter (s) who have been so directed will be waived or proportionately reduced. The resulting charge would be applied in the same proportional manner as described above among the remaining promoters involved in the collaborative works.

## **6.3 Items of signing lighting or guarding inadvertently left on site**

TfL will apply a one-off LR charge, in place of the full daily LR charge, of £100 in accordance with the Regulations where up to five items of signing, lighting or guarding have inadvertently been left behind on site and have been removed by the end of the day following the day on which the authority informed the undertaker and asked them to remove the items. This reduced charge would apply only in cases where the responsible party had made all reasonable efforts to clear the site but had inadvertently left no more than five items behind. Full daily LR charges will continue to apply where such efforts have not been made.

TfL will follow the Lane Rental Regulations when applying such a charge.

Where the activity promoter has failed to comply with the above request the LR charge will apply for the relevant period. Following the end of the reasonable period the Section 74 Regulations (see Glossary) would come into effect and TfL would proceed on the basis that it has already complied with the requirement set out in those Regulations to contact the promoter regarding the items.

## **6.4 Immediate emergency activities**

Genuine emergency works that must be carried out during the charging period to avoid significant danger to public safety or significant damage to property will be provided with a LR charge free period to enable the immediate emergency to be dealt with.



The LR charge free period shall begin from the start of the emergency and shall apply for a period of 24 hours after which time the normal lane rental rules for the location will apply.

In order to minimise disputes, works promoters claiming the exemption must provide documentary evidence when requested by TfL to do so of the nature of the emergency before the exemption will be granted. This evidence will need to be sufficient to demonstrate the works categorisation as immediate/emergency.

## **7. Monitoring**

In the event of a works promoter falsely claiming an exemption on these grounds, the full charge will be payable, and deliberately making a false claim in order to benefit from an exemption is likely to constitute fraud. In such circumstances TfL will take action it deems appropriate to the circumstances and this may include prosecution.

As stated in Section 5 above, the LR charges will be calculated using the dates specified on the relevant Section 74 notices and the times specified in model condition MC5 in LoPS.

These dates and times will be used to calculate the LR Charge. However, if an activity promoter states that the works will take place wholly outside traffic-sensitive times, and TfL obtains evidence that the carriageway was occupied during traffic-sensitive times, then the LR charges will apply; in addition a permit fee will be charged. TfL will exercise its discretion reasonably, where appropriate, to exclude, or exercise clemency in respect of, cases of nominal or trivial breach, and other breaches, depending on the reasons for the departure from the stated times (for example if there are unforeseeable circumstances wholly outside the activity promoter's control) and the promptness with which the activity promoter has informed TfL of such departure.

All sites will be inspected on a regular basis, and where (as a result of such inspections or otherwise) evidence shows that activity promoters have worked at specified locations during traffic sensitive times but this information has not been provided in notices or permit applications given to TfL, then TfL will apply the relevant LR Charges.

If a permit fee was applied because the works information provided by the promoter indicated that LR Charges would not apply, and evidence shows that LR Charges should apply, then the permit fee will still be chargeable, as well as LR Charges.

TfL as highway authority will seek to ensure that the dates and times on which LR charges are based are accurate, along with the activity type and category of road.



Where there is evidence that the dates or times given in section 74 notices are incorrect, the LR charges will be based on the evidence.

If incorrect information has been given in a notice, and TfL considers that an offence has been committed, the sanctions set out in Section 11 below will apply as appropriate.

## **8. Exempt Activities**

Certain types of activities are exempt from LR charges under the TLRS as follows:

- (a) Works which are confined to a verge with no impact on the carriageway of a traffic sensitive street;
- (b) Works in a traffic-sensitive street, other than at a traffic-sensitive time;
- (c) Works in the footway of a traffic-sensitive street, at a traffic-sensitive time, so long as the works do not involve breaking up the street, or tunnelling or boring under it.
- (d) Diversionary works
- (e) Replacing poles, lamp columns or signs in the same location

If one of the exemptions applies, the activity promoter must record the appropriate LR charge exemption in the permit application and works clear/closed notices. Failure to do so will result in appropriate action being taken.

## **9. Transitional Arrangements**

In order to ensure a smooth implementation of the TLRS, The following basic rules of transition will apply on all roads where the TLRS operates:

- a)* The TLRS will apply to all activities first notified to TfL, or in respect of which an application for a Permit or Provisional Advance Authorisation is made, after the commencement date of the TLRS
- b)* Standard, Minor and Immediate activities which are planned to start, or in fact start, on site more than one month after the commencement date of the TLRS, or Major activities which are planned to start or start on site more than three months after the commencement date of the TLRS, shall operate under the TLRS. This means that even if the relevant Permit or Provisional Advance Authorisation has been sent or granted before the changeover, the TLRS will apply to those works;



The TLRS will not apply to any activities which have started prior to the commencement date of the TLRS. Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. For example activities which are delayed by TfL for coordination purposes, beyond the transitional periods referred to in 9b above, might be such a situation. In those few cases, promoters must contact TfL so that discussions can take place to ensure that a practical way of dealing with the activities can be achieved.

To further assist the smooth implementation of the TLRS, TfL intends to operate a period of shadow running prior to the formal introduction of the scheme to ensure that systems are operating correctly.

## **10. Dispute Resolution**

Where disputes arise relating to a LR charge, TfL will seek to resolve the issue without having to refer the matter to legal action, and has established a representation process to deal with any disputes.

The first point of contact in a dispute is the relevant charges team within TfL, and before making an official representation, the activity promoter is strongly advised to informally contact that team to discuss the issue. If this fails to resolve the issue, the activity promoter should make a written representation to the TfL appeals officer specified as responsible for considering representations. This formal representation should be made in writing, either electronically or on paper, to provide an audit trail.

To enable an early resolution, it is strongly recommended that a representation in respect of any dispute arising from the issuing of an LR charge is made as soon as is reasonably practicable.

TfL will ensure that a fair and open system is in place for considering representations. TfL will ensure that it has a nominated official to consider all such representations, whose details will be published as part of the representation process.

The HAUC(UK) dispute resolution procedure would remain available where other arrangements have been exhausted.

## **11. Sanctions**

### **11.1 Offences**

Regulations 21 to 28 of The Traffic Management Permit Scheme (England) Regulations 2007 (and Schedules 1 and 2) authorise Permit Authorities to issue Fixed Penalty Notices (FPNs) in respect of the criminal offences. Fixed Penalty



Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.

These powers and any subsequently amended powers will continue to apply to all roads on the Transport for London Road Network.

Similarly any offences under NRSWA continue to be offences and TfL maintains the right to take such action as is appropriate including prosecution where such offences have been committed.

## **11.2 Section 74**

Section 74 of NRSWA enables highway authorities to charge undertakers if their works in the highway take longer than the agreed reasonable period. These powers will also continue to apply as per the relevant Regulations and Codes of Practice.

## **12. Keeping Accounts**

All the reasonable costs incurred by TfL in operating the TLRS will be recovered from the LR charges received. These costs will include sums for the purpose of evaluation of scheme performance. Net proceeds from LR charges will, for accounting purposes, be identifiable and distinguishable from other streetworks related income.

The application of LR charges and keeping of accounts will be in accordance with the Lane Rental Regulations.

TfL will convene a committee, made up of TfL and undertaker representatives to monitor and control the revenue generated under Lane Rental. This committee will decide how net revenues are applied. The DfT may also be present but will have no voting rights. To ensure transparency, TfL will keep and publish accounts of the revenues generated and how they have been spent in line with the Lane Rental Regulations.

TfL will apply the same principles to any net revenues generated in respect of its own works.

## **13. Minor variations to the TfL Lane Rental Scheme**

Circumstances will change, and it may therefore be desirable to make minor variations to the TLRS. For example, it might be desirable to include or remove locations within the scheme, alter Traffic Sensitivity or move locations from one charge band to another as a result of new housing, retail, business developments or other circumstances that have a material effect on traffic flows.



Such changes will be consulted on and will be based on traffic data, including reasonable predictions as to traffic and will not vary the total road length or alter the overall ratio of charge bands covered by the scheme from the original by more than +/- 3%.

In making any amendments to the scheme times or designations, TfL will follow the procedure set out in section 5.5 of the Permits Code of Practice and the same transitional arrangements as outlined in Section 9 will apply.

## **14. Scheme evaluation and review**

The Monitoring and Evaluation Section of TfL's cost benefit analysis sets out how the TLRs will be reviewed and evaluated.

An initial evaluation will be carried out based on data from the first full year of normal scheme operation which, due to the Olympic Games, will be from October 2012 to September 2013, with the evaluation complete in the Spring of 2014. Further evaluations will be undertaken thereafter.



**Glossary**

<b>Term</b>	<b>Explanation</b>
Activities	Means street works as in Part 3 of NSWRA, except for works by licensees under Section 50 of NRSWA and works for road purposes as defined by Section 86 of NRSWA.
Activity Promoter	Means a person entitled by virtue of a statutory right to carry out street works or works for road purposes.
Additional Street Data ("ASD")	Additional Street Data ("ASD") refers to other information about streets held on the NSG concessionaire's website alongside the NSG adjudication.
Apparatus	As defined in Section 105 (1) of NRSWA "apparatus includes any structure for the lodging therein of apparatus or for gaining access to apparatus".
Appeal	Where there is an unresolved disagreement between the activity promoter and the Permit Authority about a Permit Authority's decision or actions the promoter may appeal using the procedure in Section 15 of LoPS.
Arbitration	As defined in Section 99 of NRSWA, "any matter which under this Part is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers".
Code of Practice for Permits	As published by Department for Transport March 2008.
Cycle track	As defined in Section 329 of the HA 1980, "cycle track means a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot".
Day	In the context of the duration of activities, a day refers to all days including Saturdays, Sundays and Bank Holidays, unless explicitly stated otherwise.
Diversionsary Works	As defined in Regulation 2(2) of The Street Works (Sharing of Cost of Works) (England) Regulations 2000 and further outlined in the code of practice "Measures Necessary Where Apparatus Is Affected by Major Works (Diversionsary Works) 1992".



DfT	Department for Transport.
EToN	Electronic Transfer of Notices System
Fixed Penalty Notice	As defined in schedule 4B to NRSWA, "fixed penalty notice means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty".
HAUC(UK)	The Highway Authorities and Utilities Committee for the UK.
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 works	"works for road purposes" or "major highway works".
Lane Rental Regulations	The Street Works (Charges for Occupation of the Highway) (England) Regulations 2012
Promoter	Means the same as Activity Promoter.
Road works	Works for road purposes.
Section 74 Regulations)	The Regulations made under Section 74 current at the time of issue of the TLRs, namely the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations 2009
Street	As defined in Section 48 (1) of NRSWA, "street means the whole or any part of any of the following, irrespective of whether it is a thoroughfare (a) any highway, road, lane, footway, alley or passage; (b) any square or court; (c) any land laid out as a way whether it is for the time being formed as a way or not".
Street works	As defined in Section 48 (3) of NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street".



Street works licence	<p>As stated in Section 50 (1) of NRSWA, "the street authority may grant a licence (a "street works licence") permitting a person</p> <p>(a) to place, or to retain, apparatus in the street, and</p> <p>(b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).</p>
TMA	The Traffic Management Act 2004.
Undertaker	<p>As defined in Section 48 (4) of NRSWA, "undertaker in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence, as the case may be".</p>
Works	Street works or works for road purposes.
Works clear	A works clear notice is used following interim reinstatement.
Works closed	A works closed notice is used following permanent reinstatement.
Works comment	Means an electronic communication using EToN.
Works for road purposes	<p>As defined in Section 86 (2) of NRSWA, "works for road purposes means works of any of the following descriptions executed in relation to a highway:</p> <p>(a) works for the maintenance of the highway;</p> <p>(b) any works under powers conferred by Part V of the Highways Act 1980 (improvement);</p> <p>(c) the erection, maintenance, alteration or removal of traffic signs on or near the highway; or</p> <p>(d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles".</p>