

Renfrewshire Council
Section 109 Application 2023/24

FOR THE PURPOSE OF
 PLACING, MAINTAINING, ADJUSTING, OR REMOVING APPARATUS IN, OR UNDER, A ROAD (INCLUDING
 EXCAVATING IN OR BORING UNDER THE ROAD)

NEW ROADS AND STREETWORKS ACT 1991
 PART IV SECTION 109

The application must be completed by the contractor and returned to EIPermits@renfrewshire.gov.uk. The contractor should also include a copy of their public liability insurance minimum cover five million pounds, traffic management plan, site plan showing point of connections and proposed route of new service, copy of permission from utility company allowing connection to their apparatus, and their street works qualifications including supervisor and operative. They should also complete the invoicing form.

Once the form has been returned with the required supporting documents the works will be recorded on the Scottish Road Works Register. We will confirm if the works can proceed as planned or the dates need altered due to conflicting works.

The works **must not commence** until the contractor receives a signed NRSWA S109 permit from this department.

As part of the application process the application must be on the Scottish Road Works Register (SRWR) for a minimum of 10 working days. We will not issue permission until the 10 working days has passed.

The processing times for applications are listed below. Main roads are considered traffic sensitive.

Checklist

- Public Liability Insurance
- Traffic Management Plan
- Site Plan
- Copy of Utility Permission
- Street Works Qualification Register
- Road Opening Application Completed
- Invoicing Form Completed

As of October 2023
 The Guarantee Period for Reinstatements shall be 6 years with the exceptions of the items below.

More information can be found in
 Specification for the Reinstatement of Openings in
 Roads - Fifth Edition - 16 May 2023

Table S1.1 Guarantee Period Exception List	
Reinstatement Item	Guarantee Period
Modular Carriageways	2 years
Verges, Cultivated Areas and Unmade Ground	12 months
High Friction / Coloured / Textured Surfacing*	2 years
Road Markings*	2 years

Table S1.1 – Guarantee Period Exception List

* The High Friction/Coloured/Textured Surfacing and Road Markings 2 year guarantee period only applies to those items. The full guarantee period still applies for the remainder of the reinstatement.

Permit Type	Notice Required Prior to Intended Start Date			
	Road Closure Required (TTRO More Than 5 Days)	Road Closure Required (TRN Less Than 5 Days)	Works On Traffic Sensitive Road	Works On Non-Traffic Sensitive Road
Road Opening Permit Section 56	3 Months	6 Weeks	6 Weeks	4 Weeks
Road Occupation Permit Section 58	3 Months	6 Weeks	6 Weeks	4 Weeks
NRSWA Section 109	3 Months	6 Weeks	6 Weeks	4 Weeks
Skip Application Section 85	3 Months	6 Weeks	10 Working Days	10 Working Days

RENFREWSHIRE COUNCIL
ENVIRONMENT, HOUSING AND INFRASTRUCTURE,

NEW ROADS AND STREET WORKS ACT 1991 PART IV SECTION 109

CONDITIONS OF PERMISSION TO EXECUTE WORKS

FOR THE PURPOSE OF

PLACING, MAINTAINING, ADJUSTING, OR REMOVING APPARATUS IN, OR UNDER, A ROAD
(INCLUDING EXCAVATING IN OR BORING UNDER THE ROAD)

STANDARD CONDITIONS

- 1 The applicant must have signed and accepted the terms of the declaration contained within the application form and accepts the terms of the declaration and notes for guidance.
- 2 The applicant shall indemnify the Roads Authority from and against all actions, claims, demands, costs, charges, damages, losses and expenses of whatever kind or nature which may be brought or made against them or incurred by them in respect of the negligence, omission or default of the holder of the consent or those for whom the holder is responsible arising in respect of any operation authorised by his/her consent unless due to the negligence or other breach of legal duty on the part of the Roads Authority or of any person for whom the Roads Authority is responsible.
- 3 Consent can be withdrawn by the Roads Authority.
- 4 Permission to execute works will remain valid for the period detailed on the Symology Notification unless withdrawn by the Roads Authority where deemed appropriate. Further application must be made if the works are not completed by the stated Works end date. Should an extension to the dates be required and the Notice updated and an additional basic fee may be payable.
- 5 Work shall not commence until the commencement date agreed with the Roads Authority, and not before the applicant has advised the Roads Authority of his/her intention to commence. The Roads Authority must be advised of any alterations to the commencement date at least 10 days, (excluding public holidays) before the revised start date.
- 6 Permission under Section 109 of the Act does not extend to other ancillary activities such as depositing a skip or erecting a scaffold etc. Further advice and permissions must be sought from the Roads Authority.
- 7 Permission under Section 109 of the Act does not exempt the applicant from obtaining any other permissions which may be required e.g. planning permission, permission to connect to sewerage, drainage/water supplies etc.
- 8 It is essential that as part of any application, you discuss with the Roads Authority any requirement for a temporary Notice/Order to close or restrict traffic in a road (at least 6 weeks for a **Road Closure Order** before commencement of the works). A separate formal application will be required.
- 9 It is essential that as part of the application, you identify any temporary restrictions to traffic by means of portable traffic signals.

Separate formal application is required from the Roads Authority, and a fee may be payable.

- 10 Works

10 Works shall be carried out in accordance with the New Roads and Street Works Act 1991, related regulations, and the following (where applicable) including amendments.

- Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and related Matters.
- Measures necessary where apparatus is affected by major works (Diversionary Works) - A Code of Practice.
- Specification for the Reinstatement of Openings in Highways - a Code of Practice.
- Code of Practice for Inspections.
- Safety at Street Works and Road Works - a Code of Practice. Chapter 8 of the Traffic Signs Manual.
- Any other Act, Regulation or Code of Practice, which is introduced by reference in any of the above. (Where applicable).

These documents are available from The Stationary Office, 71 Lothian Road, Edinburgh, EH3 9AZ. Tel 0131 622 7050.

Under the terms of Section 7.4.6 of the "Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters", the Roads Authority should ensure the applicant is made aware of his/her obligations under the New Roads and Street Works Act 1991.

For this reason, the applicant's attention is especially drawn to the following requirements which form part of these conditions, and which are embodied in the Act, Regulations or Codes of Practice.

(Note - this is not an exhaustive list of the applicant's obligations under the Act but only those, which the above Code of Practice suggests, should be drawn to the attention of the applicant).

10(a) **Safety, Signing, Lighting and Guarding**

Under the terms of Section 124 of NRSWA 1991, the applicant must ensure that all excavations or obstructions in the road are adequately guarded and lit and that such traffic signs are placed, maintained, and where necessary operated, as are reasonably required for the guidance or direction of road users in accordance with Section 120 of the Roads (Scotland) Act 1984 (duty to have regard to the needs of people with a disability).

Failure to comply with Section 124 of the NRSWA 1991 is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

If the applicant fails to comply with these requirements, the Roads Authority may take any steps as necessary and recover reasonable costs from the applicant.

Legal requirements in relation to Safety, Signing, Lighting and Guarding are contained in "Safety at Street Works and Road Works - a Code of Practice".

10(b) **Qualifications of Operatives and Supervisors**

Under the terms of Section 126 of NRSWA 1991, the applicant must ensure, except as otherwise prescribed, that works involving excavation in, or boring under, a road are supervised by a person having a prescribed qualification as a supervisor, and that there is on site at all times, when the works are in progress, at least one person having a prescribed qualification as a trained operative.

10(c) **Delays and Obstructions**

Under the terms of Section 125 of NRSWA 1991, the applicant must ensure that all works involving excavation in, or boring under, a road are completed with all such dispatch as is reasonably practicable. Failure to do so is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Where the applicant creates an obstruction in a road to a greater extent or for a longer period than is reasonably necessary, the Roads Authority may by notice require them to mitigate or remove the obstruction.

If the applicant fails to comply with such a notice within 24 hours of receiving it, or such longer period as the Roads Authority may specify, the Roads Authority may take reasonable steps to mitigate or remove the obstruction and recover the costs from the applicant.

10(d) **Undertaker's Apparatus which might be affected.**

Under the terms of Section 128 of NRSWA 1991, the applicant must take all reasonably practicable steps to give any undertaker, who may have apparatus in the road likely to be affected by the road works, reasonable facility for monitoring the execution of the works and the applicant must comply with any requirement made by the undertaker which is necessary for protecting or securing the apparatus. Failure to comply is an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Applicants must, therefore, take all reasonable steps to establish if apparatus will be affected by the road works and where such apparatus is likely to be positioned in the road. Further advice regarding this is contained in the letter of acknowledgement of receipt of application.

10(e) **Reinstatement**

Under the terms of Section 129 item 4: of NRSWA 1991, the applicant must begin the reinstatement with all dispatch.

When the reinstatement is completed (whether interim or permanent) the applicant must inform the Roads Authority with 2 hours of the site being cleared.

Any interim reinstatement must be made permanent as soon as reasonably practicable and in any event within 6 months from the date on which it was completed.

Failure to comply with Section 129 is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Under the terms of Section 130 of NRSWA 1991, the applicant must comply with the specification of materials to be used and the standards of workmanship to be observed.

The applicant will be responsible for maintaining the reinstatement, whether interim or permanent.

The guarantee period for the permanent reinstatement will normally be 6 years unless reinstatement item is exempt as detailed in "Table S1.1 Guarantee Period Exception List" contained within Specification for the Reinstatement of Openings in Roads - Fifth Edition - 16 May 2023

Failure to comply with Section 130 is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Under the terms of Section 131 of NRSWA 1991, the Roads Authority may carry out such Investigatory works as appear to be necessary to ascertain whether an applicant has complied with their duties under Part IV of the NRSWA 1991.

If such a failure is disclosed, the applicant shall bear the cost of the Investigatory works, if no failure is disclosed the Roads Authority shall bear the cost of the investigatory works.

Where the applicant has failed to comply with their duties in relation to reinstatement, they shall bear the cost of

- a) A joint inspection to determine the nature of the failure and what remedial work is required.
- b) An inspection by the Roads Authority of the remedial work in progress.
- c) An inspection by the Roads Authority when remedial works have been completed.

Where the applicant has failed to comply with their duties under the Act, the Roads Authority may serve Notice requiring remedial works to be undertaken within such a reasonable period as may be specified in the Notice.

If the applicant fails to comply with the Notice, the Roads Authority may carry out the necessary work and recover costs from the applicant.

If it appears to the Roads Authority that the reinstatement is causing a danger to road users and the applicant, agent, or contractor cannot be contacted or fails to offset the danger immediately, then the Authority may carry out works without notice to the applicant and may recover costs from the applicant.

10(f) **Records of Apparatus**

Under the terms of Section 7.4.8 of the "Code of Practice for the Co-ordination of Street Works for Road Purposes and Related Matters", the Roads Authority is responsible for holding records of apparatus laid which is not subsequently adopted by a Statutory Undertaker e.g. gas, water, electricity etc.

Where such an apparatus is subsequently adopted by a Statutory Undertaker, then that Undertaker will be responsible for holding records of the apparatus from the date of adoption.

The applicant must provide the Roads Authority with 2 copies of "as built" drawings of the apparatus as laid showing detailed information of its depth, location, purpose etc.

This information is required within 2 weeks of reinstatement.

10(g) **The Needs of People with Disabilities**

The applicant must bear in mind the special needs of people with disabilities when undertaking the works in relation to safe passage/access.

Special precautions are required to cater for people with impaired vision or mobility.

Legal requirements can be found in "Safety at Street Works and Road Works - a Code of Practice" and in Chapter 8 of the Traffic Signs Manual.

10(h) **Laying of Apparatus**

Whenever possible, apparatus should be laid in accordance with NJUG publication No 7 (obtainable from the National Joint Utilities Group, 30 Millbank, London SW1P 4RD).

- 11 Work shall be in accordance with all documents submitted with the application and as subsequently agreed with the Roads Authority.
- 12 No existing apparatus e.g., culverts, pipes, drains, ducts, cables, roadside ditches, road gullies, manholes, catch pits or other chambers or other property shall be altered without the consent of the proprietor or authority concerned.
- 13 In no case shall surface boxes, chambers or other fittings be placed within the road pavement layers, footway construction layers or roadside verge without the consent of the Roads Authority.

**RENFREWSHIRE COUNCIL
ENVIRONMENT, HOUSING AND
INFRASTRUCTURE**

NEW ROADS AND STREET WORKS ACT 1991 PART IV SECTION 109

**APPLICATION FOR PERMISSION TO EXECUTE WORKS
FOR THE PURPOSE OF**

**PLACING, MAINTAINING, ADJUSTING, OR REMOVING APPARATUS IN, OR UNDER, A ROAD
(INCLUDING EXCAVATING IN OR BORING UNDER THE ROAD)**

NOTES FOR GUIDANCE TO APPLICANTS

(Paragraph numbers relate to the application form)

1 NAME AND ADDRESS OF APPLICANTS

The applicant must either be the owner of the property/premises to which the apparatus relates, or the owner's representative. (If the owner is also the Agent or Contractor for the proposed works, then they must still complete Sections A or B of the application form)

2 PURPOSE OF PROPOSED WORKS

Please state the purpose of the proposed works e.g., lay sewer service connection, lay irrigation pipe etc.

3 LOCATION OF PROPOSED WORKS

Please be as precise as possible giving road name and route number (if known) including town or village name and adjacent house names or numbers. In the case of new roads give as much information as possible about adjacent or nearby roads. Please also state whether excavations will affect the verge, service strip, footway, carriageway, or a combination of these.

Please note that if the road in which the works are proposed to be carried out is not a public road, (i.e., not the responsibility of Renfrewshire Council for maintenance purposes) then permission will be required from the road manager or the persons responsible for that road.

4 COMMENCEMENT DATE AND DURATION

Under the terms of the New Roads and Street Works Act 1991 Part IV Section 109, the Roads Authority has a duty to give not less than 10 working days' notice to any other Authority or person who may be responsible for a structure in the road or have plant or equipment in or under the road, that could be affected by your proposed works. In consideration of this, the time required to process your application, and since you will be required to liaise with undertakers before commencing work, **please refer to the notice table on the first page**. However, you must be aware of the implications of **standard conditions** 4, 6, 7, 8 & 9 on the proposed commencement date where these conditions apply. See overleaf.

Certain roads are classified as Traffic Sensitive, or having Special Engineering Difficulties, under the terms of the Act. If your proposed works are on one of these roads it will be necessary to extend the minimum time between receipt of your application and the intended commencement date. It may also be necessary to agree alternative construction methods or specifications with you. You will be advised if these circumstances will apply, and you must bear this in mind when planning your works. It is essential that, well in advance of making an application, you make yourself aware of all these details and other details relating to traffic management, etc. It is therefore essential to discuss all aspects of the proposed works by contacting the Roads Authority.

5 DETAILS OF PROPOSED WORKS

Since the Roads Authority has a duty to record the location of any apparatus laid in or under the road pursuant to Section 109, you must provide 3 copies of such plans to a scale, which is easily read (ideally 1/500). These will be retained by the Roads Authority and one copy may be returned to show the location of the Roads Authority apparatus if applicable. They must show accurately where the apparatus will be laid in relation to the existing road layout and road features e.g., street lighting columns, pelican crossings etc.

6 DECLARATION

BASIC INSPECTION FEE

(Payment must be by cheque made payable to Renfrewshire Council or by purchase order number).

Under the terms of Section 107 and 134 of the Act, the Roads Authority has a right to charge for inspections of the works, which have been given permission under Section 109. Inspections can be done at defined stages of the works as follows:

CATEGORY A	Inspection undertaken during progress of the works.
CATEGORY B	Inspections undertaken within 6 months following interim or permanent reinstatement.
CATEGORY C	Inspections undertaken within 3 months preceding the end of guarantee period.

The basic processing and inspection fee of £800 for the first week of opening and £800 for each additional week thereafter for Town Centre and Arterial Routes (£400 for the first week of opening and £550 for each additional week thereafter for all other roads) covers all 3 categories. The fee, or any part thereof, is nonrefundable once works have commenced where permission has been granted. Should the works not commence for any good reason where permission has been granted or if permission is refused, then the inspection fee will be refunded in full.

ADDITIONAL INSPECTION FEES AND COSTS

Please note that under Section 131 of the Act, the Roads Authority may undertake Investigatory works as appears to them to be necessary to ascertain whether the works comply with the appropriate requirements of the Act and its various Codes of Practice and Specifications. Should these investigations reveal that the works do not comply, then the Roads Authority may charge for these works and for additional inspections at the following stages:

- a) at a joint inspection to determine the nature of the failure and agree remedial works
- b) at an inspection of the remedial works in progress
- c) at an inspection when the remedial works are complete

These additional inspections are currently charged at £42 per inspection and where appropriate, the applicant will be invoiced for any such additional fee(s). The cost of any Investigatory works will be the Roads Authorities reasonable costs to undertake such things as coring or trial-holes etc. These reasonable costs will be invoiced to the applicant and will include general staff costs and overheads.

Also, under the terms of Section 131 of the Act, should agreed remedial works not be undertaken within a reasonable timescale as defined by the Roads Authority, and indicated on a "Notice of Failure", then the Roads Authority may carry out the necessary works and recover the costs reasonably incurred in doing so from the applicant. Similarly, the reasonable costs incurred by the Roads Authority in attending to dangers associated with the works may be recovered from the applicant. In exceptional circumstances, this can be done without giving notice of intent to the applicant, agent or contractor and could extend to instructing the contractor to leave the site.

ADVICE ON CONDITIONS RELATING TO ANY PERMISSION THAT MAY BE GRANTED

If the application is approved and permission granted, such permission will be subject to various conditions set by the Roads Authority. The conditions will be standard but may include specific requirements in relation to the particular Road Works Permission being sought. Should the applicant wish to read or discuss the standard conditions before making a formal application, then please telephone.

Please note the following conditions, extracted from the list of standard conditions, which the applicant should be particularly aware of before making application.

Condition No 4

Permission to execute works will remain valid for a period of 7 working days from date of approval (and during the duration of the works if commenced within this 7 working day period) unless withdrawn by the Roads Authority where deemed appropriate. Further application must be made if the works do not commence within the 7 working day period. (It may not be necessary to pay an additional basic inspection fee where the Roads Authority has not refunded the initial payment)

Condition No 6

Permission under Section 109 of the Act does not extend to other ancillary activities such as depositing a skip, occupying the road with building materials, erecting a scaffold, erecting temporary traffic lights or Stop/Go boards, forming a footway crossing, etc. Further advice and permissions must be sought from the Roads Authority.

Condition No 7

Permission under Section 109 of the Act does not exempt the applicant from obtaining any other permission which may be required e.g., Planning Permission, permission to connect to sewerage drainage/water systems, etc.

Condition No 8

It is essential that, well in advance of making any application, you discuss with the Roads Authority any requirement for a temporary Notice/Order to close or restrict traffic in a road (at least 6 weeks for a closure **order** before commencement of the works). Separate formal application will be required.

Condition No 9

It is essential that, well in advance of making any application, you discuss with the Roads Authority any requirement for temporary restriction to traffic by means of portable traffic signals. Separate formal application may be required.

Condition No 10(a) Safety, Signing, Lighting and Guarding

Under the terms of Section 124 of NRSWA 1991, the applicant must ensure that all excavations or obstructions in the road are adequately guarded and lit and that such traffic signs are placed, maintained and where necessary operated, as are reasonably required for the guidance or direction of road users in accordance with Section 120 of the Roads (Scotland) Act 1984 (duty to have regard to the needs of people with a disability). Failure to comply with Section 124 of NRSWA 1991 is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

If the applicant fails to comply with these requirements, the Roads Authority may take any steps as necessary and recover reasonable costs from the applicant.

Legal requirements in relation to Safety, Signing, Lighting and Guarding are contained in "Safety at Street Works and Road Works - A Code of Practice", and Chapter 8 of the Traffic Signs Manual.

Condition 10(b) Qualifications of Operatives and Supervisors

Under the terms of Section 126 of NRSWA 1991, the applicant must ensure, except as otherwise prescribed, that road works involving excavation in, or boring under, a road are supervised by a person having a prescribed qualification as a supervisor, and that there is on site at all times, when the works are in progress, at least one person having a prescribed qualification as a trained operative.

RENFREWSHIRE COUNCIL
ENVIRONMENT, HOUSING AND
INFRASTRUCTURE

NEW ROADS AND STREETWORKS ACT 1991 PART IV SECTION 109

**APPLICATION FOR PERMISSION TO EXECUTE
WORKS**

FOR THE PURPOSE OF
PLACING, MAINTAINING, ADJUSTING OR REMOVING APPARATUS IN, OR UNDER A ROAD
(INCLUDING EXCAVATING IN OR BORING UNDER THE ROAD)

I/We * (Name and Address of Applicant)

Telephone No

Email

PURPOSE OF PROPOSED WORKS

Under the terms of the above Act, apply for permission to

LOCATION AND DATES OF PROPOSED WORKS

(Name of Road)

At (Exact location)

Date from

to

DECLARATION

I/we have read the Notes for Guidance.

I/we agree to ensure works are supervised by a person having a prescribed qualification as a supervisor, and that there is on site at all times, when the works are in progress, at least one person having a prescribed qualification as a trained operative.

I/we agree to abide by the inspection process over the course of the guarantee period and carry out remedial works as directed.

I/we confirm enclosure of the Section 109 processing and Inspection Fee (The basic processing and inspection fee of £800 for the first week of opening and £800 for each additional week thereafter for Town Centre and Arterial Routes (£400 for the first week of opening and £550 for each additional week thereafter for all other roads) and understand that additional inspection fees and costs may become due, as explained in the Notes for Guidance.

I/we confirm I/we will pay any such additional inspection fees and costs in the time scales specified subject to the undertaking of any additional inspections by the Roads Authority being in compliance with the New Roads and Street Works Act 1991.

I/we accept that any permission granted will be subject to the Standard Conditions and any Special Conditions which may be imposed and that I/we must accept and abide by those conditions for permission to remain valid.

I/we accept that by signing this declaration I/we will burden the successor to the Title of the property with the conditions of any permission which may be granted and I/we will subsequently record the conditions as part of that Title

Date

Name

Designation

Applicant and Invoicing Details

2023/2024 Charge
Per S109 Permission

Name of applicant

Contact telephone No.

Contact email address

Purchase Order No.

Business/organisation
name and address

Data Protection Act 2018

The information you supply on this form will be used by Renfrewshire Council to process your application.

If you do not provide us with the information, we have asked for then we will not be able to provide this service to you.

You can find out more about how we handle this information and your rights in respect of it by viewing our privacy policy <https://www.renfrewshire.gov.uk/article/2201/Privacy-policy>