
STATUTORY INSTRUMENTS

1995 No. 3210

The Street Works (Northern Ireland) Order 1995

Charges, fees and contributions payable by undertakers

Charge for occupation of the road where works unreasonably prolonged

34.—(1) The Department may make provision by regulations requiring an undertaker executing street works in a road to pay a charge to the Department where—

- (a) the duration of the works exceeds such period as may be prescribed, and
- (b) the works are not completed within a reasonable period.

(2) For this purpose “a reasonable period” means such period as is agreed by the Department and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question.

In default of agreement, the Department’s view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

(3) The regulations may provide that if an undertaker has reason to believe that the duration of works will exceed the prescribed period he may submit to the Department an estimate of their likely duration—

- (a) in the case of other works in connection with the initial placing of apparatus in the street in pursuance of a street works licence, together with his application for the licence,
- (b) in the case of other works (not being emergency works), together with his notice under Article 15 (notice of starting date), or
- (c) in the case of emergency works, as soon as reasonably practicable after the works are begun,

and that the period stated in an estimate so submitted shall be taken to be agreed by the Department to be reasonable unless the Department gives notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(4) The regulations may also provide that if it appears to the undertaker that by reason of matters not previously foreseen or reasonably foreseeable the duration of the works—

- (a) is likely to exceed the prescribed period,
- (b) is likely to exceed the period stated in his previous estimate, or
- (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the Department to be reasonable unless the Department gives notice, in such manner and within such previous as may be prescribed, objecting to the estimate.

(5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the time taken to complete the works and the extent to which the surface of the road is affected by the works.

(6) The regulations may make provision as to the time and manner of making payment of any charge.

(7) The regulations shall provide that the Department may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as the Department may decide or as may be prescribed, or generally.

(8) The first regulations for the purposes of this Article shall not be made unless a draft of them has been laid before and approved by a resolution of the Assembly.

Inspection of fees

35.—(1) An undertaker executing street works shall, subject to the provisions of any scheme under this Article, pay to the street authority the prescribed fee in respect of each inspection of the works carried out by the authority.

(2) The Department may by regulations make a scheme under which undertakers pay the prescribed fee only in respect of such proportion or number of excavations or other works as may be determined in accordance with the scheme.

(3) The scheme may make provision—

- (a) as to the periods and areas by reference to which the proportion or number is to be determined, and
- (b) as to the intervals at which an account is to be struck between an undertaker and the street authority and any necessary payment or repayment made.

(4) Nothing in this Article applies in relation to inspections in respect of which the undertaker is obliged to bear the cost under Article 32(2) (inspection consequent on his failure to comply with his duties as to reinstatement).

Liability for cost of temporary traffic regulation

36.—(1) Where, by reason of street works, restrictions or prohibitions are imposed under Article 25 of the Road Traffic (Northern Ireland) Order 1981—

- (a) by the Department on the use of any road, or
- (b) by a concessionaire by virtue of Article 25(4) of the Roads Order, on the use of any road subject to a concession,

the Department or concessionaire may recover from the undertaker the whole of the costs incurred by the Department or concessionaire, as the case may be, in connection with or in consequence of the imposition of such restrictions or prohibitions.

(2) Those costs shall be taken to include, in particular, the cost to the Department or concessionaire—

- (a) of complying with any requirement to notify the public of any matter in connection with such restrictions or prohibitions, and
- (b) of providing traffic signs in connection with such restrictions or prohibitions.

(3) In this Article and Article 38 “concessionaire” and “road subject to a concession” have the same meaning as in Part III of the Roads Order.

Liability for cost of use of alternative route

37.—(1) Where by reason of street works the use of a road is restricted or prohibited and the diverted traffic uses as an alternative route a road of a lower classification, the undertaker shall indemnify the Department in respect of costs reasonably incurred by the Department—

- (a) in strengthening the road, so far as that is done with a view to and is necessary for the purposes of its use by the diverted traffic; or
 - (b) in making good any damage to the road occurring in consequence of the use by it of the diverted traffic.
- (2) For this purpose the order of classification of roads, from higher to lower, is as follows:
1. Trunk roads.
 2. First-class roads.
 3. Second-class roads.
 4. Third-class roads.
 5. Other roads.
- (3) Expressions used in paragraph (2) have the same meaning as in the Roads Order.

Contributions to costs of making good long-term damage

38.—(1) The Department may make provision by regulations requiring an undertaker executing street works to contribute to the costs incurred or likely to be incurred by the street authority or, in the case of a road subject to a concession, by the concessionaire, in works of reconstruction or re-surfacing of the street.

(2) The regulations may provide—

- (a) for a contribution to the cost of particular remedial works, or
- (b) for a general contribution calculated in such manner as may be prescribed.

(3) In the former case the regulations may contain provision for apportioning the liability where the need for the remedial works is attributable to works executed by more than one person.

(4) In the latter case the regulations may provide for the amount of the contribution to vary according to the nature of the street, the description and extent of the works and such other factors as appear to the Department to be relevant.

(5) The first regulations under this Article shall not be made unless a draft of them has been laid before and approved by resolution of the Assembly.