



## 2011 CHAPTER 23

### **PART 1**

#### GATING ORDERS

##### **Gating orders**

**1** In the Roads (Northern Ireland) Order 1993 (NI 15), after Article 69 insert—

#### **“PART 6A**

##### **RESTRICTION OF RIGHTS OVER ROAD**

##### **Gating orders**

**69A.**—(1) A district council may, with the approval of the Department, make an order under this Article in relation to any relevant road which is situated within its district.

(2) An order under this Article is to be known as a “gating order”.

(3) Before making a gating order in relation to a relevant road the district council must be satisfied that—

- (a) premises adjoining or adjacent to the road are affected by crime or anti-social behaviour;
- (b) the existence of the road is facilitating the persistent commission of criminal offences or anti-social behaviour; and
- (c) it is in all the circumstances expedient to make the order for the purposes of reducing crime or anti-social behaviour.

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*Changes to legislation: There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, PART 1. (See end of Document for details)*

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- (4) The circumstances referred to in paragraph (3)(c) include—
- (a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the road;
  - (b) the likely effect of making the order on other persons in the locality; and
  - (c) in a case where the road constitutes a through route, the availability of a reasonably convenient alternative route.
- (5) In this Article “relevant road” means a road other than—
- (a) a special road;
  - (b) a trunk road;
  - (c) a classified road;
  - (d) a road of such other description as the Department may by regulations prescribe.
- (6) For the purposes of this Part “anti-social behaviour” means behaviour by a person which causes or is likely to cause harassment, alarm or distress to one or more other persons not of the same household as that person.

### **Effect of gating orders**

**69B.**—(1) A gating order restricts, to the extent specified in the order, the public right of way over the road to which it relates.

- (2) A gating order may in particular—
- (a) restrict the public right of way at all times, or in respect of such times, days or periods as may be specified in the order;
  - (b) exclude persons of a description specified in the order from the effect of the restriction.

(3) A gating order may not be made so as to restrict the public right of way over a road for the occupiers of premises adjoining or adjacent to the road.

(4) A gating order may not be made so as to restrict the public right of way over a road which is the only or principal means of access to any dwelling.

(5) In relation to a road which is the only or principal means of access to any premises used for business or recreational purposes, a gating order may not be made so as to restrict the public right of way over the road during periods when those premises are normally used for those purposes.

(6) A gating order may authorise the installation, operation and maintenance of a barrier or barriers for the purpose of enforcing the restriction provided for in the order.

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(7) A district council may install, operate and maintain any barrier authorised under paragraph (6).

(8) A road in relation to which a gating order is made shall not cease to be regarded as a road by reason of the restriction of the public right of way under the order (or by reason of any barrier authorised under this Article).

(9) In paragraph (4) “dwelling” means any building or part of a building occupied, or intended to be occupied, as a separate dwelling.

### **Variation and revocation of gating orders**

**69C.**—(1) A district council may, with the approval of the Department, by order vary a gating order made by the council so as further to restrict any public right of way over the road to which the order relates, if the council is satisfied that in all the circumstances it is expedient to do so for the purpose of reducing crime or anti-social behaviour.

(2) A district council may by order vary a gating order made by it so as to reduce the restriction imposed by the order, if and to the extent that it is satisfied that the restriction is no longer expedient in all the circumstances for the purpose of reducing crime or anti-social behaviour.

(3) A district council may by order revoke a gating order made by it, if it is satisfied that the restriction imposed by the order is no longer expedient in all the circumstances for the purpose of reducing crime or anti-social behaviour.

### **Procedure for orders under this Part**

**69D.**—(1) Before making, varying or revoking a gating order a district council shall publish in the Belfast Gazette and once at least in each of two successive weeks in one or more newspapers circulating in the area in which the road to which the order relates is situated a notice—

- (a) stating the general effect of the proposed order;
- (b) specifying a place in that area where a copy of a draft of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of not less than 30 days from the date of the last publication of the notice; and
- (c) stating that, within that period, any person may, by notice to the council, inform it of the grounds upon which he objects to the making of the order.

(2) The district council shall, not later than the date on which the notice referred to in paragraph (1) is last published, serve a copy of the notice together with a copy of a draft of the order and of any relevant map or plan on—

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- (a) the occupiers of premises adjacent to or adjoining the road, and
- (b) the owner of any cables, wires, mains, pipes or other apparatus placed along, across, over or under any road to which the order applies.

(3) In the case of an order under Article 69A(1) or 69C(1), the district council shall, not later than the date on which the notice referred to in paragraph (1) is last published, cause a copy of that notice to be displayed in a prominent position on the road to which the order relates.

(4) Where, before the expiration of the period referred to in paragraph (1)(b), the district council proposes to modify the terms of the draft of an order, the council shall give and publish, in such manner as appears to it to be appropriate, such additional notices as the council considers appropriate for informing all persons likely to be adversely affected by the modification.

(5) If, before the expiration of the period referred to in paragraph (1)(b), the district council receives an objection from any person on whom a copy of the notice is required to be served under paragraph (2) or from any other person appearing to it to be affected, it shall, subject to paragraph (6), cause a local inquiry to be held unless the objection is withdrawn.

(6) Unless the objection is made by a person on whom a notice was served under paragraph (2)(b), the district council may dispense with an inquiry if it is satisfied that it is unnecessary to hold one.

(7) The provisions of Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply in relation to any local inquiry which a district council causes to be held under paragraph (5) as they apply to an inquiry held as mentioned in section 23 of that Act, but with the following modifications—

- (a) in paragraph 1 for the reference to section 23 of that Act substitute a reference to paragraph (5) of this Article and omit the definition of “the Department”;
- (b) in paragraphs 2 to 7 for any reference to the Department substitute a reference to the district council causing the inquiry to be held; and
- (c) in paragraph 7(1) omit the words “, with the approval of the Department of Finance and Personnel.”.

(8) After considering—

- (a) any objections to the proposed order which are not withdrawn; and
  - (b) where a local inquiry is held, the report of the person who held it,
- the district council may make the order either without modifications or subject to such modifications as it thinks fit.

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(9) If it appears to the district council that in any order under this Part the description of any road is in any respect incorrect or insufficiently clear, the council may by order make such modifications in the provisions of that order as may be necessary for correcting or clarifying that description.

(10) Paragraphs (1) to (8) do not apply to an order under paragraph (9), but the council shall publish notice of the making of that order in one or more than one newspaper circulating in the area to which the order relates.

### **Publication and availability of gating orders**

**69E.**—(1) A district council must arrange for—

- (a) the publication of orders made by it under this Part; and
- (b) copies of orders made by it under this Part to be made available to the public.

(2) Arrangements under paragraph (1)(b) may require the payment of a reasonable charge.”.

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#### **Commencement Information**

**II** S. 1 in operation at 1.4.2012 by S.R. 2012/13, art. 2(2), **Sch. 2**

**Changes to legislation:**

There are currently no known outstanding effects for the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, PART 1.