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STATUTORY INSTRUMENTS

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**1980 No. 1086**

**Private Streets (Northern Ireland) Order 1980**

**PART IV**

**MAKING-UP OF PRIVATE STREETS**

**Recovery of expenses by the Department**

15.—(1) A demand in writing for any sum which is recoverable by the Department under any provision of this Order from any person in respect of the expenses of street works in a private street shall be served by the Department on that person or, where it is not possible for the demand to be so served, on any person appearing to the Department to be his agent or trustee.

(2) The Department shall, in any demand under paragraph (1), inform the person to whom it is addressed of his right of appeal under Article 16 and of the time within which such appeal may be made.

(3) Where a demand is served under paragraph (1) on an agent or trustee of the person from whom the expenses are recoverable, the expenses shall, subject to paragraphs (6) and (7), be recoverable from that agent or trustee.

(4) The sum specified in a demand served under paragraph (1), unless varied by the court on an appeal to it under Article 16 and, where the sum has been so varied, the sum which that court determines to be recoverable shall, together with interest thereon, be a civil debt due to the Department, and recoverable by it either summarily or in any court of competent jurisdiction.

(5) The interest under paragraph (4) shall be payable from the date which is one month from the date of service of the demand under paragraph (1) to the date of payment at such rate as, by virtue of a determination of the Department of Finance under section 5 of the Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1962, is, on the date on which the said demand is served, in force for the purposes of expenses to which subsection (1)(b) of that section applies.

(6) Subject to paragraph (7), if a person from whom a sum is recoverable in accordance with this Article proves that he—

- (a) is liable only by reason of the fact that he is an agent or trustee for some other person; and
- (b) has not, and since the date on which he became liable has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the Department;

his liability shall be limited to the total amount of the money which he has, or since the said date has had, in his hands as aforesaid; but where the Department is or would be debarred by the foregoing provisions from recovering the whole of any such sum from an agent or trustee, it may recover the whole or any unpaid balance thereof from the person for whom he is agent or trustee.

(7) Where, in proceedings brought under paragraph (4) against any person, the court is satisfied that that person is liable only by reason of the fact that he is an agent or trustee, the court may, without prejudice to its power to make an order for the payment of the amount to which his liability is limited under paragraph (6), make an order against him directing the payment by him to the Department of such amount as the court thinks proper out of money to be received by him as such agent or trustee.

(8) The time within which summary proceedings may be taken for the recovery of any sum, which the Department is entitled to recover under this Order, shall be reckoned from the date of the service of a demand therefor; but where the sum is recoverable in a case in which an appeal has been made under Article 16, the said time shall be reckoned from the date on which the appeal is finally determined or abandoned as the case may be.

(9) Any proceedings commenced under paragraph (4) for the recovery of a sum specified in a demand served under paragraph (1) shall, on the service on the Department of notice of an appeal under Article 16 against that demand, be stayed until the appeal is finally determined or abandoned.

(10) Subject to paragraphs (11) and (12), any expenses recoverable in respect of any frontage by the Department in accordance with this Article shall, until recovered, be deemed to be charged on and payable out of the estate, in the premises having that frontage, of—

- (a) the responsible person or other person liable under this Order for those expenses; and
- (b) any person deriving title from him;

so however that, where a person is the responsible person or the person otherwise liable as aforesaid by reason of the fact that he is an agent or trustee for another person, those expenses shall be a charge on the estate in the premises of the person for whom he is agent or trustee.

(11) Subject to paragraph (12), the charge created by paragraph (10) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the Department by the person on whose estate that charge has been created (with, where necessary, any concurrence or consent required by law) for the amount of the expenses referred to in that paragraph on—

- (a) the date of the undertaking under Article 24(1) or, as the case may be, of the undertaking under Article 24(2) or of the agreement under Article 32; and
- (b) in every other case, the date of the completion of the street works;

and for the recovery thereof the Department may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgages by deed.

(12) Notwithstanding anything in this Order or in Part X of the Land Registration Act (Northern Ireland) 1970 a charge created on an estate in any premises by any provision of this Order shall not be enforced against, or against the estate of, the owner of those premises unless he is the responsible person or a person otherwise liable under this Order for the expenses referred to in paragraph (10).

**Changes to legislation:**

There are currently no known outstanding effects for the Private Streets (Northern Ireland) Order 1980, Section 15.