

---

STATUTORY INSTRUMENTS

---

**1993 No. 3160**

**The Roads (Northern Ireland) Order 1993**

**PART IV**

**IMPROVEMENT AND SAFETY OF ROADS**

*Improvement of roads*

**Obstruction of, interference with, or discharge of material into, a road drain, etc.**

**46.**—(1) Any person who, without the consent of the Department, obstructs or interferes with—

- (a) a road drain;
- (b) a drain constructed and laid by the Department under Article 45(1)(b); or
- (c) a barrier erected by the Department under Article 45(1)(c),

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person convicted of an offence under paragraph (1) shall within such period as the court may allow—

- (a) remove the obstruction or interference; and
- (b) make good any damage done by him to the drain or barrier;

and if he fails to do so he shall be guilty of a further offence and be liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which that failure continues.

(3) Where—

- (a) a person obstructs or interferes with a drain or barrier in contravention of paragraph (1); and
- (b) the Department considers that by reason of that obstruction or interference there is, or is likely to be, a danger to persons using the road,

then (whether or not proceedings are instituted for an offence under paragraph (1)) the Department may carry out such works of repair or reinstatement as in the opinion of the Department are necessitated by reason of his action and recover from that person any expenses thereby reasonably incurred by it.

(4) Any person who, without the consent of the Department, discharges any solid or liquid matter into—

- (a) a road drain; or
- (b) a drain constructed and laid by the Department under Article 45(1)(b),

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Any person convicted of an offence under paragraph (4) in respect of any drain shall within such period as the court may allow—

- (a) cease to discharge any solid or liquid matter into the drain;
- (b) remove any pipe or other thing through or by means of which the discharge in question was made; and
- (c) make good any damage done by him to the drain;

and if he fails to do so he shall be guilty of a further offence and be liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which that failure continues.

(6) Where—

- (a) a person discharges any solid or liquid matter into a drain in contravention of paragraph (4); and
- (b) the Department considers that it is in the public interest to exercise its powers under this paragraph,

then (whether or not proceedings are instituted for an offence under paragraph (4)) the Department may—

- (i) carry out such works as in the opinion of the Department are necessary to prevent any further solid or liquid matter being discharged in contravention of paragraph (4); and
- (ii) recover from that person any expenses thereby reasonably incurred by it.

(7) Where a person—

- (a) has been convicted of an offence under paragraph (1) and becomes liable to prosecution for an offence under paragraph (2); or
- (b) has been convicted of an offence under paragraph (4) and becomes liable to prosecution for an offence under paragraph (5),

the Department may itself do any thing which he has failed to do and recover from that person any expenses thereby reasonably incurred by it.

(8) A consent under paragraph (1) or (4) may be given subject to such conditions as the Department thinks fit and in particular, but without prejudice to the generality of the foregoing, subject to conditions—

- (a) regulating the place and manner in which any matter is to be discharged into a drain;
- (b) prohibiting the discharge of specified matter into a drain or otherwise regulating the kinds of matter which may be discharged into a drain.

(9) Any person who—

- (a) does anything mentioned in paragraph (1) or (4) in pursuance of a consent given under that paragraph; and
- (b) fails to comply with any condition subject to which that consent was given,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) Where it appears to the Department that a person has contravened paragraph (9), then (whether or not proceedings are instituted for an offence under that paragraph) the Department may—

- (a) revoke the consent given to that person under paragraph (1) or (4);
- (b) carry out such works of repair or reinstatement as in the opinion of the Department are necessitated by reason of his action; and

(c) recover from that person any expenses thereby reasonably incurred by it.

(11) Any person aggrieved by—

(a) the refusal of the Department to give its consent under paragraph (1) or (4); or

(b) any condition subject to which any such consent is given,

may, within 21 days of receiving notice thereof, appeal to the planning appeals commission by notice in writing under this Article.

(12) Paragraphs (2) and (3) of Article 84 shall apply to an appeal under this Article as they apply to an appeal under that Article.

(13) Nothing in this Article applies to—

(a) the discharge into a drain of surface water from a building adjoining a road by means of a gutter in the footway of the road; or

(b) anything done in relation to a drain by the owner thereof or by a person exercising a right preserved by Article 45(7).

(14) In this Article “discharge” includes cause or permit to be discharged.

**Changes to legislation:**

There are currently no known outstanding effects for the The Roads (Northern Ireland) Order 1993, Section 46.