

SCHEDULES

SCHEDULE 4

Article 49.

PREVENTION OF OBSTRUCTION TO VIEW, ETC.

1.—(1) Notice under Article 49 may be served—

(a) upon the owner or occupier of the land directing him—

(i) to remove any building or structure whether permanent or temporary, the removal of which is in the opinion of the Department expedient for the prevention of any such danger as is mentioned in that Article;

(ii) to provide or improve any means of access to any building or structure;

(iii) to provide or improve any accommodation for vehicles standing or waiting for any purpose connected with the user of any building or structure;

(b) upon the owner or occupier of the land directing him to alter the height or character of any wall, fence, hoarding, tree or hedge thereon so as to cause it to conform with any requirements specified in the notice; or

(c) upon every owner, occupier or lessee of the land restraining him, either absolutely or subject to such conditions as may be specified in the notice, from permitting any building, wall, fence, hoarding, tree or hedge to be erected or planted on the land.

(2) There shall be annexed to any notice served under Article 49 a plan showing the land to which the notice relates; and notice of the right of objection shall be given in the notice.

2. Any restrictions imposed by a notice served under Article 49 shall be registered pursuant to Part X of the Land Registration Act (Northern Ireland) 1970^{F1} and shall remain in force until the notice is withdrawn by the Department and the registration is cancelled in accordance with the provisions of that Part, and any such restrictions shall, while in force, be binding upon any successor in title to the owner, occupier, or lessee of the land to which they relate.

F1 1970 c. 18 (N.I.)

3.—(1) If any person upon whom a notice has been served under Article 49 objects to complying with any requirement of the notice or objects to any restriction imposed thereby, he may, within 21 days of receiving the notice, give notice in writing to the Department stating his objection and the grounds thereof and requiring the matter in dispute to be heard and determined by a barrister or solicitor of not less than 10 years' standing, practising in Northern Ireland, to be appointed by the Lord Chief Justice.

(2) A person so appointed shall for the purpose of such hearing have all the powers conferred on an arbitrator by^{F2} Part I of the Arbitration Act 1996]

(3) In determining any question whether a notice shall be withdrawn as respects a requirement or restriction objected to, the arbitrator shall have power to order that the requirement or restriction shall have effect subject to such modifications (if any) as the arbitrator may direct.

F2 1996 c.23

4. Any person upon whom a notice is served under Article 49 shall have power, notwithstanding anything in any conveyance or in any lease or other instrument or agreement, to do all such things as may be necessary for complying with the requirements of the notice.

5.—(1) Where notice has been served upon any person under Article 49 the Department may, with the consent of that person, do on his behalf anything necessary for complying with the requirements of the notice.

(2) Where any such person, within 21 days after the service upon him of the notice, signifies in writing to the Department his assent to the doing by the Department on his behalf of any such thing as aforesaid, such person shall not be liable to prosecution for an offence under paragraph 6.

6. Subject to the provisions of this Schedule, if any person upon whom a notice has been served under Article 49 contravenes the notice, he shall, without prejudice to any other proceedings which may be taken against him, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

7. Where a person convicted of an offence under paragraph 6 continues to contravene the notice after the end of such period beginning on the date of that conviction as may be specified by the court—

- (a) he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day following the end of that period on which the contravention continues; and
- (b) the Department may do anything necessary for complying with the requirements of the notice.

8.—(1) Any person upon whom a notice is served under Article 49 shall be entitled to recover from the Department any expenses reasonably incurred by him in carrying out any directions contained in the notice.

(2) Any persons sustaining loss in direct consequence of any requirement of a notice served under Article 49, or any person who proves that his property is injuriously affected by restrictions imposed by any such notice, shall, if he makes a claim within six months after the service of the notice, be entitled to recover from the Department compensation for the loss or injury sustained.

(3) If any question arises whether compensation is payable under this provision, or as to the amount of any compensation so payable, the question shall be referred to and determined by the Lands Tribunal.

9. Nothing in Article 49 or this Schedule shall apply with respect to any building or other structure belonging to a railway undertaking or to the owners, trustees or conservators acting under powers conferred by any statutory provision of any canal, inland navigation, dock or harbour, where the building or other structure forms part of, or is necessary for the maintenance of, their railway, canal, inland navigation, dock or harbour.

10. Article 49 and this Schedule shall apply to stacks of turf, hay, corn or other produce, wood piles, wooden sheds and other similar temporary erections in like manner as they apply to a fence or hedge.

Changes to legislation:

There are currently no known outstanding effects for the The Roads (Northern Ireland) Order 1993, SCHEDULE 4.