
STATUTORY INSTRUMENTS

1995 No. 3210

The Street Works (Northern Ireland) Order 1995

Streets subject to special controls

Protected streets

21.—(1) The consent of the street authority is required for the placing of apparatus by an undertaker in a protected street, except as mentioned below.

The following are “protected streets” for this purpose—

(a) any—

- (i) road,
- (ii) road in the course of construction, or
- (iii) proposed road,

which is a special road in accordance with Article 15 of the Roads Order; and

(b) any street designated by the street authority as protected.

(2) Consent is not required for the placing of apparatus—

- (a) by way of renewal of existing apparatus, or
- (b) in pursuance of a street works licence,

unless, in the latter case, the licence was granted before the street became a protected street.

(3) The street authority may require the payment of—

- (a) a reasonable fee in respect of the legal or other expenses incurred in connection with the giving of its consent under this Article, and
- (b) an annual fee of a reasonable amount for administering the consent;

and any such fee is recoverable from the undertaker.

This shall not be construed as affecting any right of the authority where it owns the land on which the street is situated to grant for such consideration as it thinks fit the right to place anything in, under or over the land.

(4) Where the apparatus is to be placed crossing the protected street and not running along it, the street authority shall not withhold its consent unless there are special reasons for doing so.

(5) Consent to the placing of apparatus in a protected street may be given subject to conditions; and the street authority may agree to contribute to the expenses incurred by the undertaker in complying with the conditions.

(6) Any dispute between the street authority and an undertaker as to the withholding of consent, the imposition of conditions, or the making of contributions shall be settled by arbitration.

(7) An undertaker having a statutory duty to afford a supply or service shall not be regarded as in breach of that duty if, or to the extent that, it is not reasonably practicable to afford a supply or service by reason of anything done by the street authority in exercise of its functions under this Article.

(8) A consent granted under Article 17 of the Roads Order shall have effect as a consent granted under this Article.

Supplementary provisions as to designation of protected streets

22.—(1) The Department may prescribe—

- (a) the criteria for designating a street as protected,
- (b) the procedure for making or withdrawing such a designation, and
- (c) the information to be made available by the street authority as to the streets for the time being so designated by it.

(2) Where a street has been designated as protected the street authority may direct an undertaker to remove or change the position of apparatus placed in the street at a time when it was not so designated.

The authority shall indemnify the undertaker in respect of his reasonable expenses in complying with such a direction.

(3) Where a designation is withdrawn the street authority may give such directions as it considers appropriate as to—

- (a) the continuance in force of any conditions subject to which consent was given for the placing of apparatus in the street, and
- (b) the continuance of entitlement to any contributions in respect of the expenses of an undertaker in complying with such conditions.

(4) Where a designation is made or withdrawn the street authority may give such directions as it considers appropriate with respect to works in progress in the street when the designation comes into force or ceases to have effect.

(5) Any dispute between the street authority and an undertaker as to the exercise by the authority of its powers under paragraph (2), (3) or (4) shall be settled by arbitration.

Streets with special engineering difficulties

23.—(1) The provisions of Schedule 2 have effect for requiring the settlement of a plan and section of street works to be executed in a street designated by the street authority as having special engineering difficulties.

(2) The Department may prescribe—

- (a) the criteria for designating a street as having special engineering difficulties,
- (b) the procedure for making or withdrawing such a designation, and
- (c) the information to be made available by the street authority as to the streets for the time being so designated by it.

(3) Where the Department is asked to designate a road as having special engineering difficulties—

- (a) by a transport authority on the ground of the proximity of the road to a structure belonging to, or under the management or control of, the authority, or
- (b) by an undertaker having apparatus in the road,

and the Department proposes to decline to do so, it shall serve notice of that proposal on the transport authority or undertaker concerned.

(4) If within 21 days of receiving notice of the Department's proposal under paragraph (3) the transport authority or undertaker so requests in writing, the Department shall afford the authority or undertaker an opportunity of appearing before and being heard by the planning appeals commission.

(5) There shall be payable in respect of a hearing under paragraph (4) such fee as may be prescribed.

(6) Where a hearing is held under paragraph (4)—

(a) the Department shall, in determining whether to designate a road as having special engineering difficulties, take into account the report of the planning appeals commission; and

(b) the decision of the Department shall be final.

(7) The designation of a street as having special engineering difficulties shall not be withdrawn except after consultation with any transport authority or undertaker at whose request the designation was made.

Traffic-sensitive streets

24.—(1) Regulations made for the purposes of Article 14, 15 or 17 (notices required to be given in respect of street works) may make special provision in relation to street works in a street designated by the street authority as traffic-sensitive.

(2) The Department may prescribe—

(a) the criteria for designating a street as traffic-sensitive,

(b) the procedure for making or withdrawing such a designation, and

(c) the information to be made available by the street authority as to the streets for the time being so designated by it.

(3) If it appears to the street authority that the prescribed criteria are met only at certain times or on certain dates, a limited designation may be made accordingly.

In such a case the reference in paragraph (1) to the execution of works in a street designated as traffic-sensitive shall be construed as a reference to works so executed at those times or on those dates.