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STATUTORY INSTRUMENTS

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**1995 No. 3210**

**The Street Works (Northern Ireland) Order 1995**

*Supplementary provisions*

**Offences**

**52.**—(1) Any provision of this Order imposing criminal liability in respect of any matter is without prejudice to any civil liability in respect of the same matter.

(2) Where a failure to comply with a duty imposed by this Order is continued after conviction, the person in default commits a further offence.

**Recovery of costs or expenses**

**53.**—(1) Any provision of this Order enabling an authority, body or person to recover the costs or expenses of taking any action shall be taken to include the relevant administrative expenses of that authority, body or person including an appropriate sum in respect of general staff costs and overheads.

The Department may prescribe the basis on which such amounts are to be calculated.

(2) Where a right to payment accruing for the benefit of a person is conferred in respect of the same matter—

(a) both under this Order and under any statutory provision or agreement passed or made before the coming into operation of this Article, or

(b) by two or more provisions of this Order,

a payment made in discharge of any of those rights shall be treated as being made in or towards satisfaction of the other or others.

(3) Where under any provision of this Order a person is entitled in certain circumstances to recover costs or expenses incurred by him in executing works or taking other steps, any dispute as to the existence of those circumstances or as to the amount recoverable shall be determined by arbitration.

This applies where the provision is expressed as conferring a right to recover, or as imposing a liability to reimburse or indemnify or to bear the cost, but does not apply in relation to a provision expressed as providing for the charging of a fee or conferring a right to compensation or in relation to Article 38 (contributions to cost of making good long-term damage to the street).

**Notices**

**54.**—(1) Notices required or authorised to be given for the purposes of this Order shall be given in the prescribed form.

(2) The Department may make provision by regulations as to the manner of service of notices and other documents required or authorised to be served for the purposes of this Order.

(3) A notice given after 4.30 p.m. on a working day shall be treated as given on the next working day.

### **Arbitration**

**55.** Any matter which under this Order is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.

### **Agreements inconsistent with the provisions of this Order**

**56.—(1)** An agreement which purports to make provisions regulating the execution of street works is of no effect to the extent that it is inconsistent with the provisions of this Order.

(2) This does not affect an agreement for the waiver or variation of a right conferred on a relevant authority by any of the provisions of this Order which is made after the right has accrued and is not inconsistent with the future operation of those provisions.

### **Consequential amendments of other statutory provisions**

**57.** The Department may by order made subject to negative resolution make such provision amending, repealing or preserving the effect of any statutory provision passed or made before the coming into operation of this Article as appears to the Department necessary or expedient in consequence of the provisions of this Order.

### **Crown application**

**58.—(1)** The provisions of this Order bind the Crown.

(2) Nothing in paragraph (1) shall be construed as authorising the bringing of proceedings for a criminal offence against a person acting on behalf of the Crown.

### **Regulations**

**59.—(1)** Subject to Articles 34(8) and 38(5), regulations under this Order shall be subject to negative resolution.

(2) Regulations under this Order may provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time.

### **Amendments and repeals**

**60.—(1)** The statutory provisions set out in Schedule 3 shall have effect subject to the amendments specified in that Schedule.

(2) The statutory provisions specified in Schedule 4 are hereby repealed to the extent specified in column 3 of that Schedule.