

Status: Point in time view as at 01/01/2006.

Changes to legislation: The Street Works (Northern Ireland) Order 1995, SCHEDULE 1 is up to date with all changes known to be in force on or before 25 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Article 11(4).

Street Works Licences

Grant of licence

1. Before granting a street works licence the street authority shall give not less than 10 working days' notice to each of the following—

- (a) where the works are likely to affect a public sewer, to the Department,
- (b) where the works are to be executed in a part of a street which is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, to that authority,
- (c) where in any other case the part of the street in which the works are to be executed is carried or crossed by a bridge, to the bridge authority,
- (d) to any person who has given notice under Article 14 (advance notice of certain works) of his intention to execute streets works which are likely to be affected by the works to which the licence relates, and
- (e) to any other person having apparatus in the street which is likely to be affected by the works;

but a failure to do so does not affect the validity of the licence.

2. The street authority may require the payment of—

- (a) a reasonable fee in respect of legal or other expenses incurred in connection with the grant of a street works licence, and
- (b) an annual fee of a reasonable amount for administering the licence;

and any such fee is recoverable from the licensee.

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.

Conditions attached to licence

3. A street authority may attach to a street works licence such conditions as it considers appropriate—

- (a) in the interests of safety,
- (b) to minimise the inconvenience to persons using the street (having regard, in particular, to the needs of people with a disability), or
- (c) to protect the structure of the street and the integrity of apparatus in it.

4. Where assignment of a street works licence is permitted, a condition may be attached requiring the consent of the street authority to any assignment.

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Notice of change of ownership, &c

5.—(1) Where the licensee under a street works licence proposes—

- (a) to cease using or abandon the apparatus, or
- (b) to part with his interest in the apparatus,

he shall give the street authority at least 6 weeks' notice before doing so.

(2) Where the licensee under a street works licence granted to the owner of land and his successors in title proposes to part with his interest in the land, he shall before doing so give notice to the street authority stating to whom the benefit of the licence is to be transferred.

(3) A person who fails to comply with an obligation under this paragraph commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Withdrawal of licence

6.—(1) The street authority may by notice in writing served on the licensee withdraw a street works licence—

- (a) if the licensee fails to comply with any provision of this Order or any condition of the licence,
- (b) if the authority becomes aware that the licensee—
 - (i) has ceased to use or has abandoned the apparatus, or intends to do so, or
 - (ii) has parted with or intends to part with his interest in the apparatus in a case where assignment of the licence is prohibited, or
- (c) if the authority considers the withdrawal of the licence is necessary for the purpose of the exercise of its functions as street authority.

(2) The withdrawal takes effect at the end of such period beginning with the date of service as may be specified in the notice.

The period shall not be less than 7 working days in the case of a withdrawal under sub-paragraph (1) (a) or (b), and shall not be less than 3 months in the case of a withdrawal under sub-paragraph (1)(c).

Removal of apparatus

7.—(1) Where a street works licence expires or is withdrawn or surrendered, the street authority may remove the apparatus to which the licence relates or alter it in such manner as the street authority thinks fit and reinstate the street, and may recover from the former licensee the expenses incurred by it in doing so.

(2) If the street authority is satisfied that the former licensee can, within such reasonable time as it may specify, remove the apparatus or alter it in such manner as it may require and reinstate the street, it may authorise him to do so at his own expense.

(3) Before executing any works under this paragraph the street authority or the former licensee, as the case may be, shall give not less than 7 working days' notice to any person whose apparatus is likely to be affected and shall satisfy his requirements as to the method of executing the works and as to the supervision of the works by him.

(4) In this paragraph and paragraph 8 “the former licensee” means the person who immediately before the expiry, withdrawal or surrender of a street works licence was the licensee or, if that person has died, his personal representative.

Obligation of licensee to indemnify street authority

8.—(1) The licensee under a street works licence shall indemnify the street authority against any claim in respect of injury, damage or loss arising out of—

- (a) the placing or presence in the street of apparatus to which the licence relates, or
- (b) the execution by any person of any works authorised by the licence;

and the former licensee shall indemnify the street authority against any claim in respect of injury, damage or loss arising out of the execution by the authority or the licensee of any works under paragraph 7.

(2) The liability of a licensee or former licensee under this paragraph arises—

- (a) whether or not the damage or loss is attributable to negligence on his part or on the part of any person for whom he is responsible, and
- (b) notwithstanding that he is acting in pursuance of a statutory duty.

(3) However, his liability does not extend to damage or loss which is attributable to misconduct or negligence on the part of—

- (a) the street authority or a person for whom the authority is responsible, or
- (b) a third party, that is, a person for whom neither the licensee or former licensee nor the authority is responsible.

(4) For the purposes of this paragraph the persons for whom a person is responsible are his contractors and any person in his employ or that of his contractors.

Appeal against decision of Department

9.—(1) Where the apparatus in respect of which an application for a street works licence is made to the Department is to be placed or retained on a line crossing the road, and not along the line of the road, a person aggrieved by—

- (a) the refusal of the Department to grant him a licence,
- (b) the refusal of the Department to grant a licence except on terms prohibiting its assignment, or
- (c) any terms or conditions of the licence granted to him,

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

(2) Before determining an appeal under this paragraph, the planning appeals commission shall, if either the appellant or the Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(3) Every notice of appeal to the planning appeals commission under this paragraph shall be accompanied by such fee (if any) as may be prescribed.

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