

## SCHEDULES

### SCHEDULE 3

#### Amendments

#### *The Roads (Northern Ireland) Order 1993 (NI 15)*

#### 24. After Article 78 insert—

##### **“Works under Article 72 or Article 78: charge for occupation of the road**

**78A.**—(1) The Department may make provision by regulations requiring a person carrying out any of the following works in a road—

- (a) erecting scaffolding, hoarding or other structures to which Article 72 applies, in the circumstances mentioned in paragraph (1) of that Article; or
- (b) carrying out any excavations in, or otherwise breaking up the surface of, the road, as mentioned in Article 78(1),

to pay a charge to the Department if the duration of the works exceeds such period as may be prescribed and the works are not completed within a reasonable period.

(2) The works referred to in paragraph (1)(b) do not include any works done for the sole purpose mentioned in Article 78(2)(h).

(3) In paragraph (1) “a reasonable period” means such period as is agreed by the Department and the person executing the works to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable in the circumstances.

(4) In default of agreement, the Department’s view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

(5) Regulations made under paragraph (1) may provide that if a person intending to carry out any of the works mentioned in that paragraph submits to the Department an estimate of the likely duration of the works—

- (a) in a case where the consent of the Department is required under Article 72 or Article 78, together with his application for such consent, and
- (b) in any other case, before such time as may be prescribed,

the period stated in the estimate shall be taken to be agreed by the Department to be reasonable unless the Department gives notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(6) The regulations may also provide that if it appears to the person carrying out the works that by reason of matters not previously foreseen or reasonably foreseeable the duration of the works—

- (a) is likely to exceed the prescribed period,
- (b) is likely to exceed the period stated in his previous estimate, or
- (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

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he may submit estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the Department to be reasonable unless the Department gives notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(7) The amount of the charge shall be determined in such manner as may be prescribed by reference to the time taken to complete the works and the extent to which the surface of the road is affected by the works.

(8) The regulations may make provision as to the time and manner of making payment of any charge.

(9) The regulations shall provide that the Department may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as the Department may decide or as may be prescribed, or generally.

(10) In this Article “prescribed” means prescribed by regulations made by the Department.”.