

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.

SCHEDULE 2

Article 23(1).

Streets With Special Engineering Difficulties

Introductory

1. In this Schedule a “street with special engineering difficulties” means a street for the time being designated under Article 23 as having special engineering difficulties.

Requirement of plan and section

2.—(1) In a street with special engineering difficulties street works (other than emergency works) involving—

- (a) breaking up or opening the street, or any sewer, drain or tunnel under it, or
- (b) tunnelling or boring under the street,

shall not be executed until a plan and section of the works have been settled by agreement between the undertaker and each of the relevant authorities or by arbitration.

(2) For that purpose an undertaker proposing to execute any such works shall submit a plan and section of them to each relevant authority.

3. Emergency works may be executed without a plan and section being so submitted or settled, but as soon as is reasonably practicable after the execution of the works the undertaker shall furnish a plan and section of the works to each relevant authority.

4.—(1) In the case of a street which is not a road and which the street managers have no liability to the public to maintain or repair, the undertaker may give the street managers a notice stating—

- (a) the general effect of the works proposed or, as the case may be, of the emergency works executed, and
- (b) that it is a notice given for the purposes of this paragraph.

(2) Where such a notice is given paragraphs 2 and 3 do not apply if the street managers do not, within 10 working days from the date on which the notice was given to them, give notice to the undertaker requiring the submission or furnishing of a plan and section to them.

5.—(1) A relevant authority to which a plan and section of work is required to be submitted or furnished may accept as, or in lieu, of, a plan and section any description of the works whether in diagram form or not, which appears to it to be sufficient.

(2) References in this Schedule to a plan and section include any such description so submitted or furnished to the form of which the relevant authority has not objected within the time allowed under paragraph 7(2).

6. If an undertaker—

- (a) executes any works in contravention of paragraph 2, or
- (b) fails to furnish a plan and section in accordance with paragraph 3,

he commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Procedure on submission of plan and section

7.—(1) A relevant authority to which there is submitted a plan and section of street works proposed to be executed in a street with special engineering difficulties shall give notice to the undertaker—

- (a) approving the plan and section without modification, or
- (b) objecting to them in form as being on too small a scale or giving insufficient particulars, or
- (c) approving them subject to modifications specified in the notice, or
- (d) disapproving them.

(2) The notice shall be given without avoidable delay, and at the latest before the end of the period of—

- (a) 7 working days in the case of a plan and section of works relating only to—
 - (i) a service pipe or service line, or
 - (ii) overhead electric lines or telecommunication apparatus, and
- (b) one month in any other case;

and as between the undertaker and a relevant authority which does not duly give notice before the end of that period, the plan and section as submitted shall be deemed to have been settled by agreement.

(3) The reference in sub-paragraph (2)(a)(i) to a service pipe or service line is to—

- (a) a pipe or line through or by means of which a supply of gas, electricity or water is afforded or intended to be afforded to premises—
 - (i) directly from premises from which the supply originates, or
 - (ii) from a main, that is, a pipe or line for affording a general supply;
- (b) a pipe through or by means of which sewage services are afforded, or intended to be afforded, which is a private sewer or drain within the meaning of the Water and Sewerage Services (Northern Ireland) Order 1973(1); or
- (c) underground telecommunication apparatus for the purpose of providing a service by means of a telecommunication system to or from particular premises (as opposed to apparatus for the general purposes of such a system).

But so much of any such pipe, line or apparatus as is placed or intended to be placed, for a continuous length of 100 metres or more in a road shall be treated as not being a service pipe or service line.

(4) In this paragraph—

“electric lines” has the same meaning as in Part II of the Electricity (Northern Ireland) Order 1992(2);

“telecommunication apparatus” has the same meaning as in Schedule 2 to the Telecommunications Act 1984(3); and

“telecommunications system” has the meaning given by section 4(1) of that Act (read with subsection (2) of that section).

8.—(1) Where a relevant authority gives notice approving the plan and section subject to modifications, or disapproving the plan and section, it shall state its reasons for doing so.

(2) If a relevant authority duly gives notice—

(1) 1973 NI 2.
(2) 1992 NI 1.
(3) 1984 c. 12.

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- (a) objecting to the plan and section in form, or
- (b) approving them subject to modifications to which the undertaker does not agree, or
- (c) disapproving them,

then, unless the notice is withdrawn, the undertaker may refer the matter to arbitration.

(3) If the notice is withdrawn, the plan and section as submitted shall be deemed to have been settled by agreement between the relevant authority and the undertaker.

9. The Department or a bridge authority may not give notice—

- (a) approving a plan and section subject to modifications, or
- (b) disapproving a plan and section,

on grounds other than such as relate to the injurious effect of the proposed works on its sewer or, as the case may be, on the structure or stability of its bridge.

Settlement of plan and section by arbitration

10.—(1) The duty of the arbitrator where a matter is referred to arbitration is to settle a plan and section of works of the kind proposed, as works to be executed in the street.

(2) He may require the undertaker to submit to him a plan and section in such form, require the relevant authority to submit to him such observations on a plan and section submitted to him, and require the undertaker or the relevant authority to furnish him with such information and to take such other steps, as appear to him to be requisite.

(3) He may treat compliance with any such requirement made of the undertaker as a condition of his proceeding with the settlement of a plan and section, and compliance with any such requirement made of the relevant authority as a condition of his settling a plan and section otherwise than as proposed by the undertaker.

11.—(1) Where the reference relates to the placing, altering or changing the position of apparatus in a street which is carried or crossed by a bridge, then, if the arbitrator is satisfied—

- (a) that the execution of the works would be likely to affect injuriously the structure or stability of the bridge, and
- (b) that it is not practicable to meet objection on that ground to the plan and section submitted,

he shall so declare, and shall not settle any plan and section of those works on the reference.

(2) This does not affect the right of the undertaker to submit another plan and section.

Objection to works executed without plan and section being settled

12.—(1) This paragraph applies where street works have been executed in a street with special engineering difficulties without a plan and section having been settled with the street authority or another relevant authority, whether the works were executed in contravention of paragraph 2 or were emergency works.

(2) The authority in question may, by notice to the undertaker, object to any of the works; and after affording the undertaker an opportunity to enter into an agreement with it for meeting the objection, may refer the matter to arbitration.

(3) The arbitrator may direct the alteration of the works to conform to a plan and section settled by him, or the removal of any apparatus placed in the execution of the works, and the undertaker shall comply with any such direction.

(4) In settling the terms of any such direction the arbitrator shall satisfy himself that compliance with it will not involve any undue interruption or restriction of the supply or service for the purposes of which the works were executed.

(5) If an undertaker fails to execute works in accordance with a direction under this paragraph, he commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Execution of works in accordance with plan and section

13.—(1) An undertaker executing street works in a street with special engineering difficulties shall, where a plan and section have been settled, execute the works in accordance with the plan and section as settled or, if each of the relevant authorities agrees to the modification of the plan or section, in accordance with them as so modified.

(2) If an undertaker fails to comply with sub-paragraph (1) he commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

SCHEDULE 3

Article 60(1).

Amendments

The Land Powers (Defence) Act 1958 (c. 30)

1. After section 18A, insert—

“Modification of street works provisions in Northern Ireland

18B.—(1) In relation to works in Northern Ireland in exercise of the powers under a wayleave order, the provisions of the Street Works (Northern Ireland) Order 1995 have effect subject to the provisions of this section.

(2) The provisions of Schedule 2 to that Order (settlement of plan and section for works in streets with special engineering difficulties) have effect subject as follows—

- (a) an objection to a plan and section in form shall be disregarded if a Minister certifies that in his opinion it would be against the national interest to submit a plan and section on a larger scale or giving further particulars;
- (b) no modification of a plan and section shall be made which would involve an unacceptable diversion or change; and
- (c) a plan and section shall not be disapproved on the ground that there should be such a diversion or change.

(3) An arbitrator appointed in pursuance of—

- (a) paragraph 8(2) of Schedule 2 to that Order (settlement of plan and section in case of works in street with special engineering difficulties), or
- (b) Article 44(3) of that Order (settlement of necessary measures in case of apparatus affected by certain major works),

shall not provide for an unacceptable diversion or change.

(4) In subsections (2) and (3) above an “unacceptable diversion or change” means—

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- (a) a lateral diversion of a government oil pipe-line to which the Minister on whose behalf the works are to be executed does not consent, or
- (b) a change of the site of accessory works which would necessitate such a diversion.”.

The Land Registration Act (Northern Ireland) 1970 (c. 18 (N.I.))

2. In Schedule 11 (matters requiring to be registered in the Statutory Charges Register), at the end add—

“42. Any declaration under Article 46 of the Street Works (Northern Ireland) Order 1995.”.

The Public Utilities (Emergency Powers) Act (Northern Ireland) 1972 (c. 2 (N.I.))

3. At the end of section 3 add—

“Any works carried out under paragraph (b) shall be included in the definition of emergency works in Article 6 of the Street Works (Northern Ireland) Order 1995.”.

The Gas (Northern Ireland) Order 1977 (NI 7)

4.—(1) In paragraph (10) of Article 13 (laying of gas pipes across land)—

- (a) for “land” substitute “relevant land”; and
- (b) for the words from “road or bridge” to the end substitute “street”.

(2) After that paragraph insert—

“(10A) In paragraph (10) and Article 13A—

- (a) “street” has the same meaning as in the Street Works (Northern Ireland) Order 1995; and
- (b) “relevant land” means land other than land comprised in a street.”.

5. After Article 13, insert—

“Works under Article 13

13A.—(1) Before commencing to open or break up any relevant land by virtue of paragraph 1 of Schedule 1 as applied by Article 13(10), undertakers shall serve notice of not less than seven days on the owner and occupier of the land.

(2) Subject to paragraph (3), land shall not be opened or broken up except—

- (a) under the superintendence of the owner and occupier of the land; and
- (b) in accordance with a plan—
 - (i) approved by the owner and occupier of the land, or
 - (ii) where any question respecting the plan has arisen and has not been agreed, determined by arbitration,

and the arbitrator may, on the application of the owner or occupier of the land, require the undertakers to make such temporary or other works as the arbitrator thinks necessary for guarding against any interruption of the drainage during the execution of any works which interfere with a sewer or drain.

(3) If the owner or occupier of the land—

- (a) fails to attend at the time fixed for the opening of the land, after service of the notice as mentioned in paragraph (1); or
- (b) fails to approve the plan; or
- (c) refuses or neglects to superintend the operation,

the undertakers may carry out the work specified in the notice without the superintendence of that person.

(4) When undertakers open or break up any relevant land, they shall with all convenient speed—

- (a) complete the work;
- (b) fill in the ground;
- (c) reinstate or make good the land to the reasonable satisfaction of the owner and occupier of the land, and
- (d) carry away the rubbish occasioned thereby;

and shall at all times, whilst any land is opened or broken up—

- (i) cause it to be fenced or guarded; and
- (ii) keep it in good repair for three months after replacing or making it good, and for such further time (if any) not being more than twelve months altogether, as the soil broken up continues to subside.

(5) If undertakers—

- (a) except in cases in which they are authorised to open or break up any relevant land without any superintendence or notice, perform any such work—
 - (i) without serving the notice required by paragraph (1); or
 - (ii) without the superintendence required by paragraph (2); or
 - (iii) otherwise than in accordance with a plan approved or determined under paragraph (2); or
- (b) fail to comply with any other requirement imposed by or under this Article in connection with the opening or breaking up of any relevant land;

they shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a further fine not exceeding one-tenth of level 2 on the standard scale for every day during which the act constituting the offence continues after the service of notice on the undertakers that it is being committed.

(6) If undertakers delay or fail to carry out any work as mentioned in paragraph (4), the owner or occupier of the land may carry out that work, and any expense incurred in so doing shall be a debt recoverable summarily by the owner or occupier from the undertakers.

(7) In this Article “arbitrator” means an arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.”.

6. At the end of Article 17 add—

“(4) Where it is proposed to search or bore in pursuance of this Article in a street within the meaning of the Street Works (Northern Ireland) Order 1995—

- (a) Article 15 of that Order (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works,
- (b) Article 29 of that Order (requirements to be complied with where works likely to affect another person’s apparatus in the street), and

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(c) Article 42 of that Order (liability for damage or loss caused),
have effect in relation to the searching or boring as if they were street works within the
meaning of that Order.”.

7. In Schedule 1 (gas supply code) in paragraph 1—

- (a) in sub-paragraph (1), after the word “paragraph” insert “and of Article 21 of the Street Works (Northern Ireland) Order 1995 (protected streets)”;
- (b) for the word “road” and the words “road or bridge” wherever they occur, substitute “street”; and
- (c) at the end add—
“(13) In this paragraph “street” has the same meaning as in the Street Works (Northern Ireland) Order 1995.”

The Road Traffic (Northern Ireland) Order 1981 (NI 1)

8. In Article 124 (warning of roadworks, after paragraph (2) insert—

“(2A) The works referred to in paragraph (1) do not include street works within the
meaning of the Street Works (Northern Ireland) Order 1995.”.

The Telecommunications Act 1984 (c. 12)

9. In Schedule 2 (the telecommunications code)—

- (a) in paragraph 1(1)—
 - (i) in the definition of “maintainable highway” in paragraph (b), for the words from “highway” to the end substitute “road within the meaning of the Roads (Northern Ireland) Order 1993”; and
 - (ii) in the definition of “street” after “1991” add “or, in Northern Ireland, the Street Works (Northern Ireland) Order 1995”; and
- (b) in paragraph 2(8)(a)(ii) for the words “(which for this purpose shall be deemed to extend to Northern Ireland)” substitute “or the Street Works (Northern Ireland) Order 1995”.

The Planning (Northern Ireland) Order 1991 (NI 11)

10. In Article 121 (rights of entry) after paragraph (4) add—

“(5) Where it is proposed to search or bore in pursuance of paragraph (4) in a street
within the meaning of the Street Works (Northern Ireland) Order 1995—

- (a) Article 15 of that Order (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works;
- (b) Article 29 of that Order (requirements to be complied with where works likely to affect another person’s apparatus in the street); and
- (c) Article 42 of that Order (liability for damage or loss caused),

have effect in relation to the searching or boring as if they were street works within the
meaning of that Order.”.

The Electricity (Northern Ireland) Order 1992 (NI 1)

11. Schedule 4 (other powers of licence holders) shall be amended in accordance with paragraphs 12 to 18.
12. In paragraph 1(1) at the appropriate place insert—
““street” has the same meaning as in the Street Works (Northern Ireland) Order 1995;”
and in paragraph 1(3) for “2 to 7” substitute “3 to 6”.
13. In paragraphs 2 to 6, for the word “road” in each place where it occurs substitute “street”.
14. In paragraph 2(1) for “Subject to Article 15 of the Roads (Northern Ireland) Order 1980” substitute “Subject to the Street Works Northern Ireland) Order 1995”.
15. At the end of paragraph 5 add—
“(9) In this paragraph “owners” means any of the persons mentioned in paragraphs (a), (b) or (c) of sub-paragraph (1).”.
16. In paragraph 6(2) for “(2) to (7)” substitute “(4) to (6)”.
17. In paragraph 8 for “paragraphs 2 to 7” substitute “paragraph 3 or 4”.
18. In paragraph 15 after sub-paragraph (4) insert—
“(4A) Where it is proposed to search or bore in pursuance of this paragraph in a street within the meaning of the Street Works (Northern Ireland) Order 1995—
(a) Article 15 of that Order (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works,
(b) Article 29 of that Order (requirements to be complied with where works likely to affect another person’s apparatus in the street), and
(c) Article 42 of that Order (liability for damage or loss caused),
have effect in relation to the searching or boring as if they were street works within the meaning of that Order.”.

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

19. In Article 2(2) (interpretation) at the appropriate places insert—
““protected street” has the same meaning as in Article 21 of the Street Works Order;
“street works licence” means a licence under Article 11 of the Street Works Order;
“the Street Works Order” means the Street Works (Northern Ireland) Order 1995;”.
20. In Article 72 (erection of scaffolding etc. in a road) in paragraph (2)—
(a) in a sub-paragraph (b) for “special road” substitute “protected street”;
(b) after that sub-paragraph add
“or
(c) in pursuance of a street works licence”.
21. In Article 73 (placing of rails, beams etc. over a road) in paragraph (2)—
(a) in sub-paragraph (b) for “special road” substitute “protected street”;
(b) for sub-paragraph (c) substitute—

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- “(c) in relation to a road which is a protected street, with the consent of the Department under Article 21(1) of the Street Works Order or by virtue of Article 21(2) of that Order; or
 - (d) in pursuance of street works licence”.
- 22. At the end of Article 77 (construction of cellars under road) add—
 - “(7) This Article does not apply to street works within the meaning of the Street Works Order.”.
- 23. In Article 78 (excavations in a road) in paragraph (2)—
 - (a) in sub-paragraph (a) for the words from “or under” to the end substitute “or in pursuance of a street works licence or in accordance with an authorisation given by the Department under paragraph 7(2) of Schedule 1 to the Street Works Order;”;
 - (b) in sub-paragraph (e) for “special road” substitute “protected street”;
 - (c) for sub-paragraph (f) substitute—
 - “(f) in relation to a road which is a protected street, with the consent of the Department under Article 21(1) of the Street Works Order, or by virtue of Article 21(2) of that Order;”.
- 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,

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.”.

25. At the end of Article 81 (provision of milk tanker facility on road) add—

“(11) This Article does not apply to street works within the meaning of the Street Works Order.”.

26. In Article 84(1)(c) for “76 or 79” substitute “or 76”.

27. In Article 86 (vehicle-crossings over footways and verges)—

- (a) at the beginning of paragraph (2) insert “Subject to paragraph (3),”; and
- (b) after paragraph (2) add—

“(3) The expenses that the Department may recover under Article 58(4)(b), as applied by paragraph (2), include the cost of any measures needing to be taken in relation to undertaker’s apparatus in accordance with Article 44 of the street Works (Northern Ireland) Order 1995.”.

28. In Article 96 (control of builders' skips), in paragraph (10) (definitions) for “and in Article 97” substitute “, Article 97 and Article 97A”.

29. After Article 97 (removal of builders' skips) insert—

“Builders' skips: charge for occupation of road

97A.—(1) The Department may make provision by regulations requiring the owner of a builder’s skip deposited on a road to pay a charge to the Department where—

- (a) the period for which the skip remains in the road exceeds such period as may be prescribed, and
- (b) the skip is not removed within a reasonable period.

Status: This is the original version (as it was originally made).

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

(3) 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.

(4) Regulations made under paragraph (1) may provide that if the owner of a builder’s skip proposing to cause or permit the skip to be deposited on a road submits to the Department an estimate of the likely duration of the occupation of the road—

- (a) in a case where the consent of the Department to the deposit of the skip is required by virtue of Article 96(3), 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.

(5) The regulations may also provide that if it appears to the owner of the skip that by reason of matters not previously foreseen or reasonably foreseeable the duration of the occupation of the road—

- (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,

he may submit an 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.

(6) The amount of the charge shall be determined in such manner as may be prescribed by reference to the period for which the road is occupied by the skip and the extent of the occupation.

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

(8) 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.

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

30. In Article 119 (power to enter on land)—

- (a) after paragraph (7) insert—

“(7A) Where in the exercise of the power conferred by paragraph (1)(a) works (other than surveying) are to be executed in a street—

- (a) Article 15 of the Street Works (Northern Ireland) Order 1995 (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works;
- (b) Article 29 of that Order (requirements to be complied with where works likely to affect another person’s apparatus in the street); and
- (c) Article 42 of that Order (liability for damage or loss caused),

have effect in relation to the works as if they were street works within the meaning of that Order.”;

(b) after paragraph (10) insert—

“(10A) Where any person is entitled under Article 42 of the Street Works (Northern Ireland) Order 1995, as applied by paragraph (7A), to compensation in respect of any matter, he is not entitled to recover compensation under paragraph (10) in respect of the same matter.”; and

(c) at the end, add—

“(12) In this Article “street” has the same meaning as in the Street Works (Northern Ireland) Order 1995.”.

31. In Article 133 (orders and regulations) for paragraph (5) substitute—

“(5) Subject to paragraph (6), regulations made under this Order, shall be subject to negative resolution.

(6) The first regulations made under—

(a) Article 78A(1), in respect of the works mentioned in sub-paragraph (a) of that paragraph;

(b) Article 78A(1), in respect of the works mentioned in sub-paragraph (b) of that paragraph; or

(c) Article 97A(1),

shall not be made unless a draft of them has been laid before and approved by a resolution of the Assembly.”.

32. In Schedule 9 (saving provisions) for paragraph 3, substitute—

“**3.** Paragraph 23 of the telecommunications code (which provides a procedure for certain cases where works involve the alteration of telecommunications apparatus) shall apply—

(a) to the Department for the purposes of any work authorised to be carried out under this Order; and

(b) without prejudice to the provisions of the Street Works (Northern Ireland) Order 1995 relating to major road works, major bridge works or major transport works, to any person to whom a licence is issued under Article 76 for the purposes of any work authorised by that licence.”.

The Airports (Northern Ireland) Order 1994 (NI 1)

33. In Article 12 (provisions as to telecommunication apparatus)—

(a) in paragraph (2)(b) after “trunk road” insert “or special road”; and

(b) after paragraph (3) insert

“(3A) Paragraph 23 of the telecommunications code shall not apply by virtue of paragraph (2)(b) in relation to the alteration of any telecommunications apparatus where the alternation is for the purpose of major work works, major bridge works or major transport works within the meaning of the Street Works (Northern Ireland) Order 1995.”.

Status: This is the original version (as it was originally made).

SCHEDULE 4

Article 60(2)

Repeals

Chapter or Number	Short title	Extent of repeal
1847 c. 34.	The Towns Improvement Clauses Act 1847.	Section 79.
1977 NI 7.	The Gas (Northern Ireland) Order 1977.	In Schedule 1, in paragraph 1, sub- paragraphs (4) to (11).
1981 NI 1.	The Road Traffic (Northern Ireland) Order 1981	In Schedule 7, paragraph 1.
1984 c. 12.	The Telecommunications Act 1984.	Section 11(1) and (2). In Schedule 2, paragraphs 1(5) and 9(3).
1991 c. 22.	The New Roads and Street Works Act 1991.	In Schedule 8, paragraph 115(4).
1992 NI. 1.	The Electricity (Northern Ireland) Order 1992.	In Schedule 4 (a) the definition of “road” in paragraph 1(1); (b) paragraph 2(3) to (13); (c) paragraph 3(13); (d) paragraph 5(2),(3), (7) and (8); (e) paragraph 6(3); (f) paragraph 7. In Schedule 13, paragraph 35.
1993 NI 15.	The Roads (Northern Ireland) Order 1993.	Articles 17 and 79. In Article 73, the word “or” at the end of paragraph (2)(b)(iii). In Schedule 10 the entries relating to the Telecommunications Act 1984 and the Electricity (Northern Ireland) Order 1992.