
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Street Works (Amendment) (Northern Ireland) Order 2007

Enforcement

Fixed penalty offences

24.—(1) After Article 52 of the 1995 Order (offences) there is inserted—

“Fixed penalties for certain offences under this Order

52A.—(1) Any offence under this Order relating to any street works which is listed in paragraph (3) is a fixed penalty offence for the purposes of this Order.

(2) Offences listed in that paragraph which are committed by virtue of section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) (offences by bodies corporate) are not fixed penalty offences.

(3) The offences are—

- (a) an offence under Article 14(4) (failure to comply with duties under Art. 14 (advance notice of certain works, etc.));
- (b) an offence under Article 15(5) (beginning to execute works in contravention of Art. 15 (notice of starting date));
- (c) an offence under Article 15(9) (failure to give notice in accordance with Art. 15(8) (notice to be given on Art. 15 notice ceasing to have effect));
- (d) an offence under Article 17(4) (failure to give notice in accordance with Art. 17 (notice of emergency works));
- (e) an offence under Article 30(6) consisting of a failure to comply with paragraph (3) or (4A) (failure to comply with requirements to give notice of completion of reinstatement);
- (f) an offence created by regulations made under Article 34(7A) (failure to give a notice required by regulations under Art. 34 (charge for occupation of the road where works unreasonably delayed));
- (g) an offence created by regulations made under Article 34A(8) (failure to give a notice required by regulations under Art. 34A (charge determined by reference to duration of works)).”

(4) The Department may by order modify paragraph (3) so as to provide for offences under this Order relating to any street works to become (or cease to be) fixed penalty offences.

(5) Such an order may not be made unless a draft of the order has been laid before and approved by resolution of the Assembly.

(6) Schedule 2A (which makes provision about fixed penalties for fixed penalty offences) has effect.”

(2) After Schedule 2 to that Order there is inserted Schedule 2A as set out in Schedule 2 to this Order.

Increase of fines for certain summary offences under 1995 Order

25.—(1) The maximum fine for an offence under each of the following provisions of the 1995 Order is increased from level 3 on the standard scale to level 4 on that scale and accordingly in each of those provisions for “level 3” there is substituted “level 4”—

- (a) Article 14(4) (failure to comply with duties under Art. 14 (advance notice of certain works, etc.));
- (b) Article 15(5) (beginning to execute works in contravention of Art. 15 (notice of starting date of works));
- (c) Article 17(4) (failure to give notice in accordance with Art. 17 (notice of emergency works));
- (d) Article 28(2) (failure by undertaker to afford street authority with reasonable facilities for ascertaining whether he is complying with his duties under the Order);
- (e) Article 29(2) (failure to comply with Art. 29(1) (requirements relating to street works likely to affect another person’s apparatus in the street));
- (f) Article 40(4) (failure to comply with Art. 40(1) (duty to inform other undertaker of location of certain apparatus) or requirements imposed under Art. 40(2) (duties applicable where ownership of certain apparatus cannot be ascertained));
- (g) Article 43(3) (failure by authority to comply with Art. 43(2) (requirements relating to certain road works likely to affect apparatus in the street));
- (h) Schedule 1, paragraph 5(3) (failure to comply with obligation under paragraph 5 (obligations to give notice to street authority)).

(2) The maximum fine for an offence under each of the following provisions of the 1995 Order is increased from level 3 on the standard scale to level 5 on that scale and accordingly in each of those provisions for “level 3” there is substituted “level 5”—

- (a) Article 12(2) (offence under Art. 12(1) (prohibition of unauthorised street works));
- (b) Article 16(3) (execution of works in contravention of direction under Art. 16 (directions as to timing of street works));
- (c) Article 18(6)(a) (carrying out works in contravention of a restriction imposed under Art. 18 (restriction on works following substantial road works));
- (d) Article 20(3) (failure to comply with duty under Art. 20(1) (general duty of undertakers to co-operate));
- (e) Article 25(4) (failure to comply with Art. 25(1) or (2) (safety measures));
- (f) Article 25(6) (interference with safety measures taken by undertaker);
- (g) Article 26(2) (failure to comply with Art. 26(1) (duty to carry on and complete certain street works with all reasonably practicable dispatch));
- (h) Article 27(3) (failure to comply with Art. 27(1), (2) or (2C) (duties relating to the use of qualified supervisors and operatives));
- (i) Article 31(4) (failure to comply with duties under Art. 31 (prescribed requirements as to materials and workmanship and performance standards for reinstatements));
- (j) Article 39(4) (failure to comply with duties under Art. 39(1) to (3) (records of location of apparatus));
- (k) Article 50(2) (failure to comply with a special requirement as to the displaying of lights imposed by a transport authority under Art. 50(1));

- (l) Schedule 2, paragraph 6 (execution of works in street with special engineering difficulties in contravention of paragraph 2 (requirement for agreed plan and section before executing works) or paragraph 3 (requirement to furnish plan and section after emergency works));
 - (m) Schedule 2, paragraph 12(5) (failure to execute works in such a street in accordance with a direction under paragraph 12);
 - (n) Schedule 2, paragraph 13(2) (failure to comply with paragraph 13(1) (requirement to execute works in such a street in accordance with plan or agreed modification)).
- (3) In Article 30(6) of the 1995 Order (failure to comply with Art.30 (duty to reinstate)) for the words from “to a” to the end there is substituted—
- “(a) in the case of an offence consisting of a failure to comply with paragraph (3) or (4A), to a fine not exceeding level 4 on the standard scale; and
 - (b) in any other case, to a fine not exceeding level 5 on that scale.”.
- (4) In Article 47(3) of the 1995 Order (failure to comply with duties relating to street works affecting the structure of a bridge) for the words from “to a” to the end there is substituted—
- “(a) in the case of an offence consisting of a failure to take all reasonably practicable steps to comply with paragraph (2)(a), to a fine not exceeding level 4 on the standard scale; and
 - (b) in any other case, to a fine not exceeding level 5 on that scale.”.
- (5) This Article does not have effect in relation to an offence committed before it comes into operation.