
STATUTORY INSTRUMENTS

1984 No. 960**TELECOMMUNICATIONS****The Telecommunications (Street Works) (Northern Ireland) Order 1984**

<i>Made</i> - - - -	10th July 1984
<i>Laid before Parliament</i>	13th July 1984
<i>Coming into Operation</i>	5th August 1984

The Secretary of State, in exercise of the powers conferred on him by sections 11(1) and (2) and 104(1) and (2) of the Telecommunications Act 1984(a), hereby makes the following Order:—

1. This Order may be cited as the Telecommunications (Street Works) (Northern Ireland) Order 1984 and shall come into operation on 5th August 1984.

2. Paragraphs 1 to 6 of Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972(b) (execution of works affecting roads, bridges, sewers and pipes) shall apply to the exercise in Northern Ireland of any right conferred by or in accordance with the telecommunications code to do one or more of the things mentioned in sub-paragraph (1) of paragraph 9 of that code, with the modifications specified in Part I of the Schedule hereto, and shall accordingly have effect as set out in Part II of the Schedule.

10th July 1984.

Kenneth Baker,
Minister of State,
Department of Trade and Industry.

(a) 1984 c. 12.
(b) S.I. 1972/1072 (N.I.9).

SCHEDULE

PART I

MODIFICATIONS TO PARAGRAPHS 1–6 OF SCHEDULE 3 TO THE ELECTRICITY SUPPLY (NORTHERN IRELAND) ORDER 1972 AS APPLIED TO THE EXERCISE IN NORTHERN IRELAND OF RIGHTS CONFERRED TO DO ANY THING MENTIONED IN PARAGRAPH 9(1) OF THE TELECOMMUNICATIONS CODE

1. In paragraphs 1 to 6 of Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972 for references to “the Service” there shall be substituted references to “the operator”; and except in paragraphs 1(3), 1(6) and 4(1) for references to a road or bridge there shall be substituted references to a maintainable highway;
2. In paragraph 1 of that Schedule—
 - (a) sub-paragraphs (1) and (2) shall be omitted;
 - (b) for sub-paragraph (3) there shall be substituted the following—

“(3) Before commencing to execute any controlled works, the operator shall serve notice of not less than seven clear days of his intention to do so on the appropriate department, unless the works are emergency works.”;

and for references in paragraph 1 to the Department of the Environment or the government department or public body exercising jurisdiction or control over the sewer, drain or tunnel there shall be substituted references to the appropriate department;
 - (c) in sub-paragraph (5) for the words from “a road, bridge, sewer, drain or tunnel” to “except” in the second place where it occurs, there shall be substituted the following—

“an operator shall not, unless the works are emergency works, execute any controlled works except”;
 - (d) after sub-paragraph (5) there shall be added the following paragraphs—

“(5A) For the purposes of this paragraph and paragraphs 3, 4, 5 and 6, the arbitrator shall be appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.

(5B) If the operator contravenes any provision of sub-paragraph (5), it shall make full compensation to the appropriate department for any loss or damage incurred by that department in consequence of that contravention.”;
 - (e) in sub-paragraph (6) for the words “opening of the road, bridge, sewer, drain or tunnel” there shall be substituted the words “execution of the controlled works” and after the words “the plan” there shall be added—

“within seven days or fails to serve notice within that period on the operator requiring it to agree to the appointment of an arbitrator by whom any question which has arisen may be determined”;
 - (f) in sub-paragraph (8) a reference to sub-paragraph (7) shall be substituted for the reference to sub-paragraph (6);

(g) for sub-paragraphs (9) and (10) there shall be substituted the following—

“(9) If the operator commences the execution of any works in contravention of sub-paragraph (3), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”;

(10) In this paragraph “appropriate department” means—

- (a) where any controlled works are to be executed in a maintainable highway, the Department of the Environment;
- (b) where any controlled works are to be executed to a sewer vested in the Department of the Environment, that Department;
- (c) where any controlled works are to be executed to a drain under the jurisdiction or control of the Department of Agriculture, that Department.”.

3. Paragraph 2 of that Schedule shall be omitted.

4. In paragraph 3 of that Schedule—

(a) any reference to the operator of any telecommunications code system inserted by paragraph 55(7) of Schedule 4 to the Telecommunications Act 1984 shall be omitted;

(b) for sub-paragraph (1) there shall be substituted the following—

“(1) Where under the Telecommunications Code the execution of any works will involve the placing of any telecommunication apparatus under, over, along or across a maintainable highway, the following provisions of this paragraph shall apply in relation to the works.”;

(c) in sub-paragraph (2) after “not being” there shall be added the words “emergency works,” and after “altered” there shall be added the words “or works consisting solely of the installation of overhead service lines to be flown from existing poles”;

(d) at the end of sub-paragraph (4) there shall be added—

“but where any question respecting the plan has arisen but has not been agreed it shall be determined by arbitration.”;

(e) in sub-paragraph (5) after the words “works or plan” there shall be added—

“or fails to give notice to the operator requiring it to agree to the appointment of an arbitrator by whom any question which has arisen may be determined,”;

(f) in sub-paragraph (6) after the word “works,” in the first place where it occurs there shall be added the words “unless they are emergency works,” the words “notwithstanding anything in this schedule” shall be omitted and for the second reference to “this schedule” there shall be substituted a reference to the Telecommunications Code;

(g) after sub-paragraph (7) there shall be added the following sub-paragraph—

“(8) If the operator commences the execution of any works in

contravention of sub-paragraph (2), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

5. In paragraph 4 of that Schedule—

- (a) in sub-paragraph (1) at the beginning there shall be added the words “Subject to sub-paragraph (1A),”, for the words “pipes”, “road or bridge”, “this Schedule” and “electric lines or works” there shall respectively be substituted the words “apparatus”, “street”, “the Telecommunications Code” and “telecommunication apparatus” and the words “,or any wires” and “or public body” shall be omitted;
- (b) after sub-paragraph (1) there shall be added the following paragraph—

“(1A) Where paragraph 23 of the Telecommunications Code would otherwise apply to the alteration under this paragraph of any telecommunication apparatus installed for the purposes of an operator’s system, paragraph 23 of the Code will apply instead of sub-paragraphs (2) to (14) below.”;
- (c) in sub-paragraph (2) after the words “commencing the alterations” there shall be added “,except where the alterations are emergency works,”; the words “or body” shall be omitted, for “operators” there shall be substituted “relevant department” and for any subsequent reference in paragraph 4 to “the operators” there shall be substituted a reference to “the operator or the relevant department”; and for “pipes, wires, electric line or works” there shall be substituted “apparatus”;
- (d) in sub-paragraph (4) there shall be added after “service of the notice” the words “mentioned in sub-paragraph (2)”;
- (e) for sub-paragraph(6)(b) there shall be substituted—

“(b) where the alterations are emergency works.”;
- (f) in sub-paragraph (10) for the words from the beginning to “arises” there shall be substituted the words “Where any alterations are emergency works the operator or the relevant department may execute them”;
- (g) after sub-paragraph (12) there shall be added the following sub-paragraphs—

“(13) If the operator commences the execution of any work in contravention of sub-paragraph (2)(a), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(14) For the purposes of this paragraph any reference in the definition of “emergency works” in paragraph 1(1) of the Telecommunications Code to the relevant undertaker for the purposes of paragraph 23 of that Code shall be construed as a reference to the relevant department; and the expression “alter the position of any apparatus” shall not include removal or replacement of the apparatus, and “alteration” shall be construed accordingly.”.

6. In paragraph 5 of that Schedule—

(a) for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) Where—

(a) the operator requires to carry out any controlled works in a street for installing any telecommunication apparatus near to—

(i) any telecommunication apparatus of any other operator; or

(ii) any sewer, drain, tunnel, watercourse, defence or work under the jurisdiction or control of any government department, or

(iii) any main, pipe, syphon, electric line or other work belonging to the Department of the Environment or any gas or electricity undertaking; or

(b) any government department or any gas or electricity undertaking requires to carry out any works in a street for laying down or constructing any mains or pipes, electric lines or other works near to any telecommunication apparatus of the operator,

the operator, or the government department, or the gas or electricity undertaking, as the case may be, (in this paragraph referred to as the “installers”) shall, unless it is otherwise agreed between the parties or the works are emergency works, serve on the other operator, the government department, or the gas or electricity undertaking, as the case may require, (in this paragraph referred to as the “owners”) not less than seven days’ notice before commencing the works and the owners shall be entitled to superintend the work.”;

(b) for any reference in sub-paragraphs (2)–(6) to “the operators” there shall be substituted a reference to “the installers”;

(c) in sub-paragraph (2)(a)(ii) before “sewer” there shall be added the words “owners’ telecommunication apparatus, the tunnel,” and in sub-paragraph (3) after “alter the position of any” there shall be added the words “owners’ telecommunication apparatus, sewer, drain, tunnel, watercourse, defence, main, syphon,”;

(d) sub-paragraph (4) shall be omitted;

(e) in sub-paragraph (7) for the words from “and “water undertaking”” to the end there shall be substituted the following—

““electricity undertaking” means the Northern Ireland Electricity Service; and “electric line” has the meaning given by Article 1 of this Order.”;

(f) after sub-paragraph (7) there shall be added the following sub-paragraph—

“(8) If the installers (not being a government department) commence the execution of any works without the notice required by sub-paragraph (1) having been served they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

7. In paragraph 6 of that Schedule—

(a) in sub-paragraph (1) for the words “of this Schedule” there shall be

substituted the words “mentioned in paragraph 9(1) of the Telecommunications Code”, for the words “jurisdiction and control” there shall be substituted the words “jurisdiction or control” and after the words “any canal” there shall be inserted the words “(in this paragraph referred to as a “canal undertaking”);

- (b) sub-paragraphs (2) and (3) shall be omitted;
- (c) at the end there shall be added the sub-paragraphs numbered 6(4) to (9) contained in Part II of this Schedule.

8. After paragraph 6 of Schedule 3 to that Order there shall be added the paragraphs numbered 6A to 6E contained in Part II of this Schedule.

PART II

PARAGRAPHS 1-6 OF SCHEDULE 3 TO THE ELECTRICITY SUPPLY (NORTHERN IRELAND) ORDER 1972 AS AMENDED BY THIS ORDER

Works involving breaking up maintainable highways etc.

1.— (1) . . .

(2) . . .

(3) Before commencing to execute any controlled works, the operator shall serve notice of not less than seven clear days of his intention to do so on the appropriate department, unless the works are emergency works.

(4) The notice mentioned in sub-paragraph (3) shall be in addition to the notice required to be served by the operator under paragraph 3(2)(a).

(5) Subject to sub-paragraph (6), an operator shall not, unless the works are emergency works, execute any controlled works except—

- (a) under the superintendence of the appropriate department; and
- (b) in accordance with a plan—

- (i) approved by the appropriate department, 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 appropriate department, require the operator to make such temporary or other works as it thinks necessary for guarding against any interruption of the drainage during the execution of any works which interfere with the sewer or drain.

(5A) For the purposes of this paragraph and paragraphs 3, 4, 5 and 6, the arbitrator shall be appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.

(5B) If the operator contravenes any provision of sub-paragraph (5), it shall make full compensation to the appropriate department for any loss or damage incurred by that department in consequence of that contravention.

- (6) If the appropriate department mentioned in sub-paragraph (3)—
- (a) fails to attend at the time fixed for the execution of the controlled works, after service of the notice as mentioned in sub-paragraph (3); or
 - (b) fails to approve the plan within seven days or fails to serve notice within that period on the operator requiring it to agree to the appointment of an arbitrator by whom any question which has arisen may be determined; or
 - (c) refuses or neglects to superintend the operation,
- the operator may carry out the work specified in the notice without the superintendence of that department.
- (7) When the operator opens or breaks up any maintainable highway, sewer, drain or tunnel it shall with all convenient speed—
- (a) complete the work;
 - (b) fill in the ground;
 - (c) reinstate or make good the maintainable highway, sewer, drain or tunnel; and
 - (d) carry away the rubbish occasioned thereby,
- and shall at all times, whilst any maintainable highway is opened or broken up—
- (i) cause it to be fenced or guarded; and
 - (ii) cause a light sufficient for the warning of vehicles and pedestrians to be set up and maintained at night against or near it; and
 - (iii) 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.
- (8) If the operator delays or omits to carry out any work as mentioned in sub-paragraph (7), the appropriate department may cause to be executed the work so delayed or omitted, and the expense of executing that work shall be a debt recoverable summarily by that department from the operator.
- (9) If the operator commences the execution of any works in contravention of sub-paragraph (3), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) In this paragraph “appropriate department” means—
- (a) where any controlled works are to be executed in a maintainable highway, the Department of the Environment;
 - (b) where any controlled works are to be executed to a sewer vested in the Department of the Environment, that Department;
 - (c) where any controlled works are to be executed to a drain under the jurisdiction or control of the Department of Agriculture, that Department.

*Road boxes**2. . . .**Works in or under maintainable highways*

3.— (1) Where under the Telecommunications Code the execution of any works will involve the placing of any telecommunication apparatus under, over, along or across a maintainable highway, the following provisions of this paragraph shall apply in relation to the works.

(2) One month or, in the case of service lines, seven days before commencing the execution of the works (not being emergency works, repairs, replacements or alterations of existing works the character and position of which are not altered or works consisting solely of the installation of overhead service lines to be flown from existing poles), the operator shall—

- (a) in addition to the notice which it is required to serve under paragraph 1(3), serve a notice on the Department of the Environment describing the proposed works; and
- (b) give any further information required by the Department of the Environment.

(3) The notice mentioned in sub-paragraph (2) shall contain a plan showing the mode and position in which the works are intended to be executed, and the manner in which it is intended that the maintainable highway, or any sewer, drain or tunnel in or under the maintainable highway, is to be interfered with.

(4) The Department of the Environment may, subject to amendments or conditions, approve the works or plan but where any question respecting the plan has arisen but has not been agreed it shall be determined by arbitration.

(5) If the Department of the Environment fails to approve the works or plan or fails to give notice to the operator requiring it to agree to the appointment of an arbitrator by whom any question which has arisen may be determined, within one month or, as the case may be, seven days, after the service of the notice under sub-paragraph (2), the works and plan shall be deemed to have been approved.

(6) The operator shall not be entitled to execute the works, unless they are emergency works, except so far as they may be of a description and in accordance with a plan which has been approved, or is to be deemed to have been approved, by the Department of the Environment; but where the works, description, and plan are approved, or deemed to be approved, the operator may carry out those works in accordance with the description and plan, subject in all respects to the provisions of the Telecommunications Code.

(7) If the operator contravenes any of the requirements or restrictions of this paragraph, the operator shall without prejudice to any other compensation which it may be liable to make under this Schedule, make full compensation to the Department of the Environment for any loss or damage incurred by the Department of the Environment in consequence of that contravention.

(8) If the operator commences the execution of any works in contravention of sub-paragraph (2), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Alteration of apparatus, etc. under streets

4.— (1) Subject to sub-paragraph (1A) the operator may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of any apparatus (except any pipe forming part of any sewer) under any street which interferes with the exercise of its powers under the Telecommunications Code, and any government department exercising functions in relation to that street may in like manner alter the position of any telecommunication apparatus of the operator under any street, which interferes with the lawful exercise of those functions.

(1A) Where paragraph 23 of the Telecommunications Code would otherwise apply to the alteration under this paragraph of any telecommunication apparatus installed for the purposes of an operator's system, paragraph 23 of the Code will apply instead of sub-paragraphs (2) to (14) below.

(2) One month before commencing the alterations, except where the alterations are emergency works, the operator or, as the case may be, that department (in this paragraph referred to as the "relevant department") shall—

- (a) serve a notice on the person for the time being entitled to the apparatus (in this paragraph referred to as "the owners") describing the proposed alterations; and
- (b) give any further information required by the owners.

(3) The notice mentioned in sub-paragraph (2) shall contain a plan showing the manner in which it is intended that the alterations shall be made.

(4) Within three weeks after the service of the notice mentioned in sub-paragraph (2) upon any owners, the owners may require, by requisition served on the operator or the relevant department, that any question arising upon the notice as to the works, or to compensation in respect thereof, or any other question shall, in default of agreement, be determined by arbitration.

(5) Where—

- (a) no requisition is served on the operator or relevant department; or
- (b) after any requisition has been served, any question required to be determined by arbitration has been so determined

the operator or the relevant department may, upon paying or securing any compensation which they may be required to pay or secure, carry out the alterations specified in the notice, but subject in all respects to the provisions of this Schedule, and only in accordance with the notice served by them or such modifications thereof respectively as may have been determined by arbitration, or as may be agreed upon between the parties.

(6) At any time before the operator or the relevant department is entitled to commence any such alterations, the owners may serve a notice on the operator or the relevant department, stating that they desire to execute the alterations, and where any such notice has been served on the operator or the relevant department, the operator or the relevant department shall not be entitled to execute the alterations, except—

- (a) where they have required the owners to execute the alterations, and the owners have refused or neglected to comply; or
- (b) where the alterations are emergency works.

(7) Where a notice such as is mentioned in sub-paragraph (6) has been served on the operator or the relevant department, they shall, not more than forty-eight hours and not less than twenty-four hours before the execution of the alterations is required to be commenced, serve on the owners a requisition stating the time when the alterations are required to be commenced, and the manner in which the alterations are required to be made.

(8) Upon receipt of any requisition, the owners may execute the alterations as required by the operator or the relevant department, subject to the restrictions and conditions, so far as they are applicable, to which the operator or the relevant department would be subject in executing the alterations.

(9) If the owners decline or, for twenty-four hours after the time when any such alterations are required to be commenced, neglect to comply with the requisition, the operator or the relevant department may execute the alterations in like manner as they might have done if notice had not been served on them under sub-paragraph (6) by the owners.

(10) Where any alterations are emergency works the operator or the relevant department may execute them without serving any requisition on the owners; but in that case the operator or the relevant department shall, within twenty-four hours after commencing to execute the alterations, give information thereof in writing to the owners.

(11) All expenses properly incurred by any owners in complying with any requisition of the operator or the relevant department under sub-paragraph (7) shall be a debt recoverable summarily by them from the operator or the relevant department.

(12) If the operator or the relevant department contravenes any of the requirements or restrictions of this paragraph they shall, without prejudice to any other compensation which they may be liable to make under this Schedule, make full compensation to the owners for any loss or damage incurred by them in consequence of that contravention.

(13) If the operator commences the execution of any work in contravention of sub-paragraph (2)(a), it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(14) For the purposes of this paragraph any reference in the definition of “emergency works” in paragraph 1(1) of the Telecommunications Code to the relevant undertaker for the purposes of paragraph 23 of that Code shall be construed as a reference to the relevant department; and the expression “alter the position of any apparatus” shall not include removal or replacement of the apparatus, and “alteration” shall be construed accordingly.

Laying of apparatus etc., near telecommunications apparatus, sewers, etc., electric lines or gas or water pipes

5.— (1) Where—

- (a) the operator requires to carry out any controlled works in a street for installing any telecommunication apparatus near to—
 - (i) any telecommunication apparatus of any other operator; or

- (ii) any sewer, drain, tunnel, watercourse, defence or work under the jurisdiction or control of any government department; or
- (iii) any main, pipe, syphon, electric line or other work belonging to the Department of the Environment or any gas or electricity undertaking; or

(b) any government department or any gas or electricity undertaking requires to carry out any works in a street for laying down or constructing any mains or pipes, electric lines or other works near to any telecommunication apparatus of the operator,

the operator, or the government department, or the gas or electricity undertaking, as the case may be, (in this paragraph referred to as "the installers") shall, unless it is otherwise agreed between the parties or the works are emergency works, serve on the other operator, the government department, or the gas or electricity undertaking, as the case may require, (in this paragraph referred to as "the owners") not less than seven days' notice before commencing the works and the owners shall be entitled to superintend the work.

(2) The installers shall—

(a) comply with any reasonable requirements made by the owners—

- (i) for protecting from injury; and
- (ii) for securing access to:

the owners' telecommunication apparatus, the tunnel, sewer, drain, watercourse, defence, main, pipe, syphon, electric line or work; and

(b) if required by the owners, repair any damage that may be done.

(3) Where the installers find it necessary to undermine but not alter the position of any owners' telecommunication apparatus, sewer, drain, tunnel, watercourse, defence, main, syphon, pipe, electric line or work they shall temporarily support it in position during the execution of their works, and before completion provide a suitable and proper foundation for it where so undermined.

(4) . . .

(5) Any question arising under this paragraph shall, in default of agreement, be determined by arbitration.

(6) If the installers contravene any of the requirements of this paragraph they shall, without prejudice to any other compensation which they may be liable to make under this Schedule, make full compensation to the owners for any loss or damage incurred by them in consequence of that contravention.

(7) For the purposes of this paragraph, "gas undertaking" means any body or person lawfully supplying gas; "electricity undertaking" means the Northern Ireland Electricity Service; and "electric line" has the meaning given by Article 1 of this Order.

(8) If the installers (not being a government department) commence the execution of any works without the notice required by sub-paragraph (1)

having been served they shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Protection of railway undertaking and canal companies

6.— (1) In the exercise of any of the powers mentioned in paragraph 9(1) of the Telecommunications Code relating to the execution of works, the operator shall not in any way cause damage to the railways, tunnels, arches, works or conveniences belonging to any railway undertaking or government department exercising jurisdiction or control over any canal (in this paragraph referred to as a “canal undertaking”), nor obstruct or interfere with the working of the traffic passing along any railway or canal.

(2) ...

(3) ...

(4) Where the operator proposes to open or break up any street which—

(a) forms a level crossing; or

(b) crosses over or under any works of a railway or canal undertaking,

the operator shall, unless the works are emergency works—

(i) in addition to the notice which it is required to serve under paragraph 1(3) above, serve a like notice on the undertaking; and

(ii) if and so far as the proposed works are likely to affect the structure of any bridge or other works which are vested in the undertaking, execute the works under the superintendence of the undertaking and in accordance with a plan approved by it.

(5) Any question respecting the plan mentioned in sub-paragraph 4(b)(ii) above shall, in default of agreement, be determined by arbitration.

(6) If the undertaking mentioned in sub-paragraph (4) above—

(a) fails to attend at the time fixed for the execution of the proposed works, after the notice is served on it as so mentioned; or

(b) fails to approve the plan within seven days or fails to serve notice within that period on the operator requiring it to agree to the appointment of an arbitrator by whom any question which has arisen may be determined; or

(c) refuses or neglects to superintend the operation,

the operator may carry out the work specified in the notice without the superintendence of that undertaking.

(7) If the operator executes any works without the notice required by sub-paragraph (4) having been served, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) If the operator contravenes any requirement of this paragraph it shall, without prejudice to any other compensation which it may be liable to make under this Schedule, make full compensation to the railway or canal undertaking for any loss or damage incurred by that undertaking in consequence of that contravention.

(9) In this paragraph, “railway undertaking” means the Northern Ireland Transport Holding Company.

Emergency works

6A.— (1) Where any person would be required to serve any notice in respect of any works under paragraphs 1 to 6 of this Schedule if the works were not emergency works, that person shall serve a notice in respect of the emergency works as soon as practicable after commencing the works.

(2) Failure to serve the notice required by sub-paragraph (1) shall be treated as a contravention of a requirement of the paragraph under which a notice would be required if the works were not emergency works.

Transitional provisions

6B.— (1) Where before the day appointed under section 2 of the Telecommunications Act 1984(a) (under which certain provisions of the Telegraph Act 1863(b) (“the 1863 Act”) were repealed) (referred to in this paragraph as the “appointed day”) the operator has furnished any information to a body mentioned in section 10 of the 1863 Act (in this paragraph referred to as the “relevant body”) with a view to settling pursuant to that section the depth, course and position at and in which any telecommunication apparatus is to be placed, it may give that body a notice requiring the provision of that information to be treated as satisfying any requirement to serve on or give that body a notice or information under paragraph 3(2) of this Schedule, and unless that body gives a counter-notice within three days requiring compliance with those paragraphs, the provision of that information shall be so treated.

(2) Where before the appointed day there has been a settlement pursuant to section 10 between the operator and a relevant body the execution of any works by the operator in accordance with that settlement shall be treated as done in accordance with a plan approved by that body under paragraphs 1 and 3 of this Schedule.

(3) Where before the appointed day the operator has given a notice to a relevant body in accordance with paragraph (1) of section 10 the giving of that notice shall be treated as satisfying any requirement to serve on or give that body a notice or information under paragraph 3(2) of this Schedule.

(4) A notice given before the appointed day by a relevant body in accordance with paragraph (2) of the said section 10 shall be treated as a notice served on the operator requiring it to agree to an arbitrator under paragraph 1(6)(b) or 3(5) of this Schedule.

(5) Where before the appointed day the operator has given a notice to a relevant body in accordance with paragraph (1) of section 17 of the 1863 Act the giving of that notice shall be treated as satisfying any requirement to serve on that body a notice under paragraph 1(3) of this Schedule.

(6) Paragraphs 1 and 3 of this Schedule shall not apply to works commenced before the appointed day unless sections 10 or 17 of the Telegraph Act 1863 applied to those works before that date; and sub-paragraphs 6(4) to (9) shall not in any case apply to works commenced before that date.

(a) 1984 c. 12.

(b) 1863 c. 112.

Offences by bodies corporate

6C.— (1) Where a body corporate is guilty of an offence under this Schedule and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in such a capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subparagraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Summary proceedings

6D. Proceedings for any offence under this Schedule which is punishable on summary conviction may be commenced at any time within twelve months next after the commission of the offence.

Definitions

6E.— (1) In paragraphs 1 to 6E of this Schedule—

“controlled works” means any such works as are mentioned in heads (i) to (iii) of paragraph 9(1)(c) of the Telecommunications Code, being works done under the right conferred by that paragraph or any other right conferred by the Code;

“Department of Agriculture” means the Department of Agriculture for Northern Ireland;

“Department of the Environment” means the Department of the Environment for Northern Ireland;

“government department” means a department of the government of Northern Ireland;

“plan” includes section;

“service line” means any telecommunication apparatus placed or intended to be placed for the purpose of providing a service by means of a telecommunication system to or from any premises, as distinct from telecommunication apparatus placed or intended to be placed for the general purposes of any such system;

“sewer” means a sewer as defined in the Water and Sewerage Services (Northern Ireland) Order 1973—S.I. 1973/70 (N.I. 2);

“the standard scale” has the same meaning as in Section 106(3) of the Telecommunications Act 1984—1984 c. 12;

“Telecommunications Code” means Schedule 2 of the Telecommunications Act 1984.

(2) Expressions used in paragraphs 1 to 6E of this Schedule have, unless the contrary intention appears, the same meaning as in the Telecommunications Code and in particular “emergency works”, “maintainable highway”, “the operator”, “the operator’s system”, “street” and “telecommunication apparatus” have the meaning given by paragraph 1 of the Code.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order applies paragraphs 1 to 6 of Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972 (“the 1972 Order”) to the exercise in Northern Ireland of any right conferred by or in accordance with the Telecommunications Code, contained in Schedule 2 to the Telecommunications Act 1984, to do any of the things mentioned in paragraph 9(1) of that Code. Under section 10 of that Act licences granted to telecommunications operators to run telecommunication systems may apply the Code (with exceptions and conditions) to those operators and paragraph 9(1) of the Code gives such an operator certain rights to install apparatus and carry out works in streets. The 1972 Order as applied by this Order places certain obligations and restrictions on and gives certain rights to operators when exercising those rights.

The Order also specifies certain modifications to the 1972 Order as it applies pursuant to this Order. The purpose of these modifications is to adapt the 1972 Order to the circumstances of telecommunications operators, to coordinate the provisions of the 1972 Order with the provisions of the Telecommunications Code and to bring the language into line, to create offences for the breach of provisions of the 1972 Order, and to provide transitional arrangements.

Paragraph 1 of Schedule 3 to the 1972 Order, as applied by this Order, provides for seven days’ notice to be given by the operator to the appropriate Northern Ireland department of works involving breaking up or tunnelling under maintainable highways, sewers, drains or tunnels, and for the works to be done under an approved plan and under the superintendence of the department.

Paragraph 3 provides for 28 days’ notice (or 7 days’ notice in the case of service lines) to be given for works involving the installation of apparatus and for the approval of a plan.

Paragraph 4 provides a procedure for operators to alter the position of other apparatus in the street, and for Northern Ireland departments to alter the position of telecommunications apparatus, where that apparatus interferes with their exercise of their powers or functions.

Paragraph 5 provides safeguards for cases where telecommunications operators and other undertakings carry out works in a street which may affect other apparatus already installed.

Paragraph 6 provides protection for railway and canal undertakings when works may affect their works or operations.

Paragraph 6A provides that where notices are not required under the previous paragraphs because works are emergency works, notice of the emergency works shall be given as soon as practicable after the works commence.

Paragraph 6B provides transitional arrangements to cover the transition from the rules applying under the Telegraph Act 1863, repealed by the Telecommunications Act 1984, to the rules contained in the 1972 Order.

Paragraphs 6C and 6D contain rules relating to the offences created by the 1972 Order as applied by this Order and paragraph 6E contains definitions.

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