

STATUTORY INSTRUMENTS

1995 No. 3210

The Street Works (Northern Ireland) Order 1995

Supplementary provisions

Offences

52.—(1) Any provision of this Order imposing criminal liability in respect of any matter is without prejudice to any civil liability in respect of the same matter.

(2) Where a failure to comply with a duty imposed by this Order is continued after conviction, the person in default commits a further offence.

PROSPECTIVE

[^{F1}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.

*Status: Point in time view as at 01/10/2007. This version of this part contains provisions that are prospective.
Changes to legislation: The Street Works (Northern Ireland) Order 1995, Supplementary provisions is up to date with all changes known to be in force on or before 29 August 2022. 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)*

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

F1 Art. 52A inserted (prosp.) by [Street Works \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/287 \(N.I. 1\)\)](#), arts. 1(3), **24(1)**

Recovery of costs or expenses

53.—(1) Any provision of this Order enabling an authority, body or person to recover the costs or expenses of taking any action shall be taken to include the relevant administrative expenses of that authority, body or person including an appropriate sum in respect of general staff costs and overheads.

The Department may prescribe the basis on which such amounts are to be calculated.

(2) Where a right to payment accruing for the benefit of a person is conferred in respect of the same matter—

- (a) both under this Order and under any statutory provision or agreement passed or made before the coming into operation of this Article, or
- (b) by two or more provisions of this Order,

a payment made in discharge of any of those rights shall be treated as being made in or towards satisfaction of the other or others.

(3) Where under any provision of this Order a person is entitled in certain circumstances to recover costs or expenses incurred by him in executing works or taking other steps, any dispute as to the existence of those circumstances or as to the amount recoverable shall be determined by arbitration.

This applies where the provision is expressed as conferring a right to recover, or as imposing a liability to reimburse or indemnify or to bear the cost, but does not apply in relation to a provision expressed as providing for the charging of a fee or conferring a right to compensation or in relation to Article 38 (contributions to cost of making good long-term damage to the street).

Notices

54.—(1) Notices required or authorised to be given for the purposes of this Order shall be given in the prescribed form.

(2) The Department may make provision by regulations as to the manner of service of notices and other documents required or authorised to be served for the purposes of this Order.

(3) A notice given after 4.30 p.m. on a working day shall be treated as given on the next working day.

Arbitration

55. Any matter which under this Order is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.

[^{F2}Inquiries

55A. The Department may cause an inquiry to be held in relation to the exercise of any of its functions under this Order.]

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F2 [Art. 55A](#) inserted (1.10.2007) by [Street Works \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/287 \(N.I. 1\)\)](#), arts. 1(3), **26**; S.R. 2007/365, **art. 2**, Sch.

Agreements inconsistent with the provisions of this Order

56.—(1) An agreement which purports to make provisions regulating the execution of street works is of no effect to the extent that it is inconsistent with the provisions of this Order.

(2) This does not affect an agreement for the waiver or variation of a right conferred on a relevant authority by any of the provisions of this Order which is made after the right has accrued and is not inconsistent with the future operation of those provisions.

[^{F3}Delegation of functions

56A.—(1) Any function of the Department under this Order (other than a power or duty to make regulations or an order) may be exercised by, or by employees of, any person authorised to do so by the Department.

(2) Articles 13 to 15 of the Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11) apply where a person is authorised to exercise any function of the Department by virtue of this Article as they apply where a person is authorised to exercise any function of a Northern Ireland department by virtue of Part III of that Order.]

F3 [Art. 56A](#) inserted (1.10.2007) by [Street Works \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/287 \(N.I. 1\)\)](#), arts. 1(3), **27**; S.R. 2007/365, **art. 2**, Sch.

Consequential amendments of other statutory provisions

57. The Department may by order made subject to negative resolution make such provision amending, repealing or preserving the effect of any statutory provision passed or made before the coming into operation of this Article as appears to the Department necessary or expedient in consequence of the provisions of this Order.

Crown application

58.—(1) The provisions of this Order bind the Crown.

(2) Nothing in paragraph (1) shall be construed as authorising the bringing of proceedings for a criminal offence against a person acting on behalf of the Crown.

Regulations

59.—(1) Subject to Articles 34(8) and 38(5), regulations under this Order shall be subject to negative resolution.

(2) Regulations under this Order may provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time.

Article 60—Amendments and repeals

Status:

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Changes to legislation:

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