



## 2010 CHAPTER 14

### PART 1

#### PERMIT SCHEMES

##### **Meaning of permit scheme**

1.—(1) Any reference in this Part to a permit scheme is a reference to a scheme which is designed to control the carrying out of specified works in specified roads.

(2) A permit scheme may (in particular) include provision—

- (a) for, or in connection with, requiring a permit to be obtained before specified works are carried out (including provision as to the persons who are required to obtain permits),
- (b) for, or in connection with, the issue of permits (including provision with respect to applications for permits, provision for cases in which there is to be an entitlement to the issue of a permit and provision with respect to cases in which permits are to be deemed to be issued),
- (c) as to cases in which specified works may be carried out without a permit,
- (d) for, or in connection with, the imposition of conditions which are to apply in relation to the carrying out of specified works (including provision for, or in connection with, the attachment of such conditions to permits),
- (e) for, or in connection with, the review or variation of permits or such conditions (including provision with respect to applications for such variations)

(3) In this section “specified”, in relation to a permit scheme, means specified, or of a description specified, in the scheme.

**Making, variation and revocation of schemes**

2.—(1) The Department may prepare a permit scheme and in doing so must comply with permit regulations.

(2) A permit scheme shall not have effect unless the Department by order gives effect to it.

(3) An order under subsection (2)—

(a) must specify—

(i) a place where copies of the scheme may be obtained free of charge;

(ii) the date on which the scheme is to come into effect, and

(b) may (in accordance with permit regulations) include provisions which disapply or modify statutory provisions to the extent specified in the order.

(4) The Department may by order vary or revoke any permit scheme which for the time being has effect.

(5) An order under subsection (4)—

(a) may relate to one or more permit schemes,

(b) may vary or revoke any order under subsection (2), or any order previously made under subsection (4),

(c) may (in accordance with permit regulations) include provisions which disapply or modify statutory provisions to the extent specified in the order,

(d) may contain such incidental, supplementary, consequential or transitional provisions as the Department considers necessary or expedient.

**Permit regulations**

3.—(1) The Department may by regulations (“permit regulations”) make provision with respect to the content, preparation, operation, variation or revocation of permit schemes.

(2) Permit regulations may—

(a) set out procedural provisions with which the Department must comply in preparing permit schemes,

(b) set out standard provisions which may or must be included in a permit scheme,

(c) make provision as to the publicity to be given to permit schemes,

(d) make provision with respect to any of the matters mentioned in section 1(2) (including provision as to the conditions or types of conditions which may be imposed by virtue of section 1(2)(d)).

(3) Permit regulations may make provision—

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- (a) as to the criteria to be taken into account in the case of decisions with respect to the issue, review or variation of permits or decisions with respect to the imposition, review or variation of conditions under a scheme
- (b) for, or in connection with, the determination, or facilitating the determination, of disputes (including provision with respect to the appointment of persons to determine, or facilitate the determination of, disputes),
- (c) for, or in connection with, appeals to the planning appeals commission,
- (d) as to the action which may be taken if works are carried out without a permit or if any conditions are not complied with,
- (e) for, or in connection with, the creation, in prescribed cases (including prescribed cases where works are carried out without a permit or in breach of any conditions), of a criminal offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale,
- (f) for, or in connection with, excluding or limiting the liability of prescribed persons in prescribed cases,
- (g) for such incidental, supplemental, consequential or transitional matters as the Department considers necessary or expedient.

(4) Permit regulations may make provision for, or in connection with, the giving of fixed penalty notices (including, in particular, provision applying Schedule 2A to the Street Works Order with or without modifications) in relation to any offence created by the regulations; and for this purpose “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for an offence by payment of a penalty.

(5) Permit regulations may make provision for, or in connection with, the payment of a fee in respect of any one or more of the following—

- (a) an application for a permit,
- (b) the issue of a permit,
- (c) an application for the variation of a permit or the conditions attached to a permit,
- (d) the variation of a permit or the conditions attached to a permit.

(6) Provision made under subsection (5) may include provision as to—

- (a) the amount or maximum amount of any fee,
- (b) cases in which fees are not to be payable or are to be repaid,
- (c) cases in which fees may be discounted,
- (d) the time and manner of making payment of fees,
- (e) the application of sums paid by way of fees.

(7) Permit regulations may make provision—

- (a) for, or in connection with, the creation and maintenance of a register of permits,
  - (b) with respect to access to information contained in any such register (including provision restricting such access).
- (8) Permit regulations may set out provisions—
- (a) which disapply or modify statutory provisions, an
  - (b) which are to or may apply in the case of permit schemes.
- (9) Nothing in subsections (2) to (8) is to be taken as affecting the generality of subsection (1).
- (10) No regulations to which this subsection applies shall be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (11) Subsection (10) applies to—
- (a) the first regulations under this section;
  - (b) regulations under this section containing any provision which creates a criminal offence or increases a penalty for an existing offence.'
- (12) Any other regulations under this section are subject to negative resolution.

### **Crown application**

4. This Part binds the Crown; but nothing in this Part authorises the bringing of proceedings for a criminal offence against a person acting on behalf of the Crown.

### **Interpretation of Part 1**

5. In this Part—

“condition” is to be construed in accordance with section 1(2)(d);

“in”, in the context of referring to works in a road, includes a reference to works under, over, across, along or upon a road;

“permit” is to be construed in accordance with section 1(2);

“permit scheme” is to be construed in accordance with section 1;

“permit regulations” is to be construed in accordance with section 3;

“prescribed” means prescribed, or of a description prescribed, by permit regulations;

“road” means—

- (a) a road within the meaning of the [Roads \(Northern Ireland\) Order 1993 \(NI 15\)](#); and

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(b) anything which (not being such a road) is a street within the meaning of the Street Works Order;

“the Street Works Order” means the [Street Works \(Northern Ireland\) Order 1995 \(NI 19\)](#);

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) [1954 \(c. 33\)](#);

“works” includes—

- (a) street works within the meaning of the Street Works Order; and
- (b) works for road purposes and major road works within the meaning of that Order.