
STATUTORY INSTRUMENTS

1980 No. 1086

Private Streets (Northern Ireland) Order 1980

PART V

**PRIOR PROVISION FOR EXPENSES OF
STREET WORKS IN PRIVATE STREETS**

Prior provision to be made to meet street works expenses

24.—(1) Where—

- (a) it is proposed to erect a building for which plans were prior to 1st October 1973 required to be deposited with a sanitary authority or are required in accordance with building regulations to be deposited with a district council; and
- (b) the building will have a frontage on a private street;

no work shall be done in or for the purpose of erecting the building until the Department has served a notice under^{F1} Article 25(2)] specifying the sum which is to be paid or secured under this paragraph, and a person having an estate in the land on which the building is to be erected—

- (i) has paid to the Department or secured to the satisfaction of the Department the payment to it, of that sum or such lesser sum as may be substituted by the court on an appeal to it under Article 26, and
- (ii) has entered into an agreement under seal with the Department undertaking for himself and his successors in title to pay such further sum, if any, as may be recoverable in respect of the cost of street works.

(2) Where the Department by notice under paragraph (8)(e), (f), (g) or (h) exempts a building from the provisions of paragraph (1), no work shall be done in or for the purpose of erecting the building until a person having an estate in the land has entered into an agreement under seal with the Department undertaking, for himself and his successors in title, liability for such street works as may be indicated in the agreement.

(3) Subject to paragraphs (4), (5), (6) and (7), if work is done in contravention of paragraph (1) or (2), the owner of the land on which the building is to be erected and, if he is a different person, the person undertaking the erection of the building shall be liable on summary conviction to a fine not exceeding £500 and any further contravention in respect of the same building shall constitute a new offence and may be punished accordingly.

(4) Where an owner of any land has agreed to transfer or has transferred the land upon terms which include a provision to the effect that he shall pay or procure payment of the expenses of any street works—

- (a) that owner shall be the person responsible for paying or securing the sum and giving the undertaking under paragraph (1), or, as the case may be, giving the undertaking under paragraph (2), and
- (b) for the purposes of paragraph (3) that owner shall, and the transferee shall not, unless he is also the person undertaking the erection of the building, be guilty of an offence if work

is done in contravention of paragraph (1) or (2) in or for the purpose of erecting a building on the land.

(5) Where the person undertaking the erection of the building, not being the owner of the land on which it is to be erected, is charged with an offence under paragraph (3), it shall be a defence for him to prove that he had reasonable grounds for believing that a sum had been paid or secured and an undertaking given in accordance with paragraph (1) or, as the case may be, that an undertaking had been given in accordance with paragraph (2).

(6) For the purposes of paragraph (5), where the person who is responsible under paragraph (4) for paying or securing the sum under paragraph (1) or giving the undertaking under paragraph (2) has been served with a notice stating the date, not being less than 2 months from the date of the service of the notice, on which work will commence in or for the purpose of erecting the building to which the notice relates, the person undertaking the erection of the building shall, from the date stated in that notice, be deemed to have reasonable grounds for believing that the sum has been secured or the undertaking given.

(7) Proceedings under paragraph (3) shall not be taken by any person other than the Department or a person acting on behalf of, or with the consent of, the Director of Public Prosecutions.

(8) Paragraph (1) shall not apply where—

- (a) the building proposed to be erected will be situated in the curtilage of, and be appurtenant to, an existing building; or
- (b) it is proposed to erect the building in accordance with planning permission granted under the [F²Planning Act] on land belonging to a public body; or
- (c) the frontage of the building is one in respect of which a sum or security previously paid or given under paragraph (1) is held by the Department or in respect of which an undertaking has been given under paragraph (2); or
- (d) an agreement has been entered into with any person by the Department under Article 32 providing for the carrying out at the expense of that person of street works in the whole of the street or a part of the street comprising the whole of the part on which the frontage of the building will be; or
- (e) the Department, being satisfied that the street is not, and is not likely within a reasonable time to be, substantially built-up, by notice exempts the building from paragraph (1); or
- (f) the Department, being satisfied—
 - (i) that more than three-quarters of the aggregate length of all the frontages on both sides of the street, or of a part of the street comprising the whole of the part on which the frontage of the building will be, consists, or is at some future time likely to consist, of the frontages of industrial premises; and
 - (ii) that its powers under this Order are not likely to be exercised in relation to the street, or that part thereof, as the case may be, within a reasonable time;
 - by notice exempts the street or that part thereof from paragraph (1); or
- (g) the Department, being satisfied that the street is not, and is not likely within a reasonable time to become, joined to a public road, by notice exempts the building from the provisions of paragraph (1); or
- (h) the Department, being satisfied that the street was on 13th October 1964 substantially built-up, by notice exempts the building from the provisions of paragraph (1).

(9) Where a sum has been paid or secured under this Article in relation to a building proposed to be erected, and thereafter the Department by notice under paragraph (8) exempts the building from the provisions of paragraph (1), the Department shall, when an undertaking has been given under paragraph (2), deal with the sum in accordance with Article 30.

(10) The Department may at any time agree with the responsible person to accept any other security or the payment of a sum in substitution for any security held by it for the purposes of paragraph (1).

(11) Where any person has ceased to be the responsible person in respect of any street works, any sum paid or secured by him under paragraph (1) or any undertaking given by him under paragraph (2) shall be deemed to have been paid or secured or, as the case may be, given by the person who has become the responsible person.

(12) Where any land in respect of which a sum has been paid or secured under paragraph (1) is subsequently divided into two or more parts so that two or more persons become the responsible persons, that sum shall, for the purposes of this Order, be treated as apportioned between those persons according to the frontage of those parts and, for the purposes of the apportionment under Article 14(1) of the expenses in respect of which that sum has been paid or secured, the respective frontages of those parts shall be the frontages for which each of those persons is respectively responsible.

(13) Where any land in respect of which an undertaking has been given under paragraph (2) is subsequently divided into two or more parts so that two or more persons become the responsible persons, then, for the purposes of the apportionment under Article 14(1) of the expenses in respect of which the undertaking has been given, the respective frontages of those parts shall be the frontages for which each of those persons is respectively responsible.

(14) Any person who becomes or ceases to be the responsible person for any street works in respect of which a sum has been paid or secured under paragraph (1) or an undertaking has been given under paragraph (2) may give notice of that fact to the Department and the Department shall enter the notice in its records.

F1 1984 NI 15

F2 Words in art. 24(8)(b) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\), Sch. 6 para. 31](#) (with [s. 211](#)); S.R. 2015/49, arts. 2, 3, Sch. 1 (with [Sch. 2](#)) (as amended (16.3.2016) by S.R. 2016/159, art. 2)

Changes to legislation:

There are currently no known outstanding effects for the Private Streets (Northern Ireland) Order 1980, Section 24.