STATUTORY INSTRUMENTS

1984 No. 1986 (N.I. 15)

The Road Traffic, Transport and Roads (Northern Ireland) Order 1984

- - - - - - *19th December 1984*

Introductory

Title and commencement

1.—(1) This Order may be cited as the Road Traffic, Transport and Roads (Northern Ireland) Order 1984.

(2) Except for Article 18 and Schedule 2, this Order shall come into operation on the expiration of two months from the day on which it is made.

(3) Article 18 and Schedule 2 shall come into operation on such day as the Head of the Department may by order appoint[F1].

F1	fully exercised by SR 1985/60

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"the Act of 1967" means the Transport Act (Northern Ireland) 1967;

"the Order of 1981" means the Road Traffic (Northern Ireland) Order 1981.

Road traffic

Art. 3 rep. by 1997 NI 2

Arts. 4-6 rep. by 1995 NI 18

Exceptions from requirement of third-party insurance or security

7.—(1) In Article 61 of the Order of 1981 (grant of public service vehicle licences)—

(a) at the beginning of paragraph (3) there shall be inserted the words " Subject to paragraph (3A), "; and

(b) after paragraph (3) there shall be inserted the following paragraph—

"(3A) Paragraph (3) shall not apply to a public service vehicle owned by a company mentioned in Article 90(2)(aa)." .

(2) In Article 90 of the Order of 1981 (insurance or security against third-party risks), in paragraph (2) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

"(aa) any subsidiary company of the Northern Ireland Transport Holding Company providing road passenger transport services;" .

Art. 8 rep. by 1995 NI 18

Article 9—Amendments

Transport

Licensing of public service vehicles

10.—(1) In section 9(1) of the Act of 1967 (fees for road service licences), for the words from "in respect" to "licences" there shall be substituted the following words—

"in respect of—

(a) the grant of road service licences;

(b) applications for documents required in relation to public service vehicles—

(i) registered in Northern Ireland while making journeys to or from places outside Northern Ireland, or

(ii) registered outside Northern Ireland; and

(c) the issuing by the Department of the documents referred to in sub-paragraph (b)," .

(2) In section 45 of the Act of 1967 (power to make regulations) for paragraphs (j) to (l) there shall be substituted the following paragraph—

"(j) the application, with such additions, omissions, alterations or other modifications (whether conditional or not) as may be prescribed, of any of the provisions of Part II or of this Part, in relation to—

(i) public service vehicles registered in Northern Ireland while making journeys to or from places outside Northern Ireland, and

(ii) public service vehicles registered outside Northern Ireland;

and in this paragraph "public service vehicle" has the same meaning as in Article 2(2) of the Road Traffic (Northern Ireland) Order 1981;" .

Conditions of road freight vehicle licences

11. In section 20 of the Act of 1967—

(a) in subsection (1), after paragraph (c) there shall be added the following paragraph—

"(d) the parking of vehicles." ; and

(b) in subsection (3), after the words "vehicle licence" there shall be inserted the words, " other than conditions attached by virtue of subsection (1)(d), ".

Duration of road freight vehicle licences

12.—(1) In section 22 of the Act of 1967—

(a) in subsection (1) for the words from "beginning on" to the end there shall be substituted the words " or such other period as may be specified "; and

(b) subsection (2) shall cease to have effect.

(2) In section 23(1) of the Act of 1967, shall be omitted paragraphs (a) and (b) and after the words "vehicle licence" there shall be inserted the words " "a fee of two pounds for each month or part of a month during the currency of the licence ".

False statements

13. In section 35 of the Act of 1967, after paragraph (d) there shall be inserted the following paragraph—

"or

(e) obtaining from the Department any certificate of professional competence recognised for the purposes of section 46A(5) or (6).".

Amendment of section 46 of Act of 1967

14. In section 46 of the Act of 1967 at the end of paragraph (b) there shall be added the words " unless the person to whom the vehicle has been let on hire uses the vehicle to carry such passengers or goods for reward in the course of a business of carrying passengers or goods for reward ".

Level crossings

15. For section 66 of the Act of 1967 there shall be substituted the following section—

"**Safety arrangements at level crossings.**

66.—(1) The Department may, on an application by the railway undertaking made pursuant to this section, by order provide that, while the order remains in force, any statutory provision—

(a) applying to a level crossing specified in the order, and

(b) imposing requirements as to—

(i) barriers or other protective equipment at or near the level crossing;

(ii) the supervision of the level crossing (including the provision of buildings for the purposes of supervision); or

(iii) the operation of the railway at or near the level crossing;

shall not apply in relation to the level crossing.

(2) An order under this section, may require the railway undertaking—

(a) to provide, at or near any level crossing specified in the order, and maintain and operate, such barriers, lights and automatic and other devices as may be specified in the order;

(b) to secure the provision, at or near any level crossing specified in the order, and the maintenance and operation of such traffic signs as may be approved by the Department;

(c) to comply with such other conditions and requirements as are necessary or desirable for the convenience of the public and are specified in the order.

(3) Where—

(a) an order under this section requires the railway undertaking to secure the provision, maintenance and operation of any traffic sign, and

(b) the road crossed by the railway is a public road within the meaning of Article 2 (2) of the Roads (Northern Ireland) Order 1980;

then—

(i) the Department shall carry out any works necessary for the purposes mentioned in paragraph (a);

(ii) the railway undertaking shall pay to the Department amounts equal to the costs of those works; and

(iii) the sign shall be deemed to be provided under Article 122 of the Road Traffic (Northern Ireland) Order 1981.

(4) An application by the railway undertaking to the Department under this section shall be accompanied by a draft, in such form as the Department may direct, of the proposed order.

(5) Before making an application to the Department under this section the railway undertaking shall give written notice of its intention to do so to the council in whose district the level crossing is situated.

(6) The notice under subsection (5)—

(a) shall be accompanied by a copy of the draft order which the railway undertaking intends to submit to the Department; and

(b) shall specify the period (not being less than 2 months) within which the council may make representations to the Department in respect of the application.

(7) The Department shall consider any representations in respect of the application made by such a council within the period specified in accordance with subsection (6)(b) and may then, if it decides to do so, make the order in accordance with the draft submitted by the railway undertaking or with such modifications as the Department thinks fit.

(8) Notwithstanding anything in any other enactment (including a local or private Act) the Department may construct or reconstruct a road crossing the railway on the level.

(9) In this section—

"barrier" includes gate;

"council" and "district" have the meaning given in section 1(3) of the Local Government Act (Northern Ireland) 1972;

"protective equipment" includes lights, traffic signs and telephone and television equipment; and

"traffic sign" has the meaning given in Article 2(2) of the Road Traffic (Northern Ireland) Order 1981.".

Power to construct railways

16.—(1) After Part V of the Act of 1967 there shall be inserted the following Part—

"PART VA

CONSTRUCTION OF RAILWAYS

Construction of railways.

67A.—(1) The railway undertaking may—

(a) construct a new railway;

(b) carry out any work for the improvement of an existing railway,

where it appears to the railway undertaking expedient to do so for the purpose of providing railway services.

(2) The Department may, on application to it by the railway undertaking, make an order authorising the railway undertaking to construct, as part of a new railway or as part of an existing railway—

(a) a bridge over any navigable waters specified in the order (whether sea, river or other navigable waters); or

(b) a tunnel under any such waters.

(3) An order under subsection (2)—

(a) shall include such information as may be necessary to indicate the position and minimum dimensions of the bridge or tunnel, (including, for a bridge, its minimum spans, headways and waterways and, for a tunnel, its minimum depth below the bed of the navigable waters); and

(b) shall, if it relates to the construction of a swing bridge, contain such provisions as the Department considers expedient for regulating the operation of the bridge.

(4) Before making an order under subsection (2) the Department shall take into consideration the reasonable requirements of navigation over the waters affected by the order.

(5) In this section —

"improvement" includes (without prejudice to the generality of that expression) the widening, realigning and reshaping of a railway;

"navigable waters" means waters over which a public right of navigation exists;

"swing bridge" includes a bridge which opens by any mechanical means.

Acquisition of land by Holding Company.

67B.—(1) The Holding Company may acquire land, by agreement or compulsorily, to facilitate the construction of railways and the provision of railway services by the railway undertaking.

(2) Where the Holding Company, in exercise of the powers conferred by subsection (1), wishes to acquire land otherwise than by agreement, the Holding Company may apply to the Department for an order (in this section referred to as a "vesting order") vesting the land in the Holding Company, and the Department may make a vesting order.

(3) Section 97 of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972 shall apply for the purposes of the acquisition of land by means of a vesting order made under this section in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act subject to the following modifications—

(a) for section 97(1) and (2) of that Act there shall be substituted the following subsection—

"(1) A vesting order shall vest land to which it relates in the Holding Company in accordance with, and subject to, Schedule 6." ;and

(b) in Schedule 6 to that Act—

(i) any reference to a council or the council shall be construed as a reference to the Holding Company and any reference to the clerk of the council shall be construed as a reference to the secretary of the Holding Company;

(ii) any reference to that Act shall be construed as a reference to this Act;

(iii) any reference to the Department shall be construed as a reference to the Department within the meaning of this Act;

(iv) any reference to the Compensation Fund shall be construed as a reference to the revenues of the Holding Company;

(v) paragraph 20(2) shall be omitted.

Information as to ownership of premises.

67C.—(1) The Holding Company may, in connection with the exercise of its functions under this Part, by notice in writing require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.

(2) Any person required to give information in pursuance of this section who without reasonable excuse fails to give, or knowingly mis-states, that information shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Power to enter land.

67D.—(1) Subject to section 67E, a person authorised in writing by the Holding Company may, on production if required of his credentials, at any reasonable time enter any land to ascertain whether the Holding Company ought to acquire that land for the purposes of this Part.

(2) A person who enters land under subsection (1) may survey, value or examine it.

(3) The power conferred by subsection (2) to survey land shall be construed as including power to ascertain or fix boundaries, or to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil, and to take and carry away, for the purpose of examination, specimens of subsoil.

(4) Nothing in this section shall authorise entry into a building.

Supplementary provisions relating to section 67D.

67E.—(1) Subject to paragraphs (2) to (9), no person shall be entitled to exercise the power of entry conferred by section 67D(1) unless—

(a) the requisite notice of the intended entry has been served by the Holding Company; and

(b) the occupier, and where notice has been served on the owner, the owner, has given his consent to the proposed entry.

(2) In subsection (1) "the requisite notice" means—

(a) where entry is required solely for the purpose of examination, at least 24 hours' notice served on the occupier of the land; or

(b) where entry is sought for any other purpose, at least 6 days' notice served on the occupier and on the owner if the owner is known.

(3) If, upon complaint to a court of summary jurisdiction under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981, it is shown—

(a) that there are reasonable grounds for the person on whose behalf the application is made to enter the land in question for the purpose for which entry is permitted under section 67D; and

(b) that—

(i) the requisite notice has been served and admission to the land has been refused to that person or he has reasonable grounds to believe that it will be refused, or

(ii) the land is unoccupied or the occupier is temporarily absent,

the court may make an order authorising that person to enter the land.

(4) Where the court is satisfied that it may be necessary to use force to enter land under section 67D, the court may authorise the use of such force as is reasonable in the circumstances.

(5) Any person entering any land by virtue of the power of entry conferred by section 67D or by virtue of an order made by a court of summary jurisdiction under subsection (3)—

(a) may take with him such other persons and such equipment as may be necessary; and

(b) on leaving any unoccupied land which he has entered by virtue of such a power of entry or such an order shall leave it as effectually secured against trespassers as he found it.

(6) A person who intentionally obstructs any person who enters, or is attempting to enter, land by virtue of an order made by a court of summary jurisdiction under subsection (3), shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Where work has been carried out on land in pursuance of section 67D, the Holding Company shall reinstate the land as soon as possible.

(8) Where—

(a) in the exercise of the power conferred by section 67D or in carrying out the order of a court of summary jurisdiction under subsection (3), any damage is caused to land or chattels, any person interested in the land or chattels may recover compensation in respect of that damage from the Holding Company,

(b) in consequence of the exercise of any such power or the carrying out of any such order, any person is disturbed in his enjoyment of land or chattels, he may recover compensation in respect of that disturbance from the Holding Company.

(9) Any question of disputed compensation under subsection (8) shall be referred to and determined by the Lands Tribunal.

Extinguishment of public rights of way.

67F.—(1) Subject to this section, the Holding Company may, with the approval of the Department, make an order extinguishing any public right of way over land acquired by the Holding Company for the purposes of this Part.

(2) Before making an order under subsection (1), the Holding Company shall publish in one or more than one newspaper circulating in the area a notice, in such form as the Department may specify, stating that—

(a) it proposes to make an order under subsection (1), and

(b) objections to the making of the order may be made to the Department before the expiration of 6 weeks from the publication of the notice.

(3) The Department may at any time after the expiration of the said period of six weeks—

(a) approve the order with or without modification, or

(b) refuse to approve the order;

but shall not, until a local inquiry is held into the matter, approve an order to which any objection is made in accordance with subsection (2)(b) and is not withdrawn.

(4) An order under this section shall take effect on the date on which the land is acquired or on such later date as the Department in approving the order may direct.

(5) An order made under this section may contain any such provision as, by virtue of Article 40(2) of the Roads (Northern Ireland) Order 1980 (retention or removal of cables, etc.), may be contained in an order made under that Article on the stopping-up or abandonment of a road; and paragraphs 1 to 4 of Schedule 7 to that Order (savings for Post Office) shall apply to an order made under this section as they apply to an order made under Article 40 of that Order.

(6) Where, by virtue of subsection (5), by an order made under this section—

(a) any person is required to carry out any works; or

(b) any right such as is described in Article 40(2) of the Roads (Northern Ireland) Order 1980 is extinguished or modified,

the Holding Company shall pay compensation to that person or, as the case may be, in respect of the extinction or modification of that right; and if any question of disputed compensation arises that question shall be referred to and determined by the Lands Tribunal.

(7) If any person who is required by an order made under this section to carry out any works refuses or, within any reasonable period of time specified in a notice served upon him by the Holding Company for the purposes of this subsection, fails to do so, the Holding Company may carry out those works and the expenses incurred in so doing shall, without prejudice to any other remedy but subject always to subsection (6), be recoverable by it from that person summarily as a debt.

(8) The powers conferred by this section shall be in addition to and not in derogation of any powers for the stopping-up or abandonment of roads under Article 40 of the Roads (Northern Ireland) Order 1980.

(9) For the purposes of this section the expression "public right of way" shall be deemed to include a customary right of way, but does not include a public right of navigation.

Diversion of navigable watercourses.

67G.—(1) The Department may, on application to it by the railway undertaking, make an order authorising the railway undertaking to divert such part of a navigable watercourse as is specified in the order if the Department considers the diversion necessary or desirable in connection with—

(a) the construction or improvement of a railway; or

(b) the construction, as part of a railway, of a bridge over or tunnel under navigable waters.

(2) Where a navigable watercourse is to be diverted in pursuance of an order made under subsection (1), any new length of watercourse provided in pursuance of that order shall be such as will or, but for any bridge or tunnel constructed over or under it in pursuance of section 67A(2), would be navigable in a reasonably convenient manner by vessels of a kind which immediately before the commencement of the order were accustomed to use that part of the watercourse which is to be replaced by the new length.

(3) Where by virtue of an order made under subsection (1) the railway undertaking is authorised to divert any part of a navigable watercourse it may also divert any towing path or way adjacent to that part.

(4) Subsection (5) shall have effect where—

(a) works for the diversion of a navigable watercourse have been carried out by the railway undertaking in accordance with an order made under subsection (1); and

(b) any person has suffered damage in consequence of the works mentioned in paragraph (a)—

(i) by the depreciation of any estate in any land to which he is entitled, or

(ii) by reason of the fact that his right of access to a navigable watercourse has been interfered with or extinguished.

(5) A person shall be entitled to receive compensation from the Holding Company under this subsection in respect of the damage where works of the type mentioned in subsection (4) are carried out unless the works were carried out on land, or in exercise of rights, vested in the Holding Company under section 67B, or otherwise in the Department or any of its predecessors in title under section 34 of the Roads Act (Northern Ireland) 1948 or any statutory provision repealed by that Act.

(6) Any question of disputed compensation arising under subsection (5) shall be referred to and determined by the Lands Tribunal.

(7) In this section "navigable watercourse" means a watercourse over which a public right of navigation exists.

Extinguishment of certain public rights over navigable waters and foreshore.

67H.—(1) If the Department considers it necessary or desirable to do so in connection with any matter mentioned in subsection (1)(a) or (b) of section 67G, the Department may, on application to it by the railway undertaking, make an order extinguishing—

(a) any public rights over or in relation to such part of the foreshore as is specified in the order;

(b) any public rights of navigation over such part of any navigable waters (whether the sea, a river or other navigable waters) as is specified in the order.

(2) In this section "navigable waters" has the meaning given in section 67A(5).

Orders under sections 67A(2), 67G(1) and 67H.

67I. Article 63(1) to (3) of, and Schedule 6 to, the Roads (Northern Ireland) Order 1980 shall, subject to the modifications thereof specified in Schedule 1A, apply in relation to the making of orders under section 67A(2), 67G(1) or 67H in like manner as they apply in relation to the making of orders under any of the Articles mentioned in Article 63(1) of that Order.

Incorporation of Railways Clauses Consolidation Act, 1845 and Railways Clauses Act, 1863.

67J. The following provisions of the Railways Clauses Consolidation Act, 1845 and the Railways Clauses Act, 1863, so far as they are applicable for the purposes of and are not inconsistent with this Part, are incorporated with and form part of this Part, and this Part shall be deemed to be the special Act for the purposes of those Acts—

(a) the Railways Clause Consolidation Act, 1845, except sections 7 to 15, 46 to 62, 65, 66, 112, 113, 162 and 163;

(b) sections 1 to 3, 13, 15, 16, 18 and 19 of the Railways Clauses Act, 1863.".

(2) In section 69(1)(b) of the Act of 1967, after the words "by virtue of" there shall be inserted the words " section 67B or ".

(3) In section 80 of the Act of 1967, after subsection (1) there shall be inserted the following subsection—

"(1A) Nothing in Part VA—

(a) affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown; or

(b) authorises the taking, using or entering of, or interference with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners.".

(4) After Schedule 1 to the Act of 1967 there shall be inserted the following Schedule—

"SCHEDULE 1A Section 67I.

MODIFICATIONS OF ARTICLE 63(1) TO (3) OF, AND SCHEDULE 6 TO, THE ROADS (NORTHERN IRELAND) ORDER 1980 FOR THE PURPOSES OF SECTIONS 67A, 67G AND 67H

1. References to the said Schedule 6 shall be construed as references to that Schedule as modified by this Schedule.

2. In Article 63—

(a) in paragraph (1) for sub-paragraphs (a) to (g) substitute—

"(a) section 67A(2) (construction of bridges and tunnels in relation to navigable waters);

(b) section 67G(1) (diversion of navigable watercourses);

(c) section 67H (extinguishment of certain public rights over navigable waters and foreshore);" ;

(b) in paragraph (2)—

(i) for the words "Article 53 and Schedule 4" substitute the words " section 67B ", and

(ii) omit the words from "so however" to the end.

3. In Schedule 6—

(a) in paragraph 1 for the words from "the road" to "or tunnel" substitute the words " the proposed bridge or tunnel, or the foreshore or navigable watercourse ";

(b) in paragraph 2—

(i) in sub-paragraph (1)(a) for the words "any road, bridge, tunnel" substitute the words " any proposed bridge or tunnel, or any ", and after the word "is" insert the words " , or is to be , ";

(ii) in sub-paragraph (1)(b) for the words "Article 6" substitute the words " section 67H ",

(iii) in sub-paragraph (1)(c) for the words "Article 4(1), 5(1) or 6" substitute the words " section 67A, 67G or 67H ";

(iv) in sub-paragraph (3) omit the words from the beginning of head (a) to "or 6", and head (b);

(c) omit paragraph 3;

(d) in paragraph 6 for the words from "any road" to "tunnel" substitute the words " any proposed bridge or tunnel or any "."

Grants towards duty charged on bus fuel

17. In section 14(7) of the Finance Act (Northern Ireland) 1966—

(a) for the definition of "bus service" there shall be substituted—

"" bus service " means a service available to the general public for the carriage of passengers by road at separate fares, on which there is available to any passenger a journey of such length—

(i) that he is set down at a place less than 30 miles, measured in a straight line, from the place where he was taken up; and

(ii) that no point on the route between those places is 30 miles or more, measured in a straight line, from either of those places;

and does not include any part of a service as regards which taken in isolation from the whole the aforesaid requirements as to the available length of journey are not satisfied;";

(b) the definition of "prescribed" shall be omitted.

Roads

Art. 18 rep. by 1993 NI 15

Minor amendments

19.—(1) Article 24(1) of the Private Streets (Northern Ireland) Order 1980 shall have effect, and be deemed always to have had effect, with the substitution for the words Article 25(1)" of the words " Article 25(2) ".

(2) Paragraph 18A of Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (which was inserted into that Act by Article 34 of the Private Streets (Northern Ireland) Order 1980) shall have effect, and be deemed always to have had effect, with the substitution for "1979" (enacted in error for "1980") of " 1980 ".

Miscellaneous

Article 20—Repeals

S C H E D U L E S

Schedule 1 rep. by 1996 NI 10, 1997 NI 2

Schedule 2 rep. by 1993 NI 15

Schedule 3—Repeals

Status:
Point in time view as at 01/01/2006.

Changes to legislation:
There are currently no known outstanding effects for the The Road Traffic, Transport and Roads (Northern Ireland) Order 1984.