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STATUTORY INSTRUMENTS

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**1991 No. 1220**

**The Planning(Northern Ireland) Order 1991**

**PART IX**

**ROADS**

**Orders extinguishing right to use vehicle on road**

**100.**—(1) The Department may, for the purpose of improving the amenity of any area, by order provide for the extinguishment of any right which persons may have to use vehicles on a road, being a road other than a trunk road or a special road.

(2) An order under paragraph (1) may include such provision as the Department thinks fit for permitting the use on the road of vehicles (whether mechanically propelled or not) in such cases as may be specified in the order, notwithstanding the extinguishment of any such right as is mentioned in that paragraph; and any such provision may be framed by reference to particular descriptions of vehicles, or to particular persons by whom, or on whose authority, vehicles may be used, or to the circumstances in which, or the times at which, vehicles may be used for particular purposes.

(3) No provision contained in, or having effect under, any transferred provision, being a provision prohibiting or restricting the use of footpaths, shall affect any use of a vehicle on a road in relation to which an order made under paragraph (1) has effect, where the use is permitted in accordance with provisions of the order included by virtue of paragraph (2).

(4) Where an order is made under paragraph (1) the Department shall place or cause to be placed on or near the road to which the order relates such traffic signs as are necessary—

- (a) to warn traffic that the road is subject to the restrictions or prohibitions specified in the order;
- (b) to indicate the nature and extent of those restrictions or prohibitions.

(5) Any person who uses a vehicle or causes or permits a vehicle to be used in contravention of an order made under paragraph (1) shall be guilty of an offence under the Road Traffic (Northern Ireland) Order 1981 and be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) Where the Department revokes an order under paragraph (1), the effect of the order shall be to reinstate any right to use vehicles on the road, being a right which was extinguished by virtue of the order under that paragraph.

(7) Any order made under this Article may contain provisions for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across the road to which the order relates.

(8) This Article shall have effect without prejudice to—

- (a) any power conferred on the Department under any other enactment to authorise the stopping up or diversion of a road; or
- (b) Article 102.

(9) In this Article “traffic sign” and “vehicle” have the same meanings as in the Road Traffic (Northern Ireland) Order 1981.

### **Provision of amenity for road reserved to pedestrians**

**101.**—(1) Where in relation to a road an order has been made under Article 100, the Department may carry out and maintain any such works on or in the road, or place on or in it any such objects or structures, as appear to it—

- (a) to be expedient for the purposes of—
  - (i) giving effect to the order;
  - (ii) enhancing the amenity of the road and its immediate surroundings; or
  - (iii) providing a service for the benefit of the public or a section of the public; or
- (b) to be otherwise desirable for a purpose beneficial to the public.

(2) The powers exercisable by the Department under this Article shall extend to—

- (a) laying out any part of the road with lawns, trees, shrubs and flower beds;
- (b) providing toilet facilities and facilities for recreation or refreshment;
- (c) providing trading kiosks and deriving income therefrom; and
- (d) providing directional maps or plans.

(3) The Department may so exercise its powers under this Article as to restrict the access of the public to any part of the road, but shall not so exercise them as—

- (a) to prevent persons from entering the road at any place where they could enter it before the order under Article 100 was made; or
- (b) to prevent the passage of the public along the road; or
- (c) to prevent normal access by pedestrians to premises adjoining the road; or
- (d) to prevent any use of vehicles which is permitted by an order made under that Article and applying to the road; or
- (e) to prevent statutory undertakers from having access to any works of theirs under, in, on, over, along or across the road.

(4) An order under Article 100(6) may make provision requiring the removal of any obstruction of the road resulting from the exercise by the Department of its powers under this Article.

(5) A district council may, with the consent of the Department, exercise any of the powers of the Department under this Article.

### **Extinguishment of public rights of way**

**102.**—(1) Where any land has been acquired or appropriated for planning purposes and is for the time being held by the Department for the purposes for which it was acquired or appropriated, the Department may by order extinguish any public right of way over the land where it is satisfied that the extinguishment of the right of way is necessary for the proper development of the land.

(2) In this Article any reference to the acquisition or appropriation of land for planning purposes shall be construed in accordance with Article 87(9) as if this Article were in Part VII.

### **Procedure for making orders under Article 100 or 102**

**103.**—(1) Before making an order under Article 100 or 102 the Department shall publish in at least one newspaper circulating in the relevant area a notice—

- (a) stating the general effect of the order;

- (b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person at all reasonable hours during a period of 28 days from the date of publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Department object to the making of the order.
- (2) Not later than the date on which that notice is so published, the Department shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on—
- (a) every district council in whose area any land to which the order relates is situated;
  - (b) any gas or electricity undertakers having any cables, mains, pipes, or wires laid along, across, under or over any land over which a right of way is to be extinguished, under the order; and
  - (c) the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed along, across, under or over any such land.
- (3) The Department may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.
- (4) After considering any objections to the order which are not withdrawn and, where a public local inquiry is held, the report of the planning appeals commission, the Department may make the order either without modification or subject to such modifications as it thinks fit.
- (5) Where the Department makes an order under Article 100 or 102 the Department shall publish, in the manner specified in paragraph (1), a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours; and paragraph (2) shall have effect in relation to any such notice as it has effect in relation to a notice under paragraph (1).
- (6) In this Article “the relevant area”, in relation to an order, means the area in which any land to which the order relates is situated.

### **Telecommunication apparatus**

- 104.**—(1) Where an order is made under Article 102 and immediately before the date on which the order became operative there was, under, in, on, over, along or across the right of way any telecommunication apparatus kept installed for the purposes of a telecommunications code system, the operator of that system shall have the same powers in respect of that apparatus as if the order had not become operative; but the Department shall be entitled to require the alteration of the apparatus.
- (2) If the operator of a telecommunications code system removes any telecommunication apparatus in circumstances in which paragraph (1) applies and serves a notice on the Department notifying the Department of the removal, the operator shall be entitled to recover from the Department the expense of providing in substitution for the apparatus and any telecommunication apparatus connected therewith which is rendered useless in consequence of the removal, any telecommunication apparatus in such other place as the operator may require.
- (3) Paragraph 1(2) of the telecommunications code (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purpose of that code.
- (4) Paragraph 21 of the telecommunications code (restriction on removal of apparatus) shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any telecommunication apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.
- (5) Paragraph 1 of Schedule 4 to the Telecommunications Act 1984 shall apply for the interpretation of this Article and paragraph (2)(c) of Article 103 as it applies for the interpretation of that Schedule.