
STATUTORY INSTRUMENTS

1993 No. 3160

The Roads (Northern Ireland) Order 1993

PART II

CONSTRUCTION, MAINTENANCE AND CLASSIFICATION OF ROADS

Maintenance of roads

Duty to remove snow, soil, etc. which has fallen on a road

10.—(1) If an obstruction occurs in a road from accumulation of snow or from the falling down of banks on the side of the road, or from any other cause, the Department shall remove the obstruction.

(2) If the Department fails to remove an obstruction which it is its duty under this Article to remove, a court of summary jurisdiction may, on an application made by any person, declare the thing complained of to be an obstruction and state a period (not being less than 24 hours) within which the court considers it reasonable, having regard to all the circumstances of the case, that the obstruction should be removed.

(3) In considering whether to make a declaration under this Article and, if so, what period to state for the removal of the obstruction, the court shall in particular have regard to—

- (a) the character of the road to which the complaint relates, and the nature and amount of the traffic by which it is ordinarily used;
- (b) the nature and extent of the obstruction; and
- (c) the resources of manpower, vehicles and equipment for the time being available to the Department for work on roads and the extent to which those resources are being, or need to be, employed by the Department on such work elsewhere.

(4) Where the Department has a duty under this Article to remove an obstruction from a road, it may—

- (a) take any reasonable steps (including the placing of lights, signs and fences on the road) for the purpose of warning users of the road of the obstruction;
- (b) dispose of anything removed in carrying out its duty, unless the thing is claimed by its owner before the expiration of 7 days from the date of its removal;
- (c) without prejudice to Article 48 but subject to paragraph (5), recover from the owner of the thing which caused or contributed to the obstruction any expenses reasonably incurred by it as respects the obstruction in carrying out its duty and in exercising any powers conferred by this paragraph.

(5) No expenses shall be recoverable under paragraph (4)(c) from a person who proves that he took reasonable care to secure that the thing in question did not cause or contribute to the obstruction.

(6) An application under paragraph (2) shall be initiated by notice in accordance with Part VII of the Magistrates' Courts (Northern Ireland) Order 1981(1).

(7) Nothing in this Article operates to confer on any person a right of action in tort against the Department for failing to carry out any duty imposed on it under this Article.