
STATUTORY INSTRUMENTS

1993 No. 3160

The Roads (Northern Ireland) Order 1993

PART II

CONSTRUCTION, MAINTENANCE AND CLASSIFICATION OF ROADS

Construction of roads

Construction of new roads

3. The Department may construct a new road where it appears to the Department expedient to do so for the purpose of facilitating road traffic.

Construction of bridges and tunnels in relation to navigable waters

4.—(1) The Department may by order provide for the construction as part of a road or as part of a new means of access to any land from a road—

- (a) of a bridge over any navigable waters specified in the order (whether the sea, a river or other navigable waters); or
- (b) of a tunnel under any such waters.

(2) An order under paragraph (1)—

- (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.

(3) Before making an order under paragraph (1) the Department shall take into consideration the reasonable requirements of navigation over the waters affected by the order.

Diversion of navigable watercourses

5.—(1) The Department may by order provide for the diversion of 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, improvement or alteration of a road;
- (b) the construction of a bridge over or tunnel under any navigable waters;
- (c) the provision of a new means of access to any land from a road;
- (d) the provision of a maintenance compound or service area;
- (e) the provision of a parking place for vehicles under Article 104(1) of the Road Traffic Order; or

(f) the exercise by the Department of its powers under Article 115.

(2) Where a navigable watercourse is to be diverted in pursuance of an order made under paragraph (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 an order under Article 4, 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 paragraph (1) the Department may divert any part of a navigable watercourse it may also divert any towing path or way adjacent to that part.

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

- (a) works for the diversion of a navigable watercourse have been carried out by the Department in accordance with an order made under paragraph (1); and
- (b) any person has suffered damage in consequence of the works mentioned in subparagraph (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 Department under this paragraph in respect of the damage where works of the type mentioned in paragraph (4) are carried out unless the works were carried out on land, or in exercise of rights, vested in the Department under Article 110 or 111 or vested in the Department or any of its predecessors in title under any former statutory provision corresponding to Article 110 or 111.

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

Extinguishment of certain public rights over navigable waters and foreshore

6. The Department may, if it considers it necessary or desirable to do so in connection with any matter mentioned in Article 5(1), by order extinguish—

- (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.

Power to conduct experiments

7.—(1) The Department may, either by itself or through any authority or organisation approved by it, conduct experiments or trials—

- (a) for the improvement of the construction of roads;
- (b) for testing the effect of various classes of vehicles on various types of roads; or
- (c) for any other purpose connected with any function of the Department in respect of roads, and may construct such roads and works, erect such plant and provide such accommodation as may be necessary.

(2) Subject to paragraph (3), any person who suffers damage by reason of anything done in the exercise of the powers conferred by this Article shall be entitled to recover compensation from the Department in respect of that damage.

(3) A person shall not be entitled to compensation under paragraph (2) if the damage was caused by his own negligence; and if his own negligence contributed to the damage the compensation shall be reduced accordingly.