
STATUTORY INSTRUMENTS

1993 No. 3160

The Roads (Northern Ireland) Order 1993

PART III

SPECIAL ROADS

Toll orders

Toll orders

28.—(1) The Department may make an order authorising the charging of tolls (a “toll order”) in relation to a special road proposed to be provided by the Department.

(2) The order shall state whether it authorises the charging of tolls by a concessionaire or by the Department.

(3) Schedule 3 has effect as to the making of a toll order.

(4) The proceedings required to be taken in relation to a toll order shall (so far as practicable) be taken concurrently with the proceedings required to be taken in relation to the designation order in respect of the road to which the toll order relates.

(5) The Department shall not make the designation order or the toll order unless it makes them both.

The toll period

29.—(1) A toll order shall provide for tolls to be chargeable for a period (the “toll period”) specified in or determined in accordance with the order.

(2) The order may provide for the toll period to end—

(a) on a date, or at the end of a period, specified in the order; or

(b) on a date determined by reference to—

(i) the achievement of a specified financial objective; or

(ii) the passage of a specified number of vehicles;

or such other factors, or combinations of factors, as may be specified in the order; or

(c) on whichever is the earlier or later of dates specified in or determined in accordance with the order.

(3) In the case of a toll order authorising the charging of tolls by a concessionaire, it is for the Department to decide any matter relevant to determining the date on which the toll period ends.

Amount of tolls chargeable by concessionaire

30.—(1) A toll order authorising the charging of tolls by a concessionaire shall specify the maximum tolls which may be charged if, and only if, the road to which the order relates consists of or includes a major crossing to which there is no reasonably convenient alternative.

(2) The Department may make provision by regulations as to what is to be treated as a major crossing for this purpose and as to the circumstances in which another route is to be taken to be, or not to be, a reasonably convenient alternative.

(3) Subject to any such regulations, a major crossing means a crossing of navigable waters more than 100 metres wide and a reasonably convenient alternative means another crossing (other than a road ferry) which is free of toll and is within five miles of the crossing in question.

For this purpose—

- (a) the width of tidal waters shall be ascertained by reference to the mean high-water mark and the width of other waters by reference to the ordinary limits of the waters; and
- (b) the distance between two crossings shall be taken to be the shortest distance between the centre lines of the two crossings.

(4) The order shall specify the maximum tolls which may be charged for the use of the crossing or any length of the road including the crossing; and if the condition as to absence of a reasonably convenient alternative is satisfied in relation to certain types of traffic only, the order shall make provision only in relation to those types of traffic.

If that condition ceases to be satisfied, generally or in relation to certain types of traffic, the provisions of the order as to maximum tolls shall cease to apply, or cease to apply to that type of traffic, for so long as that remains the case.

(5) The order may specify different maxima for different descriptions of traffic (which need not correspond with the classes of traffic prescribed by the designation order) and may provide for the amounts to be varied in accordance with a formula specified in the order.

(6) Regulations under this Article shall not apply in relation to an order if notice of the draft order, and of the relevant draft designation order, have been published before the regulations come into operation.

Amount of tolls chargeable by Department

31.—(1) A toll order authorising the charging of tolls by the Department shall in every case specify the maximum tolls which may be charged for the use of the road or any length of the road in respect of which tolls are charged.

(2) The order may specify different maxima for different descriptions of traffic (which need not correspond with the classes of traffic prescribed by the designation order) and may provide for the amounts to be varied in accordance with a formula specified in the order.

Application of statutory provisions relating to monopolies, etc.

32.—(1) For the purposes of—

- (a) the Fair Trading Act 1973⁽¹⁾;
- (b) the provisions of the Competition Act 1980⁽²⁾ relating to anti-competitive practices; and
- (c) the provisions of the Restrictive Trade Practices Act 1976⁽³⁾ relating to restrictive agreements,

(1) 1973 c. 41

(2) 1980 c. 21

(3) 1976 c. 34

a person authorised by a toll order to charge tolls shall be deemed to supply a service, namely, providing the facility to use the road in return for the toll charged.

(2) Where the toll charged is subject to a maximum specified by the toll order, the Fair Trading Act 1973 has effect—

- (a) as if the service deemed by paragraph (1) to be supplied were among those listed in Part I of Schedule 7 to that Act (services excluded from Director's power to make monopoly reference); and
- (b) as if, in relation to any such service, the Head of the Department were among the persons listed in section 51(3) of that Act (persons whose concurrence is required for monopoly reference by the Secretary of State).

Variation or revocation of toll order

33.—(1) Subject to paragraphs (2) and (3), a toll order may be varied or revoked by an order made by the Department under this Article.

(2) A toll order may not be varied so as to extend the toll period; and a toll order which does not authorise the charging of tolls in respect of the whole length of the special road to which it relates may not be varied so as to extend the length of road in respect of which tolls may be charged.

(3) A toll order relating to a road subject to a concession may not be varied or revoked without the consent of the concessionaire.

(4) An order under this Article may contain such supplementary, incidental and transitional provisions as appear to the Department to be necessary or expedient.

(5) An order under this Article shall be subject to negative resolution and the provisions of Schedule 3 shall not apply to such an order.

Extension toll orders

34.—(1) The Department may make an order (an “extension toll order”) authorising the charging of tolls by the Department in relation to a road which is or has been subject to a concession.

(2) Any extension toll order must be made so as to come into operation not later than—

- (a) the end of the toll period under the previous toll order; or
- (b) where the concession agreement terminates or is terminated before the end of that period, two years after the termination of the agreement,

whichever is the earlier.

(3) The following provisions of this Part apply in relation to an extension toll order as in relation to a toll order under Article 28(1)—

- Article 29(1) and (2) (the toll period);
- Article 31 (amount of tolls chargeable by Department);
- Article 32 (application of statutory provisions relating to monopolies, etc.);
- Article 33 (variation or revocation of order);
- Articles 35 to 39 (further provisions with respect to tolls); and
- Article 40 (annual report by Department).

(4) An extension toll order shall be subject to negative resolution and the provisions of Schedule 3 shall not apply to such an order.