
STATUTORY INSTRUMENTS

1993 No. 3160

The Roads (Northern Ireland) Order 1993

PART IV

IMPROVEMENT AND SAFETY OF ROADS

Safety of roads

Removal of fallen structures, trees, etc.

48.—(1) Where from any cause—

- (a) any wall, fence or other structure (whether of the same kind as those mentioned or not) erected on land adjoining a road; or
- (b) any tree, or branch or bough of a tree, growing on land adjoining a road or in a road,

falls upon or across the road so as to cause danger or obstruction to persons or vehicles using the road, the Department may, without giving notice to the owner or occupier of the land or to any other person, effect the removal of that structure, tree, branch or bough.

(2) Anything removed from a road by the Department under paragraph (1) may be replaced by it upon the land on which it was erected or grew.

(3) Where the Department exercises its powers under paragraph (1), it may recover from the owner or occupier of the land any expenses thereby reasonably incurred by it.

Prevention of obstruction to view, etc.

49. Where the Department considers it necessary, for the prevention of danger arising from obstruction—

- (a) to traffic upon a road, or
- (b) to the view of persons entering or using a road,

to impose restrictions with respect to any land other than restrictions imposed by or under any other provision of this Order, the Department may serve a notice in accordance with Schedule 4.

Removal of potentially dangerous trees and hedges

50. Where the Department is satisfied that any tree or hedge adjoining, adjacent to, or growing on a road—

- (a) is dead, damaged, diseased or insecurely rooted and by reason of its condition is likely to cause danger to persons using the road;
- (b) obstructs or interferes with the light from any public lamp;
- (c) endangers or obstructs the passage of vehicles or pedestrians, or obstructs the view of drivers of vehicles; or

- (d) otherwise prejudices the safety or convenience of persons using the road or prejudices the road,

the Department may serve a notice on the owner of the tree or hedge, or on the occupier of the land on which such tree or hedge is growing, requiring him to remove the tree or hedge or to lop the tree or cut back the hedge to such an extent as will remove the obstruction or remedy any other matter to which the notice relates.

Dangerous land adjoining roads

51. If the Department is of the opinion—

- (a) that a building, wall or other structure is in such a condition as to be dangerous to persons using a road;
- (b) that there is in or on any land adjoining a road an unfenced or inadequately fenced source of danger to persons using the road; or
- (c) that there is on any land adjoining a road any illumination which is a source of danger to persons using the road,

the Department may serve a notice on the owner of the structure or the owner or occupier of the land requiring him to carry out such works of repair, protection, removal, alteration or enclosure as will obviate the danger.

Prevention of solid matter being washed on to roads

52. The Department may serve a notice on the owner or occupier of any land adjoining a road, requiring him to construct and lay such drains, erect such barriers or embankments or do such other works as are necessary to prevent any solid matter from such land from falling upon, or being washed or carried on to, the road, or into any drain, sewer or gully therein, in such quantities as may cause danger or substantial inconvenience to users of the road, or choke up the drain, sewer or gully.

Prevention of water falling or flowing on to roads

53.—(1) The Department may serve a notice on the owner or occupier of any building adjoining a road requiring him—

- (a) to erect or repair such gutters or downpipes on the building;
- (b) to construct such gutters in the footway of the road; or
- (c) to carry out such other works,

as are necessary to prevent—

- (i) water from the roof or any other part of the building falling upon persons using the road;
- (ii) so far as is reasonably practicable, surface water from the building flowing on to, or over, the road.

(2) Every gutter in the footway of a road shall be so constructed and kept in such good condition and repair by the owner or occupier of any building served by the gutter that it does not constitute a danger or a nuisance to road users.

(3) The Department may serve a notice on the owner or occupier of any building adjoining a road requiring him to carry out such works in relation to a gutter serving that building as are necessary to comply with paragraph (2).

(4) The Department may serve a notice on the owner or occupier of land adjoining a road, requiring him to do such works as are necessary to prevent, so far as is reasonably practicable, surface water from the land flowing onto or over the road.

(5) The following are hereby repealed, namely—

- (a) section 142 of the Belfast Corporation Act 1845(1); and
- (b) any other transferred local provision imposing obligations on an owner or occupier of a building in relation to the construction, maintenance or repair of gutters serving the building in footways adjoining the building.

Removal of barbed wire

54.—(1) Where on any land adjoining a road there is a fence made with barbed wire, or having barbed wire in it, and the wire is, in the opinion of the Department, likely to be a danger to persons or animals using the road, the Department may serve on the occupier of the land a notice requiring him to—

- (a) remove the barbed wire; or
- (b) carry out such works as are necessary to prevent the barbed wire from being a danger to persons or animals using the road.

(2) For the purposes of this Article “barbed wire” means any wire with spikes or jagged projections.

Removal of projections from buildings

55.—(1) The Department may serve a notice on the owner or occupier of any building requiring him to remove or alter any projection erected or placed against or in front of a building if the projection—

- (a) is, or is likely to be, an obstruction to safe and convenient passage along any road; or
- (b) is, by reason of its being insecurely fixed or of its defective construction or otherwise, a source of danger to persons or vehicles using the road.

(2) In this Article “projection” includes any projecting window, porch, canopy, awning, sign, sign post, sign iron, showboard, gate, door, bar, wall, fence or step, or any other obstruction or projection.

Doors, etc. opening onto road

56.—(1) A door, gate or bar shall not, except with the consent of the Department, be so erected on land adjoining a road as to open outwards onto the road.

(2) Where a door, gate or bar is erected in contravention of paragraph (1) the Department may serve a notice on the owner or occupier of the land requiring him to alter the door, gate or bar so that it does not open outwards onto the road.

(3) Any person aggrieved by the refusal of the Department to give its consent under paragraph (1) may, within 21 days of receiving notice thereof, appeal to the planning appeals commission by notice in writing under this Article.

(4) Paragraphs (2) and (3) of Article 84 apply to an appeal under this Article as they apply to an appeal under that Article.

Retaining walls

57.—(1) This Article applies to a retaining wall any part of which is within 6 metres of a road and which—

- (a) is at any point of a height of one metre or more above the level of the ground at the boundary of the road nearest that point; or

(b) serves, or is intended to serve, as a support for earth or other material which supports a road.

(2) No retaining wall, being a wall which when erected will be a retaining wall to which this Article applies, shall be erected otherwise than in accordance with plans, sections and specifications approved by the Department.

(3) Any person who erects a retaining wall in contravention of paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Where—

(a) a retaining wall to which this Article applies by virtue of paragraph (1)(a) is in such a condition as to constitute a danger to persons using the road; or

(b) a retaining wall to which this Article applies by virtue of paragraph (1)(b) is in such a condition as to constitute a danger to the support and stability of a road,

the Department may, by notice served on the owner or occupier of the land on which that wall is situated, require him to carry out such works as will obviate the danger.

(5) Any person aggrieved by the refusal of the Department to give its approval under paragraph (2) may, within 21 days of receiving notice thereof, appeal to the planning appeals commission by notice in writing under this Article.

(6) Paragraphs (2) and (3) of Article 84 apply to an appeal under this Article as they apply to an appeal under that Article.

(7) In this Article “retaining wall” means a wall, not forming part of a permanent building, which serves, or is intended to serve, as a support for earth or other material on one side only.

Notices under Articles 50 to 57 and appeals

58.—(1) This Article applies to notices served under any of Articles 50 to 57.

(2) A notice shall—

(a) describe the works to be carried out;

(b) require the person upon whom it is served to carry out those works within the specified period; and

(c) require that person within that period to do such other things necessary for or connected with the carrying out of those works as may be specified in the notice.

(3) Any person upon whom a notice is served who is aggrieved by any of its requirements may appeal within 21 days of its service to a court of summary jurisdiction.

(4) Subject to any order made on appeal, if a person upon whom a notice is served fails to comply with any of its requirements—

(a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale, and if after conviction the failure continues he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 2 on the standard scale for each day on which the failure continues;

(b) the Department may execute such works as are necessary to comply with the requirements of the notice and may recover from that person any expenses thereby reasonably incurred by it.

(5) Notice of the right of appeal under paragraph (3) shall be given in the notice.

(6) In this Article “specified period” means such period, being not less than 21 days from the service of the notice, as the Department specifies in the notice.

Removal of nuisances

59.—(1) Where any thing is placed on a road so as to constitute a nuisance, the Department may by notice require the person who placed it there to remove it immediately and if he fails to comply with the notice the Department may make a complaint to a court of summary jurisdiction for a removal and disposal order under this Article.

(2) Where the Department considers that any thing placed on a road without lawful authority constitutes a danger to persons using the road the Department may remove the thing and may make a complaint to a court of summary jurisdiction for a disposal order under this Article.

(3) A court of summary jurisdiction may, on a complaint made under this Article, make an order authorising the Department either to remove the thing in question and dispose of it or, as the case may be, to dispose of the thing in question.

(4) Where in accordance with an order under paragraph (3) any thing is disposed of by sale, the expenses of removal and sale shall be defrayed out of the proceeds thereof and the balance of the proceeds (if any) shall be given to the owner if known and if not shall be applied in the same manner as is provided for with respect to fines by section 20 of the Administration of Justice Act (Northern Ireland) 1954(2).

(5) Where in accordance with an order under paragraph (3) the Department disposes of any thing

- (a) by sale and the proceeds are not sufficient to defray the Department's expenses; or
- (b) in some manner other than by sale,

the Department may recover from the person who placed that thing on the road any expenses reasonably incurred by it in removing and disposing of the thing.

(6) For the purposes of this Article a thing may be treated as having been placed on a road notwithstanding that it is on wheels.

Damage caused to road by excavations, etc. on adjoining land

60. Where a road is damaged by or in consequence of any excavation or other works on land adjoining the road, the Department may make good the damage and recover from the owner or occupier of the land any expenses thereby reasonably incurred by it.