
STATUTORY INSTRUMENTS

1993 No. 3160

The Roads (Northern Ireland) Order 1993

PART VII

LAWFUL AND UNLAWFUL INTERFERENCE WITH ROADS

Other interference with roads

Causing damage to roads

85.—(1) Any person who, without lawful authority or reasonable excuse, deposits anything whatsoever on a road and thereby causes damage to it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who causes damage to a road by digging, raising or carrying away any gravel, stones, sand or other materials from the side of the road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where—

(a) a person has caused damage to a road in contravention of paragraph (1) or (2); and

(b) the Department considers that the damage constitutes a danger to persons using the road,

then (whether or not proceedings are instituted for an offence under paragraph (1) or (2)) the Department may—

(i) carry out such works as are necessary to obviate the danger; and

(ii) recover from that person any expenses thereby reasonably incurred by it.

(4) Where a person convicted of an offence under paragraph (1) or (2) fails, within such period as the court may allow, to make good any damage to the road, the Department may—

(a) make good any damage to the road; and

(b) recover from that person any expenses thereby reasonably incurred by it.

(5) In this Article “road” includes any part of an embankment supporting a road and any part of a bank which flanks a road.

Vehicle-crossings over footways and verges

86.—(1) Where the occupier of any land adjoining or having access to a road habitually takes or permits to be taken a mechanically-propelled vehicle across a kerbed footway or a verge in the road to or from that land, the Department may serve a notice on the owner and the occupier of that land requiring that such works be executed for the construction of a vehicle-crossing over the footway or verge as may be specified in the notice.

(2) Article 58 applies to a notice served under this Article as it applies to a notice served as mentioned in paragraph (1) of that Article.

Advertisements, pictures, signs, etc.

87.—(1) Any person who, without lawful authority—

- (a) paints or otherwise inscribes or affixes any picture, letter, sign or mark; or
- (b) displays any advertisement,

upon the surface of a road or upon any tree, structure or other works in or on a road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where any person contravenes paragraph (1), the Department may (whether or not any proceedings are instituted for an offence under that paragraph)—

- (a) remove anything painted, inscribed, affixed or displayed in contravention of paragraph (1) and make good any damage done to the road or to the tree, structure or other works in question; and
- (b) recover from that person any expenses thereby reasonably incurred.

(3) The Department may serve on the owner of any structure or other works in or on a road a notice requiring him, within 21 days of the service of the notice, to remove anything painted, inscribed, affixed or displayed on the structure or other works in contravention of paragraph (1).

(4) Where a person on whom a notice is served under paragraph (3) fails to comply with that notice within the period specified in that paragraph, the Department may—

- (a) do anything which that person has failed to do; and
- (b) recover from that person any expenses thereby reasonably incurred by it.

(5) Paragraph (1) does not apply to an advertisement relating specifically to a pending parliamentary election or to a pending election to the Assembly or a district council.

(6) Where an advertisement mentioned in paragraph (5) is displayed upon the surface of a road or upon a tree, structure or other works in or on a road in contravention of regulations under Article 67 of the Planning Order, the Department may serve a notice on the person who displayed the advertisement requiring him to remove the advertisement within 21 days of the service of the notice.

(7) Where any person on whom a notice is served under paragraph (6) fails to comply with that notice within the period specified in that paragraph, the Department may—

- (a) do anything which that person has failed to do; and
- (b) recover from that person any expenses thereby reasonably incurred by it.

(8) Paragraphs (3) and (4) apply to any advertisement mentioned in paragraph (5) which is displayed in contravention of regulations under Article 67 of the Planning Order as they apply in relation to anything displayed in contravention of paragraph (1).

(9) For the purposes of this Article a person displays an advertisement if—

- (a) he undertakes or maintains, whether by himself or by a servant or agent, the display of the advertisement; or
- (b) his goods, trade, business or other concerns are given publicity by the advertisement,

but a person shall not be guilty of an offence under paragraph (1) by reason only that his goods, trade, business or other concerns are given publicity by the advertisement, if he proves that it was displayed without his knowledge or consent.

(10) In this Article—

- “advertisement” has the same meaning as in Article 2(2) of the Planning Order;
- “remove” includes obliterate;
- “road” includes any retaining wall or flank wall belonging to a road.

(11) Section 1(1)(c) of the Printed Documents Act (Northern Ireland) 1970(1) shall, in its application to an advertisement printed by any person, have effect as if the reference to a member of the Royal Ulster Constabulary included a reference to the Department acting in pursuance of its functions under this Article.

Obstruction of roads

88. Any person who, without lawful authority or reasonable excuse, in any way intentionally or negligently obstructs the free passage along a road shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Lighting fires or discharging fireworks near a road

89. Where—

(a) any person, without lawful authority or reasonable excuse, lights a fire or discharges a firework within 15 metres of the centre of a road; and

(b) in consequence any person or traffic using the road is injured, endangered or interrupted, the first-mentioned person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Pitching stalls or offering things for sale on a road

90.—(1) Any person who, on a road, without lawful authority—

(a) pitches a booth, stall or stand; or

(b) subject to paragraph (2), offers or exposes anything for sale, or for the purpose of sale,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) A person shall not be guilty of an offence under paragraph (1)(b) if he offers or exposes anything for sale in circumstances where, by virtue of the proviso to section 1(1) of the Street Trading (Regulation) Act (Northern Ireland) 1929(2), he would not be required to obtain a licence under that section authorising him so to do.

(3) Any person convicted of an offence under paragraph (1) shall, within such period as the court may allow, remove from the road any booth, stall or stand, or any thing offered or exposed for sale, and if he fails to do so he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding one-tenth of level 2 on the standard scale for each day upon which that failure continues.

(4) Where a person who has been convicted of an offence under paragraph (1) becomes liable to prosecution for an offence under paragraph (3), the Department may itself do anything which he has failed to do, and may recover from him any expenses thereby reasonably incurred by it.

(5) Where—

(a) any thing has been removed by the Department under paragraph (4); and

(b) it has not been recovered by its owner within 21 days from the day on which it was removed,

the Department may dispose of it in such manner as the Department thinks fit.

(6) Where any thing is disposed of by sale under paragraph (5) 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

(1) 1970 c. 30 (N.I.)

(2) 1929 c. 9 (N.I.)

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(3).

(7) Where the Department disposes of any thing under paragraph (5)—

- (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 owner thereof any expenses reasonably incurred by it in removing and disposing of the thing.

Encamping on a road

91.—(1) Any person who without reasonable excuse encamps, or maintains an encampment consisting of a tent, caravan or any other form of shelter, on a road shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where a person has contravened paragraph (1), the Department may serve on him a notice requiring him to remove the encampment within such period as may be specified in the notice.

(3) Where, on a complaint made by the Department, a court of summary jurisdiction is satisfied that a person—

- (a) has contravened paragraph (1); and
- (b) has failed to comply with a notice served on him under paragraph (2),

the court may make an order requiring that person to remove the encampment.

Playing games on a road

92. Any person who plays a game on a road to the danger of any person using the road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Animals on a road

93.—(1) Any person who—

- (a) turns loose any animal onto a road; or
- (b) by negligence or illusage in driving any animal on a road causes any person to be injured or property to be damaged by such animal,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If any animal is at any time found wandering or lying on or at the side of the road, the keeper thereof shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) For the purposes of paragraph (2) it shall be a defence for the keeper of an animal to show—

- (a) that he took reasonable precautions to prevent the animal from wandering onto the road; or
- (b) that the animal had wandered onto the road from unfenced land and that—
 - (i) the land is situated in an area where fencing is not customary, and
 - (ii) that he had a right to place the animal on that land.

(4) In this Article—

“animal” means any horse (including pony, ass and mule), cattle, sheep, goat or swine or any deer not in the wild state; and

“keeper” has the same meaning as in Article 2(2)(b) of the Animals (Northern Ireland) Order 1976(4).

Depositing of things on roads

94.—(1) Any person who deposits, or causes or permits to be deposited, building materials, rubble, rubbish, compost, dung or any other thing whatsoever on a road in such a position as to cause, or be likely to cause, any obstruction or danger, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where—

- (a) a person deposits, or causes or permits to be deposited on a road any thing mentioned in paragraph (1); and
- (b) the Department considers that the thing in question constitutes a danger to persons using the road,

then (whether or not proceedings are instituted for an offence under that paragraph) the Department may remove the thing or take such other steps as are necessary to obviate the danger.

(3) Where—

- (a) a person is convicted of an offence under paragraph (1); and
- (b) he does not, within such period as the court may allow, remove the thing in question from the road,

the Department may itself remove that thing from the road.

(4) The Department may dispose of any thing removed by it under paragraph (2) or (3) in such manner as it thinks fit.

(5) Where any thing is disposed of by sale under paragraph (4) 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(5).

(6) Where the Department disposes of any thing under paragraph (4)—

- (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 deposited that thing on the road any expenses reasonably incurred by it in removing and disposing of the thing.

Matter spilling or flowing onto roads from vehicles or adjoining land

95.—(1) Any person who, being in charge of a vehicle on a road, permits any solid or liquid matter from the vehicle, or being carried on the vehicle, to drop or be spilled on the carriageway of a road in such quantity as to create, or be likely to create, a danger or substantial inconvenience to persons using the road, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) For the purposes of paragraph (1)—

(4) 1976 NI 13
(5) 1954 c. 9 (N.I.)

- (a) a person is in charge of a vehicle if, as owner or otherwise, he has immediate charge or control of the vehicle, or if he is entitled to give orders to the person having such charge or control; and
- (b) “vehicle” includes anything towed by a vehicle.

(3) Any person who intentionally or recklessly permits any filth, dirt, lime, oil or other offensive matter to run or flow onto a road from any adjoining land shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) Where—

- (a) a person permits any matter to drop or be spilled on, or run or flow onto, a road in contravention of paragraph (1) or (3); and
- (b) does not remove that matter as soon as is practicable,

then (whether or not proceedings are instituted for an offence under paragraph (1) or (3)) the Department may—

- (i) remove that matter from the road, and
- (ii) recover from that person any expenses thereby reasonably incurred by it.

(5) The Department may dispose of any matter removed by it under paragraph (4) in such manner as it thinks fit.

(6) Where a person is convicted of an offence under paragraph (3), the Department may serve a notice on him requiring him to carry out such works as are necessary to prevent further matter running or flowing onto a road in contravention of that paragraph.

(7) Article 58 applies to a notice served under paragraph (6) as it applies to a notice served as mentioned in paragraph (1) of that Article.

Control of builders' skips

96.—(1) The owner of a builder’s skip who causes or permits it to be deposited in such a position on a road as to cause or be likely to cause a danger to persons using or entering the road shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) The Department may make regulations specifying conditions subject to which builders' skips may be deposited on roads, and, in particular, conditions relating to—

- (a) the siting of skips,
- (b) the marking on skips of the name and telephone number or address of the owner thereof,
- (c) their dimensions,
- (d) the manner in which they are to be coated with paint or other material for the purpose of making them immediately visible to oncoming traffic,
- (e) the care and disposal of their contents,
- (f) the times at and manner in which they are to be lighted or guarded,
- (g) their removal.

(3) Regulations made under paragraph (2) may specify positions and circumstances in which the owner of a builder’s skip shall not cause or permit it to be deposited on roads without obtaining the consent of the Department.

(4) Where the owner of a builder’s skip contravenes any regulations made under paragraph (2), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Where the commission by any person of an offence under paragraph (1) or (4) is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(6) In any proceedings for an offence under paragraph (1) or (4) it shall, subject to paragraph (7), be a defence for the person charged to prove that the commission of the offence was due to the act or default of another person and that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(7) A person charged with an offence under paragraph (1) or (4) shall not, without leave of the court, be entitled to rely on the defence provided by paragraph (6) unless, within a period ending 7 days before the hearing, he has served on the complainant a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(8) The person to whom a consent is issued under this Article in respect of a builder's skip shall indemnify the Department against any claim in respect of injury, damage or loss arising out of the deposit or presence of that skip on a road, other than a claim in respect of injury, damage or loss which is attributable to the negligence of the Department.

(9) Nothing in this Article shall be taken as authorising the creation of a nuisance or danger to persons using or entering a road.

(10) In this Article and in Article 97—

“builder's skip” means a container designed to be carried on a vehicle and to be placed on a road or other land for the storage of builders' materials, or for the removal and disposal of rubble, waste, household and other rubbish or earth;

“constable” means a member of the Royal Ulster Constabulary or the Royal Ulster Constabulary Reserve;

“owner”, in relation to a builder's skip which is the subject of a hiring agreement, being an agreement for a hiring of not less than one month, or a hire purchase agreement, means the person in possession of the skip under that agreement;

“police officer” means a member of the Royal Ulster Constabulary not below the rank of Inspector.

Removal of builders' skips

97.—(1) Where a builder's skip has been deposited on a road an officer authorised by the Department or a constable in uniform may require the owner of the skip to remove or reposition it, or cause it to be removed or repositioned, notwithstanding that the skip has been deposited on the road in accordance with conditions specified in regulations made under Article 96(2).

(2) A person required to remove or reposition, or cause to be removed or repositioned, a skip under a requirement made by virtue of paragraph (1) shall comply with the requirement as soon as practicable, and if he fails to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) An officer authorised by the Department or a constable in uniform may remove or reposition a builder's skip or cause it to be removed or repositioned.

(4) Where a skip has been removed under paragraph (3), the Department or, as the case may be, a police officer shall, where practicable, notify the owner of its removal, but if the owner cannot be traced, or if after a reasonable period of time after being so notified he has not paid any expenses recoverable from him under paragraph (5) and recovered the skip, the Department or a police officer may dispose of the skip and its contents.

(5) Any expenses reasonably incurred by the Department or a police officer in the removal or repositioning of a skip under paragraph (3) or the disposal of a skip under paragraph (4) may be recovered from the owner of the skip.

(6) The Department or a police officer may retain any skip removed under paragraph (3) until any expenses recoverable by virtue of paragraph (5) in respect of the removal have been recovered.

(7) Any proceeds of such a disposal as is mentioned in paragraph (4) shall be used in the first place to meet the expenses reasonably incurred in the removal and disposal of the skip and its contents and thereafter any surplus shall be given to the person entitled thereto 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⁽⁶⁾.

(8) References in this Article to expenses incurred in the removal of a builder's skip shall include references to expenses incurred in storing the skip until it is recovered by the owner or, as the case may be, disposed of.

⁽⁶⁾ 1954 c. 9 (N.I.)