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STATUTORY INSTRUMENTS

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**1995 No. 3210**

**The Street Works (Northern Ireland) Order 1995**

*Charges, fees and contributions payable by undertakers*

**Charge for occupation of the road where works unreasonably prolonged**

**34.**—(1) The Department may make provision by regulations requiring an undertaker executing street works in a road to pay a charge to the Department where—

- (a) the duration of the works exceeds such period as may be prescribed, and
- (b) the works are not completed within a reasonable period.

(2) For this purpose “a reasonable period” means such period as is agreed by the Department and the undertaker to be reasonable or, in default of such agreement, is determined by arbitration to be reasonable, for completion of the works in question.

In default of agreement, the Department’s view as to what is a reasonable period shall be acted upon pending the decision of the arbitrator.

(3) The regulations may provide that if an undertaker has reason to believe that the duration of works will exceed the prescribed period he may submit to the Department an estimate of their likely duration—

- (a) in the case of other works in connection with the initial placing of apparatus in the street in pursuance of a street works licence, together with his application for the licence,
- (b) in the case of other works (not being emergency works), together with his notice under Article 15 (notice of starting date), or
- (c) in the case of emergency works, as soon as reasonably practicable after the works are begun,

and that the period stated in an estimate so submitted shall be taken to be agreed by the Department to be reasonable unless the Department gives notice, in such manner and within such period as may be prescribed, objecting to the estimate.

(4) The regulations may also provide that if it appears to the undertaker that by reason of matters not previously foreseen or reasonably foreseeable the duration of the works—

- (a) is likely to exceed the prescribed period,
- (b) is likely to exceed the period stated in his previous estimate, or
- (c) is likely to exceed the period previously agreed or determined to be a reasonable period,

he may submit an estimate or revised estimate accordingly, and that if he does so any previous estimate, agreement or determination shall cease to have effect and the period stated in the new estimate shall be taken to be agreed by the Department to be reasonable unless the Department gives notice, in such manner and within such previous as may be prescribed, objecting to the estimate.

(5) The amount of the charge shall be determined in such manner as may be prescribed by reference to the time taken to complete the works and the extent to which the surface of the road is affected by the works.

(6) The regulations may make provision as to the time and manner of making payment of any charge.

(7) The regulations shall provide that the Department may reduce the amount, or waive payment, of a charge in any particular case, in such classes of case as the Department may decide or as may be prescribed, or generally.

(8) The first regulations for the purposes of this Article shall not be made unless a draft of them has been laid before and approved by a resolution of the Assembly.