
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Street Works (Amendment) (Northern Ireland) Order 2007

Reinstatement

Power of street authority to require undertaker to re-surface street

16. After Article 33 of the 1995 Order there is inserted—

“Re-surfacing

Power to require undertaker to re-surface street

33A.—(1) In prescribed circumstances, the street authority for a street may by notice (a “re-surfacing notice”) require an undertaker within paragraph (2) to execute such re-surfacing works in the street as may be specified in the notice.

(2) An undertaker is within this paragraph if—

- (a) he has given notice under Article 14 or 15 of, or made a notification under paragraph 2(1)(d) of Schedule 1A in respect of, proposed street works,
- (b) he is executing street works, or
- (c) he has, within such period ending with the giving of the notice as may be prescribed (or if no period is prescribed, at any time), executed street works,

and the works will involve, involve or (as the case may be) involved the breaking up of any part of the street.

(3) The works specified in the re-surfacing notice may relate to any part of the street (including any part not, and not to be, broken up by the undertaker); but regulations may restrict the extent of the works that may be so specified.

(4) The re-surfacing notice relieves the undertaker to the extent (if any) specified in the notice of his duty under Article 30 to reinstate the surface of the street; but regulations may restrict the circumstances in which and the extent to which undertakers may be relieved of that duty.

(5) The street authority may by notice to the undertaker vary or withdraw a re-surfacing notice; but regulations may restrict the circumstances in which notices may be varied or withdrawn.

(6) A street authority may give a re-surfacing notice notwithstanding that the authority (in any capacity) is under a duty to undertake any of the works specified in the notice.

(7) In this Order—

“re-surfacing notice” has the meaning given by paragraph (1);

“re-surfacing works” means any works relating to the replacement of the surface of any part of a street;

“surface” includes a paved surface.

(8) The reference in paragraph (2)(c) to the execution of street works is a reference to the execution of such works after the commencement of this Article (whether or not regulations under it have been made).

Power to specify timing etc. of re-surfacing

33B.—(1) A re-surfacing notice may require an undertaker to—

- (a) execute the works specified in the notice in stages so specified;
- (b) begin the execution of those works (or any stage of them) at or by a date and time so specified;
- (c) execute those works (or any stage of them) at times or on days (or at times on days) so specified;
- (d) complete the execution of those works (or any stage of them) by a date and time so specified.

(2) The Department may by regulations make provision restricting, in some or all cases, the power of street authorities to include requirements within paragraph (1), including provision that—

- (a) requires street authorities to consult an undertaker before a prescribed description of requirement is included in a notice;
- (b) provides that any date specified in a notice for the beginning, execution or completion of works shall not be earlier than a prescribed period from the date on which the notice is given.

Materials, workmanship and standard of re-surfacing

33C.—(1) An undertaker who has been given a re-surfacing notice shall, when executing the works specified in the notice, comply with such requirements as may be prescribed as to the specification of materials to be used and the standards of workmanship to be observed.

(2) He shall also ensure that the new surface conforms to such performance standards as may be prescribed, for the prescribed period after completion of the works.

Re-surfacing: regulations

33D.—(1) The Department may make regulations supplementing Articles 33A to 33C.

(2) The regulations may in particular—

- (a) make provision about the information to be contained in a re-surfacing notice (including the way in which re-surfacing works are to be described);
- (b) prescribe, for cases where a re-surfacing notice may be given to more than one undertaker, the matters that a street authority shall take into account when selecting the undertaker to whom the notice is to be given;
- (c) impose a requirement on an undertaker, in prescribed circumstances, to give notice to the street authority of a prescribed event;
- (d) prescribe circumstances in which an undertaker may elect to make a payment to the street authority instead of executing the works specified in a re-surfacing notice, and make provision about the calculation of the amount of such payments;
- (e) confer a right of review or a right of appeal to the planning appeals commission against a re-surfacing notice or any requirement contained in it, and may make provision about the period within which and manner in which any such right may be exercised and about the determination of appeals;

- (f) require disputes of a prescribed description (including disputes as to the existence of circumstances prescribed under Article 33A(1)) to be determined in such manner and by such persons as may be prescribed;
 - (g) apply any provisions of this Order or the Roads Order, with or without modifications, in relation to works specified in a re-surfacing notice (and provide that for those purposes the works are to be treated as street works or works of any other description).
- (3) The regulations may provide that where a re-surfacing notice has been served on an undertaker, the street authority may (in such circumstances and to such extent as may be prescribed) by notice relieve any other undertaker within Article 33A(2) of his duty under Article 30 to reinstate the surface of the street.
- (4) The regulations may create in respect of any breach of a requirement imposed by a re-surfacing notice or of the duty imposed by Article 33C, or any contravention of the regulations, an offence punishable on summary conviction—
- (a) where the offence consists of a failure to give a notice in accordance with the regulations, with a fine not exceeding level 4 on the standard scale;
 - (b) in any other case, with a fine not exceeding level 5 on the standard scale.
- (5) The first regulations under this Article or any of Articles 33A to 33C shall not be made unless a draft of them has been laid before and approved by a resolution of the Assembly.

Re-surfacing: guidance

33E.—(1) The Department may, for the purposes of Articles 33A to 33D (including regulations under those Articles), issue or approve a code of practice giving practical guidance as to the exercise of powers and the discharge of duties under those Articles.

(2) In exercising those powers and in discharging those duties, street authorities and undertakers shall have regard to the code of practice.”.