
STATUTORY INSTRUMENTS

1992 No. 3203 (N.I. 19)

NORTHERN IRELAND

The Private Streets (Amendment) (Northern Ireland) Order 1992

*Made - - - - 17th December 1992
Coming into operation in accordance with Article 1(2)
and (3)*

At the Court at Buckingham Palace, the 17th day of December 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974⁽¹⁾ and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Private Streets (Amendment) (Northern Ireland) Order 1992.

(2) Subject to paragraph (3), this Order shall come into operation on the expiration of 2 months from the day on which it is made.

(3) Article 3 shall come into operation on such day as the Head of the Department of the Environment may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954⁽²⁾ shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the principal Order” means the Private Streets (Northern Ireland) Order 1980⁽³⁾.

(1) 1974 c. 28
(2) 1954 c. 33 (N.I.)
(3) 1980 NI 12

Provision of lighting for private streets

3.—(1) In Article 2(2) of the principal Order at the end of the definition of “street works” there shall be added the words “and includes the provision of proper means for lighting a street”.

(2) In Part III of the principal Order after Article 10 there shall be inserted the following Article—

“Vesting and control of lighting equipment

10A. Any lamps, lamp posts, cables or other equipment installed for the purpose of providing a proper means for lighting a street which becomes a public road after the coming into operation of Article 3 of the Private Streets (Amendment) (Northern Ireland) Order 1992 shall, unless already so vested, vest in and be under the control of the Department from the date on which that street becomes a public road.”.

(3) In Article 11 of the principal Order—

- (a) in paragraph (1) for the words “and made good” there shall be substituted “, made good and lighted”; and
- (b) in paragraph (4) after the word “level,” there shall be inserted “lighting”.

Works for the improvement of a public road joined by a private street

4.—(1) In Article 3 of the principal Order after paragraph (4) there shall be inserted the following paragraphs—

“(4A) Where street planning functions are exercisable by the Department in relation to a street which joins an existing public road, the Department may, subject to paragraph (4B), attach to any determination under this Article in respect of that street a requirement that such works as the Department considers necessary for the improvement of that public road are carried out in accordance with an agreement under paragraph (4C).

(4B) Works required under paragraph (4A) for the improvement of a public road shall be works which are either—

- (a) within the boundary of that road; or
- (b) on land owned by the Department.

(4C) The Department may enter into an agreement under seal with any person—

- (a) for the carrying out at the expense of that person of works required under paragraph (4A); and
- (b) for the issue of a certificate by the Department when those works have been completed in accordance with the agreement and the terms and conditions of the agreement have been duly complied with.

(4D) An agreement under paragraph (4C) between the Department and any other person—

- (a) shall contain such detailed provisions as to the nature of the works to be carried out as the Department thinks fit; and
- (b) may include provision for ensuring that, for such period as may be specified in the agreement, any defects in those works shall be remedied by, and at the expense of, that person.

(4E) The person with whom the Department enters into an agreement under paragraph (4C) shall secure the due performance of the agreement by means of a guarantee bond or by any other means acceptable to the Department.

(4F) A certificate issued by the Department under paragraph (4C)(b) in respect of any works shall be conclusive for all purposes of this Order that those works have been carried out in accordance with the agreement.

(4G) In paragraph (4A) “improvement” has the same meaning as in Article 23 of the Roads (Northern Ireland) Order 1980.”.

(2) In Article 7(2) of the principal Order at the beginning there shall be inserted the words “Subject to paragraph (2A),” and after that paragraph there shall be inserted the following paragraph—

“(2A) Where a requirement mentioned in Article 3(4A) is attached to a determination given under Article 3(1) in respect of a street, the Department shall not issue a preliminary certificate under paragraph (2) unless the Department is satisfied that that requirement has been complied with.”.

(3) Article 8 of the principal Order shall be renumbered as paragraph (1) of that Article, in that paragraph after the words “Subject to” there shall be inserted the words “paragraph (2) and” and after that paragraph there shall be added the following paragraph—

“(2) Where a requirement mentioned in Article 3(4A) is attached to a determination given under Article 3(1) in respect of a street, the Department shall not declare the street to be a public road under paragraph (1) unless the Department is satisfied that that requirement has been complied with.”.

(4) In Article 42(2) of the Roads (Northern Ireland) Order 1980(4) after sub-paragraph (e) there shall be added “or

(f) it is work done for the purpose of complying with a requirement attached under Article 3(4A) of the Private Streets (Northern Ireland) Order 1980 to a determination under Article 3(1) of that Order.”.

Power to stop up or temporarily close street constructed before, or otherwise than in conformity with, determination by Department under street planning functions

5. In Article 3 of the principal Order after paragraph (5) there shall be inserted the following paragraph—

“(5A) The Department may stop up or temporarily close any street which another person has constructed—

- (a) before a determination has been given by the Department under paragraph (1) in respect of that street; or
- (b) otherwise than in conformity with a determination so given.”.

Bearing of expenses in connection with inspection and testing of works for construction of private streets

6. In Article 5(1)(h) of the principal Order-

- (a) for the words “recovery of any expenses incurred by the Department” there shall be substituted “bearing of any expenses”; and
- (b) in head (i) after the words “carrying out of” there shall be inserted “inspections,”.

Adoption of private streets as public roads

7.—(1) In Article 7 of the principal Order for paragraph (4) there shall be substituted the following paragraphs—

“(4) Where—

- (a) a preliminary certificate under paragraph (2) and a certificate under paragraph (3) have been issued in respect of a street; and
- (b) no application under paragraph (4A) has been received by the Department within the period of 28 days beginning on the date on which the certificate under paragraph (3) was issued,

the Department shall on the expiry of that period declare the street to be a public road and the street shall be a public road from the date of the declaration.

(4A) The person to whom a preliminary certificate under paragraph (2) and a certificate under paragraph (3) have been issued in respect of a street may, within the period mentioned in paragraph (4)(b), make application to the Department requesting that the Department should not declare the street to be a public road under this Article.

(4B) Subject to paragraphs (4D) to (4F), on an application made to it under paragraph (4A) in respect of a private street the Department may—

- (a) grant the request in the application and not make any declaration under this Article in respect of the street; or
- (b) refuse the request and declare the street to be a public road;

and the decision of the Department on any such application shall be final.

(4C) Where the Department declares a street to be a public road under paragraph (4B) (b) the street shall be a public road from the date of the declaration.

(4D) Where an application is made to the Department under paragraph (4A) in respect of a private street and the Department is of the opinion that the request in the application should not be granted the Department shall issue notice to that effect to the applicant giving such reasons as it considers appropriate.

(4E) Before determining an application under paragraph (4A), the Department may, or if the applicant so requests within 28 days from the date of the notice under paragraph (4D) shall, afford to him an opportunity of appearing before and being heard by a person appointed for that purpose by the Planning Appeals Commission and considered by it to be qualified in that behalf.

(4F) Where a hearing is held under paragraph (4E), the Department shall consider any recommendations made by the person appointed under that paragraph.”.

(2) In Article 7(8) of the principal Order for the words “thereafter incurred” there shall be substituted “incurred after the date of a declaration under paragraph (4) or (4B)(b)”.

(3) In Article 9 of the principal Order for the heading and paragraph (1) there shall be substituted—

“Adoption of streets on request of, or with consent of, owners or occupiers of adjoining land

9.—(1) This Article shall not apply to any street in respect of which the Department has exercised street planning functions, unless the Department has granted the request in an application under Article 7(4A) in respect of the street.”.

Recovery by Department of charges in respect of surveys, etc.

8. In Article 13(1) of the principal Order the words “, not exceeding in amount 5 per cent. of the expenses” are hereby repealed.

Recovery by Department of fees paid in connection with registration of statutory charges

9. Article 34 of the principal Order shall be renumbered as paragraph (1) of that Article and after that paragraph there shall be added the following paragraphs—

“(2) Before giving an undertaking under Article 24(1) or (2) or entering into an agreement under Article 32, a person shall pay to the Department an amount equal to the fee payable by the Department on, or in connection with, the registration in the Statutory Charges Register of that undertaking or agreement.

(3) Any fee paid by the Department on, or in connection with, the registration in the Statutory Charges Register of any matter under this Order relating to street works (other than those mentioned in paragraph (2)) shall be recoverable by the Department summarily as a civil debt from the responsible person.”.

N. H. Nicholls
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Private Streets (Northern Ireland) Order 1980 so as to—

- (a) bring street lighting within the definition of “street works”;
- (b) enable the Department to require the improvement of a public road joined by a street in relation to which the Department exercises street planning functions;
- (c) enable the Department to stop up streets constructed otherwise than in conformity with a determination of the Department or constructed before the Department has exercised its street planning functions in relation to the street;
- (d) enable regulations to provide for the bearing of expenses in connection with the inspection and testing of works for the construction of private streets and enable the Department to recover expenses in connection with the registration of statutory charges under the Order; and
- (e) enable the Department, on request, not to adopt certain private streets as public roads.