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STATUTORY INSTRUMENTS

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**1993 No. 3160**

**The Roads (Northern Ireland) Order 1993**

**PART X**

**MISCELLANEOUS AND SUPPLEMENTARY**

*Financial provisions*

**Expenses of Department**

**121.** Any expenses incurred by the Department under this Order shall be defrayed either out of moneys appropriated for the purposes of defraying such expenses or, if the Department of Finance and Personnel so directs, by means of sums charged on and issued out of the Consolidated Fund.

**Execution of works by Department at expense of another**

**122.—(1)** The Department may, if it is satisfied it will be of benefit to the public, enter into an agreement with any person—

- (a) for the execution by the Department of any works which the Department is authorised to execute under this Order; or
- (b) for the execution by the Department of such works incorporating particular modifications, additions or features, or at a particular time or in a particular manner,

on terms that that person pays the whole or such part of the cost of the works as may be specified in or determined in accordance with the agreement.

(2) Without prejudice to the generality of the reference in paragraph (1) to the cost of the works, that reference shall be taken to include—

- (a) the whole of the costs incurred by the Department in or in connection with—
  - (i) the making of the agreement;
  - (ii) the making of any order required for the purposes of the works; and
  - (iii) the acquisition by the Department of any land required for the purposes of the works; and
- (b) all relevant administrative expenses of the Department, including an appropriate sum in respect of general staff costs and overheads.

(3) The agreement may also provide for the making to the Department of payments in respect of the maintenance of the works to which the agreement relates and may contain such incidental and consequential provisions as appear to the Department to be necessary or expedient for the purposes of the agreement.

(4) The fact that works are to be executed in pursuance of an agreement under this Article does not affect the power of the Department to acquire land, by agreement or compulsorily, for the purposes of the works.

(5) If any amount due to the Department in pursuance of an agreement under this Article is not paid in accordance with the agreement, the Department may—

- (a) direct that any means of access or other facility afforded by the works to which the agreement relates shall not be used until that amount has been paid;
- (b) recover that amount from any person having an estate in any land for the benefit of which any such means of access or other facility is afforded; and
- (c) declare that amount to be a charge on any such land (identifying it) and on all estates therein.

(6) If it appears to the Department that a direction under paragraph (5)(a) is not being complied with, the Department may execute such works as are necessary to stop up the means of access or deny the facility, as the case may be, and may for that purpose enter any land.

(7) Where the Department recovers an amount from a person by virtue of paragraph (5)(b), he may in turn recover from any other person having an estate in land for the benefit of which the means of access or other facility was afforded such contribution as may be found by the court to be just and equitable.

This does not affect the right of any of those persons to recover from the person liable under the agreement the amount which they are made to pay.

#### **Recovery of certain expenses by Department**

**123.** Where any provision of this Order enables the Department to recover expenses which it has incurred in exercising any function under this Order—

- (a) those expenses shall include the relevant administrative expenses of the Department, including an appropriate sum in respect of general staff costs and overheads; and
- (b) the Department may recover those expenses summarily or in any court of competent jurisdiction as a civil debt due to it.

#### **Repayment of charges, rates and tolls**

**124.—(1)** A provision in this Order conferring power to make provision for payment of a charge shall be treated as also conferring power to make provision about repayment of sums paid, or purported to be paid, in pursuance of provision made in exercise of that power.

(2) Without prejudice to the generality of the power conferred by paragraph (1), the provision which may be made by virtue of that paragraph includes provision—

- (a) that repayment shall be made only if a specified person is satisfied that specified conditions are met or in other specified circumstances;
- (b) that repayment shall be made in part only;
- (c) that, in the case of partial repayment, the amount shall be a specified sum or determined in a specified manner; and
- (d) for repayment of different amounts in different circumstances.

(3) In this Article—

“charge” includes rates and toll;

“specified” means specified in the instrument exercising the power.

#### **Power to pay expenses of persons moving temporarily during works for construction or improvement of road**

**125.—(1)** This Article has effect where—

- (a) works are carried out by the Department for the construction or improvement of a road; and
- (b) the carrying out of those works affects the enjoyment of a dwelling adjacent to the site on which they are being carried out to such an extent that continued occupation of the dwelling is not reasonably practicable.

(2) Subject to paragraph (3), the Department may pay any reasonable expenses incurred by the occupier of the dwelling in providing suitable alternative residential accommodation for himself and members of his household for the whole or any part of the period during which the works are being carried out.

(3) No payment shall be made to any person under this Article in respect of any expenses except in pursuance of an agreement made between that person and the Department before the expenses are incurred; and no payment shall be so made except in respect of the amount by which the expenses exceed those which that person would have incurred if the dwelling had continued to be occupied.

### **Loans to certain undertakings affected by acquisition of land**

**126.**—(1) For the purpose of enabling a person carrying on a relevant undertaking to purchase or take on lease any land or to erect any buildings, the Department may advance money by way of mortgage or charge to that person.

(2) In this Article “relevant undertaking” has the same meaning as in Article 111.

### *Miscellaneous*

### **Duty to have regard to needs of disabled and blind in executing works, etc.**

**127.**—(1) In executing works in a road or street which may impede the mobility of disabled persons or blind persons, the Department and any other person exercising a statutory power to execute such works shall have regard to the needs of such persons.

(2) The Department or other person mentioned in paragraph (1) shall have regard to the needs of disabled and blind persons when placing lamp-posts, bollards, traffic signs, apparatus or other permanent obstructions in a road or street.

(3) The Department shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways.

(4) In executing in a road or street any such works as are mentioned in paragraph (1), the Department or other person mentioned in that paragraph shall have regard to the need of blind persons to have any openings, whether temporary or permanent, in the road or street properly protected.

(5) Section 18 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978(1) (power to define certain expressions for the purposes of provisions of that Act) shall have effect as if any reference in it to a provision of that Act included a reference to this Article.

(6) In this Article “street” means any street, lane, square, court, alley or passage to which the public has access, not being a road.

### **Consultation with district councils**

**128.**—(1) The Department shall, where it appears necessary or desirable to do so and in any case at least once in each year, consult each district council with respect to proposals of the Department to exercise its functions under this Order in the district of that council.

(2) A district council may make representations to the Department about the exercise by the Department of its functions under this Order in the district of that council and the Department shall pay due regard to any such representations.

### **Obligation to give information as to identity**

**129.** Where the driver of a vehicle is alleged to be guilty of an offence under any provision made by or under this Order, Article 177 of the Road Traffic Order shall apply in the same manner as it applies to offences under that Order.

### **Inquiries**

**130.**—(1) The Department—

- (a) shall cause to be held any such inquiry as is directed by this Order; or
- (b) may cause an inquiry to be held in relation to the exercise of any of its functions under this Order.

(2) For the purposes of paragraph (1), Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(2)</sup> (which applies in relation to inquiries by virtue of section 23 of the Interpretation Act (Northern Ireland) 1954<sup>(3)</sup>) shall have effect as if the words “or may, if the Department so determines, be wholly or partly defrayed by the Department” were added at the end of paragraph 6 of that Schedule.

### **Arbitration**

**131.** Subject to the provisions of this Order, the Arbitration Act (Northern Ireland) 1937<sup>(4)</sup> shall, in relation to arbitrations under this Order, have effect as if the parties had entered into an arbitration agreement within the meaning of that Act providing for reference to a single arbitrator.

### **Prospective exercise of road traffic regulation powers**

**132.** In Part XIV of the Road Traffic Order (miscellaneous and general provisions) after Article 211 there shall be inserted—

#### **“Prospective exercise of powers**

**211A.**—(1) Any power under this Order to make an order or give a direction may be exercised before the road to which it relates is open for public use, so as to take effect immediately on the road’s becoming open for public use.

(2) The procedure for making an order or giving a direction applies in such a case with such modifications as may be prescribed.”.

### *Supplementary*

### **Orders and regulations**

**133.**—(1) Schedule 8 shall have effect with respect to the making of orders under any of the following Articles, namely—

- (a) Article 4(1) (construction of bridges and tunnels in relation to navigable waters);

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(2) 1972 NI 14

(3) 1954 c. 33 (N.I.)

(4) 1937 c. 8 (N.I.)

- (b) Article 5(1) (diversion of navigable watercourses);
  - (c) Article 6 (extinguishment of certain public rights over navigable waters and foreshore);
  - (d) Article 14(1) (trunk roads);
  - (e) Article 15(1) (designation of special roads);
  - (f) Article 18(1) (restriction of access, etc. in connection with special roads);
  - (g) Article 68(1) (abandonment and stopping-up of roads).
- (2) Subject to paragraph (3), proceedings under Schedule 8 may be taken concurrently (so far as practicable) with—
- (a) proceedings required to be taken under Article 67 (procedure for environmental assessment);
  - (b) proceedings required to be taken under Article 113 and Schedule 7 (procedure for making vesting orders).
- (3) Where an environmental assessment is required to be prepared under Article 67 in connection with any project then—
- (a) no order under any of the Articles mentioned in paragraph (1) shall be made for the purposes of, or in connection with, that project, and
  - (b) no proceedings under Article 113 and Schedule 7 shall be taken in relation to any land which the Department wishes to acquire compulsorily for the purposes of, or in connection with, that project,
- until after the date on which a notice relating to the project is published by the Department under Article 67(10).
- (4) An order made under any of the Articles set out in paragraph (1)—
- (a) shall, together with such observations of the Department upon objections made to the proposed order and not withdrawn and such other observations as the Department considers appropriate, be laid before the Assembly; and
  - (b) shall be subject to negative resolution.
- (5) Regulations made under this Order shall be subject to negative resolution.

### **Saving provisions, consequential amendments, repeals and revocations**

- 134.**—(1) The saving provisions set out in Schedule 9 shall have effect.
- (2) The statutory provisions set out in Schedule 10 shall have effect subject to the amendments specified in that Schedule.
- (3) The statutory provisions set out in columns 1 and 2 of Schedule 11 are hereby repealed to the extent specified in column 3 of that Schedule.
- (4) In the Schedule to the Local Government (Modifications and Repeals) Order (Northern Ireland) 1973<sup>(5)</sup>, the entries relating to the statutory provisions mentioned in Schedule 11 are hereby revoked to the extent that they modify those provisions.
- (5) The Roads (Assessment of Environmental Effects) Regulations (Northern Ireland) 1988<sup>(6)</sup> are hereby revoked.

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(5) [SR & O 1973/285](#)

(6) [S.R. 1988 No. 344](#)