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## STATUTORY INSTRUMENTS

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# 1995 No. 3210

## The Street Works (Northern Ireland) Order 1995

### Duties and liabilities of undertakers with respect to apparatus

#### Liability for damage or loss caused

42.—(1) An undertaker shall compensate—

- (a) the street authority or any other relevant authority in respect of any damage or loss suffered by the authority in its capacity as such, and
- (b) any other person having apparatus in the street in respect of any expense reasonably incurred in making good damage to that apparatus,

as a result of the execution by the undertaker of street works or any event of a kind mentioned in paragraph (2).

(2) The events referred to in paragraph (1) are any explosion, ignition, discharge or other event occurring to gas, electricity, water or any other thing required for the purposes of a supply or service afforded by an undertaker which—

- (a) at the time of or immediately before the event in question was in apparatus of the undertaker in the street, or
- (b) had been in such apparatus before that event and had escaped therefrom in circumstances which contributed to its occurrence.

(3) The liability of an undertaker under this Article arises—

- (a) whether or not the damage or loss is attributable to negligence on his part or on the part of any person for whom he is responsible, and
- (b) notwithstanding that he is acting in pursuance of a statutory duty.

(4) However, his liability under this Article does not extend to damage or loss which is attributable to misconduct or negligence on the part of—

- (a) the person suffering the damage or loss, or any person for whom he is responsible, or
- (b) a third party, that is, a person for whom neither the undertaker nor the person suffering the damage or loss is responsible.

(5) For the purposes of this Article the persons for whom a person is responsible are his contractors and any person in his employ or that of his contractors.

(6) Nothing in this Article shall be taken as exonerating an undertaker from any liability to which he would otherwise be subject.

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#### Modifications etc. (not altering text)

- C1** Art. 42 modified (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), [ss. 236\(6\)\(c\), 254\(1\), \(2\)](#) (with [ss. 211, 238](#)); [S.R. 2015/49](#), [arts. 2, 3](#), [Sch. 1](#) (with [Sch. 2](#)) (as amended (16.3.2016) by [S.R. 2016/159](#), art. 2)

**Changes to legislation:**

The Street Works (Northern Ireland) Order 1995, Section 42 is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 13(1)(b) and word inserted by [S.I. 2007/287 \(N.I.\) art. 4\(2\)\(b\)](#)
- art. 14(3A)(3B) inserted by [S.I. 2007/287 \(N.I.\) art. 6\(1\)\(b\)](#)
- art. 15(8)(9) inserted by [S.I. 2007/287 \(N.I.\) art. 6\(2\)](#)
- art. 16(1A) inserted by [S.I. 2007/287 \(N.I.\) art. 7\(3\)](#)
- art. 16(3A) inserted by [S.I. 2007/287 \(N.I.\) art. 7\(4\)](#)
- art. 18(3)(f) and word inserted by [S.I. 2007/287 \(N.I.\) art. 9\(4\)](#)
- art. 18(7A) inserted by [S.I. 2007/287 \(N.I.\) art. 9\(8\)](#)
- art. 19(7) inserted by [S.I. 2007/287 \(N.I.\) art. 11\(4\)](#)
- art. 27(1A) inserted by [S.I. 2007/287 \(N.I.\) art. 12\(2\)](#)
- art. 27(2A)-(2C) inserted by [S.I. 2007/287 \(N.I.\) art. 12\(3\)](#)
- art. 27(4)(c) and word inserted by [S.I. 2007/287 \(N.I.\) art. 12\(5\)](#)
- art. 30(1A) inserted by [S.I. 2007/287 \(N.I.\) art. 13\(2\)](#)
- art. 30(3)-(4B) substituted for art. 30(3)(4) by [S.I. 2007/287 \(N.I.\) art. 13\(3\)](#)
- art. 32(2A)(2B) inserted by [S.I. 2007/287 \(N.I.\) art. 14](#)
- art. 32(3A) inserted by [S.I. 2007/287 \(N.I.\) art. 15\(1\)\(b\)](#)
- art. 34(2A) inserted by [S.I. 2007/287 \(N.I.\) art. 18\(2\)](#)
- art. 34(5A)(5B) inserted by [S.I. 2007/287 \(N.I.\) art. 18\(5\)](#)
- art. 34(7A) inserted by [S.I. 2007/287 \(N.I.\) art. 18\(7\)](#)
- art. 39(1A) inserted by [S.I. 2007/287 \(N.I.\) art. 22\(2\)](#)
- art. 39(2A) inserted by [S.I. 2007/287 \(N.I.\) art. 22\(3\)](#)
- art. 39(3A) inserted by [S.I. 2007/287 \(N.I.\) art. 22\(4\)](#)
- art. 40(1A) inserted by [S.I. 2007/287 \(N.I.\) art. 23\(3\)](#)
- art. 40(2)(2A) substituted for art. 40(2)(3) by [S.I. 2007/287 \(N.I.\) art. 23\(4\)](#)
- art. 40(5)(6) added by [S.I. 2007/287 \(N.I.\) art. 23\(6\)](#)
- art. 49(2A) inserted by [S.I. 2007/287 \(N.I.\) art. 15\(2\)\(b\)](#)
- art. 59(1A) inserted by [S.I. 2007/287 \(N.I.\) art. 28\(3\)](#)