

## SCHEDULES

### SCHEDULE 1

Article 11(4).

#### Street Works Licences

#### Grant of licence

1. Before granting a street works licence the street authority shall give not less than 10 working days' notice to each of the following—

- (a) where the works are likely to affect a public sewer, to [<sup>F1</sup>the sewer authority] ,
- (b) where the works are to be executed in a part of a street which is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, to that authority,
- (c) where in any other case the part of the street in which the works are to be executed is carried or crossed by a bridge, to the bridge authority,
- (d) to any person who has given notice under Article 14 (advance notice of certain works) of his intention to execute streets works which are likely to be affected by the works to which the licence relates, and
- (e) to any other person having apparatus in the street which is likely to be affected by the works;

but a failure to do so does not affect the validity of the licence.

**F1** Words in Sch. 1 para. 1(a) substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308, [Sch. 12 para. 35\(3\)](#) (with arts. 8(8), 121(3), 307); [S.R. 2007/194](#), [art. 2\(2\)](#), Sch. 1 Pt. II (subject to [art. 3](#), [Sch. 2](#))

2. The street authority may require the payment of—

- (a) a reasonable fee in respect of legal or other expenses incurred in connection with the grant of a street works licence, and
- (b) an annual fee of a reasonable amount for administering the licence;

and any such fee is recoverable from the licensee.

This shall not be construed as affecting any right of the authority where it owns the land on which the street is situated to grant for such consideration as it thinks fit the right to place anything in, under or over the land.

#### Conditions attached to licence

3. A street authority may attach to a street works licence such conditions as it considers appropriate—

- (a) in the interests of safety,
- (b) to minimise the inconvenience to persons using the street (having regard, in particular, to the needs of people with a disability), or
- (c) to protect the structure of the street and the integrity of apparatus in it.

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4. Where assignment of a street works licence is permitted, a condition may be attached requiring the consent of the street authority to any assignment.

#### Notice of change of ownership, &c

5.—(1) Where the licensee under a street works licence proposes—

- (a) to cease using or abandon the apparatus, or
- (b) to part with his interest in the apparatus,

he shall give the street authority at least 6 weeks' notice before doing so.

(2) Where the licensee under a street works licence granted to the owner of land and his successors in title proposes to part with his interest in the land, he shall before doing so give notice to the street authority stating to whom the benefit of the licence is to be transferred.

(3) A person who fails to comply with an obligation under this paragraph commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F2</sup>level 4] on the standard scale.

**F2** Words in [Sch. 1 para. 5\(3\)](#) substituted (1.10.2007) by [Street Works \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/287 \(N.I. 1\)\)](#), arts. 1(3), **25(1)(h)** (with [art. 25\(5\)](#)); [S.R. 2007/365](#), [art. 2](#), [Sch.](#)

#### Withdrawal of licence

6.—(1) The street authority may by notice in writing served on the licensee withdraw a street works licence—

- (a) if the licensee fails to comply with any provision of this Order or any condition of the licence,
- (b) if the authority becomes aware that the licensee—
  - (i) has ceased to use or has abandoned the apparatus, or intends to do so, or
  - (ii) has parted with or intends to part with his interest in the apparatus in a case where assignment of the licence is prohibited, or
- (c) if the authority considers the withdrawal of the licence is necessary for the purpose of the exercise of its functions as street authority.

(2) The withdrawal takes effect at the end of such period beginning with the date of service as may be specified in the notice.

The period shall not be less than 7 working days in the case of a withdrawal under sub-paragraph (1) (a) or (b), and shall not be less than 3 months in the case of a withdrawal under sub-paragraph (1)(c).

#### Removal of apparatus

7.—(1) Where a street works licence expires or is withdrawn or surrendered, the street authority may remove the apparatus to which the licence relates or alter it in such manner as the street authority thinks fit and reinstate the street, and may recover from the former licensee the expenses incurred by it in doing so.

(2) If the street authority is satisfied that the former licensee can, within such reasonable time as it may specify, remove the apparatus or alter it in such manner as it may require and reinstate the street, it may authorise him to do so at his own expense.

(3) Before executing any works under this paragraph the street authority or the former licensee, as the case may be, shall give not less than 7 working days' notice to any person whose apparatus is likely to be affected and shall satisfy his requirements as to the method of executing the works and as to the supervision of the works by him.

(4) In this paragraph and paragraph 8 “the former licensee” means the person who immediately before the expiry, withdrawal or surrender of a street works licence was the licensee or, if that person has died, his personal representative.

### Obligation of licensee to indemnify street authority

**8.—(1)** The licensee under a street works licence shall indemnify the street authority against any claim in respect of injury, damage or loss arising out of—

- (a) the placing or presence in the street of apparatus to which the licence relates, or
- (b) the execution by any person of any works authorised by the licence;

and the former licensee shall indemnify the street authority against any claim in respect of injury, damage or loss arising out of the execution by the authority or the licensee of any works under paragraph 7.

(2) The liability of a licensee or former licensee under this paragraph 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.

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

- (a) the street authority or a person for whom the authority is responsible, or
- (b) a third party, that is, a person for whom neither the licensee or former licensee nor the authority is responsible.

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

### Appeal against decision of Department

**9.—(1)** Where the apparatus in respect of which an application for a street works licence is made to the Department is to be placed or retained on a line crossing the road, and not along the line of the road, a person aggrieved by—

- (a) the refusal of the Department to grant him a licence,
- (b) the refusal of the Department to grant a licence except on terms prohibiting its assignment, or
- (c) any terms or conditions of the licence granted to him,

may, within 21 days of receiving notice thereof, appeal to the planning appeals commission by notice in writing under this paragraph.

(2) Before determining an appeal under this paragraph, the planning appeals commission shall, if either the appellant or the Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(3) Every notice of appeal to the planning appeals commission under this paragraph shall be accompanied by such fee (if any) as may be prescribed.

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PROSPECTIVE

## [F3] SCHEDULE 1A

## RESTRICTION ON WORKS FOLLOWING SUBSTANTIAL STREET WORKS

**F3** Sch. 1A inserted (prosp.) by Street Works (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/287 (N.I. 1)), arts. 1(3), 10(2), Sch. 1

*Introductory*

1.—(1) This Schedule applies where a street authority receives a notice under Article 14 or 15 that an undertaker is proposing to execute substantial street works in a road.

(2) For the purposes of this Schedule, “substantial street works” means street works of such description as may be prescribed.

*Notice by authority of proposed restriction*

2.—(1) The street authority may publish a notice—

- (a) specifying the nature and location of the proposed works and the date on which it is proposed to begin them;
- (b) stating that the authority proposes to issue a direction under paragraph 4 imposing a restriction on street works;
- (c) stating the duration of the proposed restriction and the part of the road to which it relates;
- (d) requiring any other undertakers who propose to execute street works in that part of the road, and who have not already done so, to notify the authority of their proposed works within the period specified in the notice (“the notice period”).

(2) The notice period shall not be less than such period as may be prescribed.

(3) A notice under this paragraph shall—

- (a) be published in the prescribed form and manner; and
- (b) comply with such requirements as to its form and content as may be prescribed.

(4) A copy of a notice under this paragraph shall be given to each of the following—

- (a) where there is a public sewer in the part of the road specified under sub-paragraph (1) (c), to the Department;
- (b) where that part of the road is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held by or used for the purposes of a transport authority, to that authority;
- (c) where in any other case that part of the road is carried or crossed by a bridge, to the bridge authority;
- (d) any person who has given notice under Article 14 of his intention to execute street works in that part of the road;
- (e) any person who has apparatus in that part of the road;
- (f) any other person of a prescribed description.

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(5) Notification under sub-paragraph (1)(d) shall be in such form, contain such information, and be made in such manner as may be prescribed.

(6) Article 15 does not apply in relation to works in the part of the road specified under sub-paragraph (1)(c) that are begun between the end of the notice period and completion of the works referred to in paragraph 3(1)(a) to (c).

This sub-paragraph does not apply to cases prescribed under paragraph 3(5)(b).

#### *Completion of notified works*

3.—(1) After the expiry of the notice period the street authority may issue directions to—

- (a) the undertaker proposing to execute the substantial street works,
- (b) any undertakers who have given notice under paragraph 2 in respect of works they propose to execute, and
- (c) any undertakers who have previously given notice of works they propose to execute in the part of the road specified under paragraph 2(1)(c).

(2) A direction to an undertaker under this paragraph is a direction as to the date on which he may begin to execute the works proposed by him.

(3) Where—

- (a) a direction is given to an undertaker under this paragraph as respects the date on which he may begin to execute the works proposed by him, and
- (b) he begins to execute those works before that date,

he is guilty of an offence.

(4) After the expiry of the notice period, any undertaker who, before completion of the works referred to in sub-paragraph (1)(a) to (c), executes any other street works in the part of the road specified under paragraph 2(1)(c), commits an offence.

(5) Sub-paragraph (4) does not apply—

- (a) where an undertaker executes emergency works; or
- (b) in such other cases as may be prescribed.

(6) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### *Direction restricting further works*

4.—(1) After the expiry of the notice period and before completion of the works referred to in paragraph 3(1)(a) to (c) the authority may give a direction under this paragraph.

(2) A direction under this paragraph is a direction restricting the execution of street works in the part of the road specified under paragraph 2(1)(c) for such period following completion of the works referred to in paragraph 3(1)(a) to (c) as may be specified in the direction.

(3) The duration of the period specified under sub-paragraph (2) may not exceed the duration of the restriction proposed by the authority under paragraph 2(1)(c).

(4) The period specified in a direction under this paragraph may not in any case exceed such period as may be prescribed.

(5) A direction under this paragraph shall—

- (a) be given in the prescribed manner;
- (b) comply with such requirements as to its form and content as may be prescribed.

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(6) The street authority must send a copy of any direction under this paragraph to the persons specified in paragraph 2(4).

(7) A direction under this paragraph shall cease to have effect if the works referred to in paragraph 3(1)(a) to (c) to which it relates are not completed within such period as may be prescribed.

(8) A direction under this paragraph may be revoked at any time by the authority which gave it.

(9) Where a direction under this paragraph ceases to have effect by virtue of sub-paragraph (7), or is revoked by virtue of sub-paragraph (8), the street authority must notify the persons specified in paragraph 2(4).

(10) If the street authority decides not to give a direction under this paragraph, it must notify the persons specified in paragraph 2(4) accordingly.

#### *Effect of direction imposing restriction*

5.—(1) Where a direction under paragraph 4 is in force, an undertaker may not during the period specified in the direction execute street works in the part of the road to which the restriction relates.

(2) Sub-paragraph (1) does not apply—

(a) where an undertaker executes emergency works;

(b) where an undertaker executes works with the consent of the street authority; or

(c) in such other cases as may be prescribed.

(3) The consent of the street authority under sub-paragraph (2)(b) shall not be unreasonably withheld; and any question whether the withholding of consent is unreasonable shall be settled in such manner as may be prescribed.

(4) Regulations under sub-paragraph (3) may in particular make provision for the question referred to in that sub-paragraph to be settled—

(a) by arbitration;

(b) by the planning appeals commission on appeal by the undertaker.

(5) An undertaker who contravenes sub-paragraph (1) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) An undertaker convicted of an offence under sub-paragraph (5) is liable to reimburse the street authority any costs reasonably incurred by it in reinstating the road.

#### *Supplementary*

6. An undertaker shall be taken not to have failed to fulfil any statutory duty to afford a supply or service if, or to the extent that, his failure is attributable to a restriction imposed under this Schedule.]

## SCHEDULE 2

Article 23(1).

### Streets With Special Engineering Difficulties

#### Introductory

1. In this Schedule a “street with special engineering difficulties” means a street for the time being designated under Article 23 as having special engineering difficulties.

## Requirement of plan and section

2.—(1) In a street with special engineering difficulties street works (other than emergency works) involving—

- (a) breaking up or opening the street, or any sewer, drain or tunnel under it, or
- (b) tunnelling or boring under the street,

shall not be executed until a plan and section of the works have been settled by agreement between the undertaker and each of the relevant authorities or by arbitration.

(2) For that purpose an undertaker proposing to execute any such works shall submit a plan and section of them to each relevant authority.

3. Emergency works may be executed without a plan and section being so submitted or settled, but as soon as is reasonably practicable after the execution of the works the undertaker shall furnish a plan and section of the works to each relevant authority.

4.—(1) In the case of a street which is not a road and which the street managers have no liability to the public to maintain or repair, the undertaker may give the street managers a notice stating—

- (a) the general effect of the works proposed or, as the case may be, of the emergency works executed, and
- (b) that it is a notice given for the purposes of this paragraph.

(2) Where such a notice is given paragraphs 2 and 3 do not apply if the street managers do not, within 10 working days from the date on which the notice was given to them, give notice to the undertaker requiring the submission or furnishing of a plan and section to them.

5.—(1) A relevant authority to which a plan and section of work is required to be submitted or furnished may accept as, or in lieu, of, a plan and section any description of the works whether in diagram form or not, which appears to it to be sufficient.

(2) References in this Schedule to a plan and section include any such description so submitted or furnished to the form of which the relevant authority has not objected within the time allowed under paragraph 7(2).

6. If an undertaker—

- (a) executes any works in contravention of paragraph 2, or
- (b) fails to furnish a plan and section in accordance with paragraph 3,

he commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F4</sup>level 5] on the standard scale.

**F4** Words in Sch. 2 para. 6 substituted (1.10.2007) by [Street Works \(Amendment\) \(Northern Ireland\) Order 2007 \(S.I. 2007/287 \(N.I. 1\)\)](#), arts. 1(3), **25(2)(I)** (with art. 25(5)); S.R. 2007/365, art. 2, Sch.

## Procedure on submission of plan and section

7.—(1) A relevant authority to which there is submitted a plan and section of street works proposed to be executed in a street with special engineering difficulties shall give notice to the undertaker—

- (a) approving the plan and section without modification, or
- (b) objecting to them in form as being on too small a scale or giving insufficient particulars, or
- (c) approving them subject to modifications specified in the notice, or



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(d) disapproving them.

(2) The notice shall be given without avoidable delay, and at the latest before the end of the period of—

- (a) 7 working days in the case of a plan and section of works relating only to—
  - (i) a service pipe or service line, or
  - (ii) overhead electric lines or<sup>F5</sup> electronic communications apparatus], and
- (b) one month in any other case;

and as between the undertaker and a relevant authority which does not duly give notice before the end of that period, the plan and section as submitted shall be deemed to have been settled by agreement.

(3) The reference in sub-paragraph (2)(a)(i) to a service pipe or service line is to—

- (a) a pipe or line through or by means of which a supply of gas, electricity or water is afforded or intended to be afforded to premises—
  - (i) directly from premises from which the supply originates, or
  - (ii) from a main, that is, a pipe or line for affording a general supply;
- (b) a pipe through or by means of which sewage services are afforded, or intended to be afforded, which is <sup>F6</sup>not a public sewer]; or
- (c) underground<sup>F5</sup> electronic communications apparatus] for the purpose of providing a service by means of<sup>F5</sup> an electronic communications network] to or from particular premises (as opposed to apparatus for the general purposes of such<sup>F5</sup> a network]).

But so much of any such pipe, line or apparatus as is placed or intended to be placed, for a continuous length of 100 metres or more in a road shall be treated as not being a service pipe or service line.

(4) In this paragraph—

“electric lines” has the same meaning as in Part II of the Electricity (Northern Ireland) Order 1992<sup>F7</sup>;

<sup>F10</sup>“electronic communications network” has the meaning given in section 32 of the Communications Act 2003;]

<sup>F11</sup> ...

**F5** 2003 c. 21

**F6** Words in Sch. 2 para. 7(3)(b) substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308, **Sch. 12 para. 35(4)** (with arts. 8(8), 121(3), 307); [S.R. 2007/194, art. 2\(2\)](#), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

**F7** 1992 NI 1

**F8** Sch. 7 para. 7(4): definition of "telecommunication apparatus" repealed (25.7.2003 for specified purposes, 29.12.2003 for specified purposes, otherwise prosp.) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 19** (with Sch. 18); [S.I. 2003/1900, art. 2\(1\)](#), **Sch. 1** (with art. 3(1)); [S.I. 2003/3142, art. 3\(2\)](#)

**F9** Words in Sch. 2 para. 7(4) substituted (28.12.2017) by [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Secondary Legislation\) Regulations 2017 \(S.I. 2017/1011\)](#), reg. 1(1), **Sch. 4 para. 15(2)(a)**

**F10** Words in Sch. 2 para. 7(4) inserted (28.12.2017) by [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Secondary Legislation\) Regulations 2017 \(S.I. 2017/1011\)](#), reg. 1(1), **Sch. 4 para. 15(2)(c)**

**F11** Words in Sch. 2 para. 7(4) omitted (28.12.2017) by virtue of [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Secondary Legislation\) Regulations 2017 \(S.I. 2017/1011\)](#), reg. 1(1), **Sch. 4 para. 15(2)(b)**



**8.—(1)** Where a relevant authority gives notice approving the plan and section subject to modifications, or disapproving the plan and section, it shall state its reasons for doing so.

(2) If a relevant authority duly gives notice—

- (a) objecting to the plan and section in form, or
- (b) approving them subject to modifications to which the undertaker does not agree, or
- (c) disapproving them,

then, unless the notice is withdrawn, the undertaker may refer the matter to arbitration.

(3) If the notice is withdrawn, the plan and section as submitted shall be deemed to have been settled by agreement between the relevant authority and the undertaker.

**9.** The Department or a bridge authority may not give notice—

- (a) approving a plan and section subject to modifications, or
- (b) disapproving a plan and section,

on grounds other than such as relate to the injurious effect of the proposed works on its sewer or, as the case may be, on the structure or stability of its bridge.

#### Settlement of plan and section by arbitration

**10.—(1)** The duty of the arbitrator where a matter is referred to arbitration is to settle a plan and section of works of the kind proposed, as works to be executed in the street.

(2) He may require the undertaker to submit to him a plan and section in such form, require the relevant authority to submit to him such observations on a plan and section submitted to him, and require the undertaker or the relevant authority to furnish him with such information and to take such other steps, as appear to him to be requisite.

(3) He may treat compliance with any such requirement made of the undertaker as a condition of his proceeding with the settlement of a plan and section, and compliance with any such requirement made of the relevant authority as a condition of his settling a plan and section otherwise than as proposed by the undertaker.

**11.—(1)** Where the reference relates to the placing, altering or changing the position of apparatus in a street which is carried or crossed by a bridge, then, if the arbitrator is satisfied—

- (a) that the execution of the works would be likely to affect injuriously the structure or stability of the bridge, and
- (b) that it is not practicable to meet objection on that ground to the plan and section submitted,

he shall so declare, and shall not settle any plan and section of those works on the reference.

(2) This does not affect the right of the undertaker to submit another plan and section.

#### Objection to works executed without plan and section being settled

**12.—(1)** This paragraph applies where street works have been executed in a street with special engineering difficulties without a plan and section having been settled with the street authority or another relevant authority, whether the works were executed in contravention of paragraph 2 or were emergency works.

(2) The authority in question may, by notice to the undertaker, object to any of the works; and after affording the undertaker an opportunity to enter into an agreement with it for meeting the objection, may refer the matter to arbitration.

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(3) The arbitrator may direct the alteration of the works to conform to a plan and section settled by him, or the removal of any apparatus placed in the execution of the works, and the undertaker shall comply with any such direction.

(4) In settling the terms of any such direction the arbitrator shall satisfy himself that compliance with it will not involve any undue interruption or restriction of the supply or service for the purposes of which the works were executed.

(5) If an undertaker fails to execute works in accordance with a direction under this paragraph, he commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F12</sup>level 5] on the standard scale.

**F12** Words in Sch. 2 para. 12(5) substituted (1.10.2007) by Street Works (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/287 (N.I. 1)), arts. 1(3), 25(2)(m) (with art. 25(5)); S.R. 2007/365, art. 2, Sch.

### Execution of works in accordance with plan and section

**13.—**(1) An undertaker executing street works in a street with special engineering difficulties shall, where a plan and section have been settled, execute the works in accordance with the plan and section as settled or, if each of the relevant authorities agrees to the modification of the plan or section, in accordance with them as so modified.

(2) If an undertaker fails to comply with sub-paragraph (1) he commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F13</sup>level 5] on the standard scale.

**F13** Words in Sch. 2 para. 13(2) substituted (1.10.2007) by Street Works (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/287 (N.I. 1)), arts. 1(3), 25(2)(n) (with art. 25(5)); S.R. 2007/365, art. 2, Sch.

PROSPECTIVE

## [<sup>F14</sup>SCHEDULE 2A

### FIXED PENALTIES FOR CERTAIN OFFENCES

**F14** Sch. 2A inserted (prosp.) by Street Works (Amendment) (Northern Ireland) Order 2007 (S.I. 2007/287 (N.I. 1)), arts. 1(3), 24(2), Sch. 2

### *Power to give fixed penalty notices*

**1.—**(1) An authorised officer of a street authority may, if he has reason to believe that a person is committing or has committed a fixed penalty offence, give him a fixed penalty notice in relation to that offence.

(2) In this Schedule “fixed penalty notice” means a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty.

**2.** A fixed penalty notice for an offence may not be given after such time relating to the offence as may be prescribed.

### *Contents of fixed penalty notice*

3.—(1) A fixed penalty notice must identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence.

(2) A fixed penalty notice must also state—

- (a) the amount of the penalty and the period within which it may be paid;
- (b) the discounted amount and the period within which it may be paid;
- (c) the person to whom and the address at which payment may be made;
- (d) the method or methods by which payment may be made;
- (e) the person to whom and the address at which any representations relating to the notice may be addressed;
- (f) the consequences of not making a payment within the period for payment.

(3) The person specified under sub-paragraph (2)(c) must be the street authority or a person acting on its behalf.

### *The amount of the penalty and the period for payment*

4.—(1) The penalty for a fixed penalty offence is (subject to paragraph 5) such amount, not exceeding 30 per cent. of the maximum fine for that offence, as may be prescribed.

(2) The period for payment of the penalty is the period of 29 days beginning with the day on which the notice is given.

(3) The street authority may extend the period for paying the penalty in any particular case if the authority considers it appropriate to do so.

### *The discounted amount*

5.—(1) A discounted amount is payable instead of the amount prescribed under paragraph 4(1) if payment is made before the end of the period of 15 days beginning with the day on which the notice is given.

(2) The discounted amount for a fixed penalty offence is such amount, not exceeding 25 per cent. of the maximum fine for the offence, as may be prescribed.

(3) If the last day of the period specified in sub-paragraph (1) does not fall on a working day, the period for payment of the discounted amount is extended until the end of the next working day.

### *Effect of notice and payment of penalty*

6.—(1) This paragraph applies where a person is given a fixed penalty notice in respect of a fixed penalty offence.

(2) No proceedings for the offence may be commenced before the end of the period for payment of the penalty.

(3) No such proceedings may be commenced or continued if payment of the penalty is made before the end of that period or is accepted by the street authority after that time.

(4) Payment of the discounted amount only counts for the purposes of sub-paragraph (3) if it is made before the end of the period for payment of the discounted amount.

(5) In proceedings for the offence a certificate which—

- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the street authority; and

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(b) states that payment of an amount specified in the certificate was or was not received by a date so specified,  
is evidence of the facts stated.

#### *Power to withdraw notices*

7.—(1) If the street authority considers that a fixed penalty notice which has been given ought not to have been given, it may give to the person to whom it was given a notice withdrawing the fixed penalty notice.

(2) Where a notice under sub-paragraph (1) is given—

- (a) the authority shall repay any amount which has been paid by way of penalty in pursuance of the fixed penalty notice; and
- (b) no proceedings shall be commenced or continued against that person for the offence in question.

(3) The street authority shall consider any representations made by or on behalf of the recipient of a fixed penalty notice and decide in all the circumstances whether to withdraw the notice.

#### *General and supplementary*

8. The Department may, with the consent of the Department of Finance and Personnel, make regulations about—

- (a) the application by street authorities (other than the Department) of fixed penalties paid under this Schedule;
- (b) the keeping by such authorities of accounts, and the preparation and publication of statements of account, relating to fixed penalties paid under this Schedule.

9. The Department may by regulations—

- (a) prescribe circumstances in which fixed penalty notices may not be given;
- (b) modify paragraph 4(2) or 5(1) so as to substitute a different period for the period for the time being specified there;
- (c) prescribe the method or methods by which penalties may be paid.]

#### *Schedule 3—Amendments*

#### *Schedule 4—Repeals*

**Changes to legislation:**

The Street Works (Northern Ireland) Order 1995 is up to date with all changes known to be in force on or before 01 March 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 :**

- art. 13(1) words in art. 13(1) renumbered as art. 13(1)(a) by S.I. 2007/287 (N.I.) art. 4(2)
- art. 14(2) words substituted by S.I. 2007/287 (N.I.) art. 6(1)(a)
- art. 16(1) words inserted by S.I. 2007/287 (N.I.) art. 7(2)(b)
- art. 16(1)(b) words inserted by S.I. 2007/287 (N.I.) art. 7(2)(a)
- art. 17(1) words inserted by S.I. 2007/287 (N.I.) art. 10(3)(a)
- art. 17(2) words inserted by S.I. 2007/287 (N.I.) art. 10(3)(b)
- art. 18(1) words substituted by S.I. 2007/287 (N.I.) art. 9(2)
- art. 18(2) words substituted by S.I. 2007/287 (N.I.) art. 9(3)
- art. 18(3) words omitted by S.I. 2007/287 (N.I.) art. 9(4)
- art. 18(4) words substituted by S.I. 2007/287 (N.I.) art. 9(5)
- art. 18(6)(b) words inserted by S.I. 2007/287 (N.I.) art. 9(6)
- art. 18(7) words substituted by S.I. 2007/287 (N.I.) art. 9(7)
- art. 19(1) words inserted by S.I. 2007/287 (N.I.) art. 11(2)
- art. 19(2) words inserted by S.I. 2007/287 (N.I.) art. 11(3)
- art. 24(1) words inserted by S.I. 2007/287 (N.I.) art. 10(4)
- art. 27(3) words substituted by S.I. 2007/287 (N.I.) art. 12(4)
- art. 32(3) words substituted by S.I. 2007/287 (N.I.) art. 15(1)(a)
- art. 34(3) words substituted by S.I. 2007/287 (N.I.) art. 18(3)
- art. 34(3)(b) words inserted by S.I. 2007/287 (N.I.) art. 10(5)
- art. 34(4) words substituted by S.I. 2007/287 (N.I.) art. 18(4)
- art. 34(7) words substituted by S.I. 2007/287 (N.I.) art. 18(6)
- art. 35 substituted by S.I. 2007/287 (N.I.) art. 20
- art. 40(1) words substituted by S.I. 2007/287 (N.I.) art. 23(2)
- art. 40(4) words substituted by S.I. 2007/287 (N.I.) art. 23(5)
- art. 47(1) words inserted by S.I. 2007/287 (N.I.) art. 10(6)
- art. 48(1) words inserted by S.I. 2007/287 (N.I.) art. 10(7)
- art. 49(2) words substituted by S.I. 2007/287 (N.I.) art. 15(2)(a)
- art. 51(2) word substituted by S.I. 2007/287 (N.I.) art. 6(3)
- art. 53(3) words inserted by S.I. 2007/287 (N.I.) art. 21(2)
- art. 59(1) words substituted by S.I. 2007/287 (N.I.) art. 28(2)

**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)