

**STREET WORKS (AMENDMENT)
(NORTHERN IRELAND) ORDER 2007**

S.I. 2007 No. 287 (N.I. 1)

EXPLANATORY MEMORANDUM

COMMENTARY ON ARTICLES

7. Comments are not given where the wording is self-explanatory.

Article 3: Permit Scheme

Article 3 inserts new Article 12A into the 1995 Order to provide for the introduction of a permit scheme. It enables the Department to make a scheme to control specified street works on roads. The detail of a scheme will be contained in regulations.

Article 4: The Street Works Register

Article 4 amends Article 13 of the 1995 Order to enable the Department to record information on the street works register about the placing of other prescribed apparatus, objects or deposits including builders skips, building materials and scaffolding on roads that may affect the flow of traffic.

Article 5: Duty to inspect

Article 5 inserts a new Article 13A into the Order to require undertakers planning to execute street works to inspect certain prescribed records prior to the works commencing. Regulations may also prescribe evidence that an undertaker may rely on to demonstrate that such an inspection has taken place.

Article 6: Notices of street works

Article 6 amends Articles 14, 15 and 51 of the 1995 Order in relation to the giving of advance notices of certain works. Advance notices given under Article 14 must contain the date when the works are intended to start and such other information as may be prescribed. An undertaker who has given advance notice but who does not submit before the start date quoted a further notice, required nearer to the time of works under Article 15, must supply the authority with a further notice. The further notice will contain such information as may be prescribed. If works have not substantially begun within a prescribed period after the proposed start date, the notice ceases to have effect, meaning the proposed works cannot lawfully begin. If the undertaker wishes to carry out the works, he will have to start the process of giving advance notice all over again.

Article 7: Directions relating to timing of street works

Article 7 amends Article 16 of the 1995 Order to enable a street authority to direct an undertaker to carry out works at certain times or on certain days, or both at certain times and days. The power applies to both planned works and those that are already under way.

Article 8: Directions as to placing of apparatus

Article 8 inserts a new Article 16A into the 1995 Order. It provides street authorities with a power to direct undertakers not to use a particular street in which to place their apparatus. This would be

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in cases where the authority considers that the works would cause serious disruption to traffic and there is an alternative street in which the apparatus could be placed, resulting in less disruption.

Article 9: Restriction on works following substantial road works

Article 9 amends Article 18 of the 1995 Order, which aimed to provide a period of 12 months' protection from street works for streets in which substantial road works had been recently executed. That period of restriction has been replaced with a period to be prescribed in regulations. Disputes shall be decided in the prescribed manner (either through arbitration or, on appeal by the undertaker to the Planning Appeals Commission).

Article 10: Restriction on works following substantial street works

Article 10 inserts a new Article 18A and Schedule 1A into the 1995 Order, and enables the street authority to restrict street works for a prescribed period following substantial street works. It is similar in effect to the provisions of Article 18, as amended.

Article 11: Duty of street authority to coordinate works

Article 11 amends Article 19 of the 1995 Order. It provides for the existing duty of coordination by street authorities to be extended to encompass the coordination of certain other prescribed temporary activities on streets.

Article 12: Qualifications of supervisors and operatives

Article 12 amends Article 27 of the 1995 Order. It enables a street authority to require, by notice, that an undertaker provides the names of the current or previous qualified supervisors and operatives and evidence of the required qualification. The existing powers of the Department are extended to make regulations prescribing the form of any document issued by an approved body to certify a qualification.

Article 13: Duty to notify street authority of reinstatement

Article 13 amends Article 30 of the 1995 Order to give an undertaker up to 7 working days from the completion of the reinstatement works in which to notify the street authority that the reinstatement has been carried out. It also enables regulations to be made to require other prescribed information about the reinstatement to be provided.

Article 14: Inspection fees following failure to reinstate

Article 14 inserts two new paragraphs (2A) and (2B) into Article 30 of the 1995 Order. They require undertakers to pay prescribed fees in respect of different types of inspection, rather than paying the actual cost of the inspection as provided for the 1995 Order. The fee payable may vary depending on a number of factors.

Article 15: Notices requiring remedial works relating to reinstatements

Article 15 amends both Articles 32 and 49 of the 1995 Order to provide that the minimum period within which failures of reinstatements must be rectified will not be 7 days, but will be such period as may be prescribed.

Article 16: Power of street authority to require undertaker to re-surface street

Article 16 inserts new Articles 33A, 33B 33C, 33D and 33E into the 1995 Order. It enables a street authority to require an undertaker to resurface the street or a portion of it. The works in respect of which a resurfacing notice may be given are limited to works carried out from the time of commencement of this Article. A resurfacing notice may relieve an undertaker from certain, or all, of his responsibilities in relation to reinstatement but regulations may restrict the extent to which the duty may be relieved. The new road surface must conform to any prescribed standards for materials and workmanship, as well as any performance standards for a prescribed period after resurfacing. The Department may issue or approve a code of practice giving practical guidance.

Article 17: Guidance about street authority inspections

Article 17 inserts a new Article 33F into the 1995 Order which enables the Department to issue or approve guidance to street authorities when exercising their powers to inspect works. It requires

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street authorities to have regard to any such guidance and makes it clear that any reference to inspections includes the carrying out of investigatory works.

Article 18: Charges where works unreasonably prolonged

Article 18 amends Article 34 of the 1995 Order to enable the Department to make regulations permitting charges to be applied to undertakers of street works where they fail to complete their street works by an agreed deadline.

Article 19: Charges for whole duration of works

Article 19 inserts a new Article 34A into the 1995 Order. Whereas Article 34 permits charges in respect of unreasonably prolonged occupation of the road, Article 34A enables the Department to collect charges from undertakers of street works in respect of their occupation of the road from the commencement of the works. The detail of the charging system will be included in regulations.

Article 20: Fees for inspections

Article 20 replaces Article 35 of the 1995 Order with a new provision that enables the Department, by regulations, to require undertakers to pay to street authorities a prescribed fee in respect of different types of inspections, rather than pay the costs of the inspection. It also enables different provisions to be made between different descriptions of street authority and undertaker, with the undertaker's previous performance being taken into account. The regulations may also provide for disputes that are to be settled by arbitration.

Article 21: Contribution to costs of re-surfacing by undertakers

Article 21 inserts a new Article 38A into the 1995 Order. It provides for street authorities to pay contributions to the undertaker carrying out resurfacing works as well as for contributions to be made from other undertakers who have carried out reinstatements in that part of the street. An undertaker served with a resurfacing notice may elect instead to make a payment to the street authority, which then carries out the work. Regulations may be made to deal with the details of those contributions.

Article 23: Duties relating to the location of unexpected apparatus

Article 23 amends Article 40 of the 1995 Order to require the finder of unexpected apparatus to keep a record of it and to notify the street authority of the nature and location of it. Regulations may require the Department to keep a register of information in respect of such apparatus.

Article 24: Fixed penalty offences

Article 24 inserts a new Article 52A into the 1995 Order. It identifies a range of offences that will become fixed penalty offences. Details of how the system is to operate are described in Schedule 2 to the Order which inserts a new Schedule 2A into the 1995 Order.

Article 25: Increase of fines for certain summary offences under the 1995 Order

Article 25 increases the maximum levels of fines in respect of certain offences in the 1995 Order from Level 3 (currently £1,000) on the standard scale to Level 4 (currently £2,500) and to Level 5 (currently (£5,000) for the most serious offences.

Article 27: Delegation of functions

Article 27 introduces new Article 56A into the 1995 Order. It enables the Department, by authorisation, to delegate certain of its functions under the Order to other persons.