
STATUTORY INSTRUMENTS

1993 No. 3160

The Roads (Northern Ireland) Order 1993

PART II

CONSTRUCTION, MAINTENANCE AND CLASSIFICATION OF ROADS

Construction of roads

Diversion of navigable watercourses

5.—(1) The Department may by order provide for the diversion of such part of a navigable watercourse as is specified in the order if the Department considers the diversion necessary or desirable in connection with—

- (a) the construction, improvement or alteration of a road;
- (b) the construction of a bridge over or tunnel under any navigable waters;
- (c) the provision of a new means of access to any land from a road;
- (d) the provision of a maintenance compound or service area;
- (e) the provision of a parking place for vehicles under^{F1} Article 10 of the Road Traffic Regulation (Northern Ireland) Order 1997]; or
- (f) the exercise by the Department of its powers under Article 115.

(2) Where a navigable watercourse is to be diverted in pursuance of an order made under paragraph (1), any new length of watercourse provided in pursuance of that order shall be such as will or, but for any bridge or tunnel constructed over or under it in pursuance of an order under Article 4, would be navigable in a reasonably convenient manner by vessels of a kind which immediately before the commencement of the order were accustomed to use that part of the watercourse which is to be replaced by the new length.

(3) Where by virtue of an order made under paragraph (1) the Department may divert any part of a navigable watercourse it may also divert any towing path or way adjacent to that part.

(4) Paragraph (5) shall have effect where—

- (a) works for the diversion of a navigable watercourse have been carried out by the Department in accordance with an order made under paragraph (1); and
- (b) any person has suffered damage in consequence of the works mentioned in subparagraph (a)—
 - (i) by the depreciation of any estate in any land to which he is entitled; or
 - (ii) by reason of the fact that his right of access to a navigable watercourse has been interfered with or extinguished.

(5) A person shall be entitled to receive compensation from the Department under this paragraph in respect of the damage where works of the type mentioned in paragraph (4) are carried out unless the works were carried out on land, or in exercise of rights, vested in the Department under Article

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110 or 111 or vested in the Department or any of its predecessors in title under any former statutory provision corresponding to Article 110 or 111.

(6) Any question of disputed compensation arising under paragraph (5) shall be referred to and determined by the Lands Tribunal.

F1 [1997 NI 2](#)

Changes to legislation:

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