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STATUTORY INSTRUMENTS

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1975 No. 1040 (N.I. 10)

NORTHERN IRELAND

The Roads (Northern Ireland) Order 1975

*Laid before Parliament in draft*

*Made*

*25th June 1975*

*Coming into Operation*

*9th July 1975*

ARRANGEMENT OF ORDER

Article

1. Title and commencement.
2. Interpretation.
3. Construction of bridges and tunnels in relation to navigable waters.
4. Diversion of navigable watercourses for road purposes.
5. Further provisions relating to certain orders.
6. Extinguishment for road purposes of certain public rights over navigable waters and foreshore.
7. Supplementary.
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SCHEDULE

Schedule—Procedure for making orders

At the Court at Buckingham Palace, the 25th day of June 1975

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Title and commencement*

1. This Order may be cited as the Roads (Northern Ireland) Order 1975 and shall come into operation on the fourteenth day after the day on which it is made.

*Interpretation*

2.—(1) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of the Environment;

“maintenance compound” means an area (with or without buildings) used or to be used in connection with the maintenance of roads, or a particular road;

“navigable waters” and “navigable watercourse” mean waters and a watercourse, respectively, over which a public right of navigation exists;

“principal Act” means the Roads Act (Northern Ireland) 1948 (b);

“relevant body” means—

(a) the Commissioners of Irish Lights;

(b) a district council;

(c) a harbour authority as defined in the Harbours Act (Northern Ireland) 1970 (c);

(d) the Fisheries Conservancy Board;

(e) the Foyle Fisheries Commission;

(f) a pilotage authority as defined in the Pilotage Act 1913 (d);

“road” includes a special road;

“service area” means an area of land adjoining, or in the vicinity of, a special road, being an area in which there are, or are to be, provided service stations or other buildings or facilities to be used in connection with the use of the special road;

“special road” has the same meaning as in the Special Roads Act;

“Special Roads Act” means the Special Roads Act (Northern Ireland) 1963 (e);

“swing bridge” includes a bridge which opens by any mechanical means.

(3) Any reference in this Order to section 34 of the principal Act includes a reference to that section as applied by section 18 of the Special Roads Act.

*Construction of bridges and tunnels in relation to navigable waters*

3.—(1) The Department may by order provide for the construction as part of a road—

(a) of a bridge over any navigable waters specified in the order (whether the sea, a river or other navigable waters); or

(b) of a tunnel under any such waters.

(2) An order under section 3 of the principal Act (side-roads connected with trunk roads) or section 1 of the Special Roads Act (designation of special roads) may provide for the construction as part of a road which is to be altered or constructed in pursuance of the order—

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

(b) 1948 c. 28 (N.I.).

(c) 1970 c. 1 (N.I.).

(d) 1913 c. 31.

(e) 1963 c. 12 (N.I.).

(a) of a bridge over any navigable waters specified in the order (whether the sea, a river or other navigable waters); or

(b) of a tunnel under any such waters;

and any such order which authorises the provision of a new means of access to any premises from a road may also provide for the access to be provided by means of a bridge over any navigable waters specified in the order and for the construction of the bridge.

*Diversion of navigable watercourses for road purposes*

4.—(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 provision of a new means of access to any premises from a road; or

(c) the provision of a maintenance compound or service area.

(2) An order under section 3 of the principal Act, section 1 of the Special Roads Act or Article 3 (1) may 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 of a bridge over or tunnel under any navigable waters, being a bridge or tunnel to be provided under the order;

(b) the construction, improvement or alteration of the road to which the order relates;

(c) the provision in pursuance of the order of a new means of access to any premises; or

(d) the provision of a maintenance compound or service area.

*Further provisions relating to certain orders*

5.—(1) Any such order as is mentioned in Article 3 which provides for the construction of a bridge over or tunnel under any navigable waters—

(a) shall include such plans and specifications as may be necessary to indicate its position and dimensions (including, for a bridge, its spans, headways and waterways and, for a tunnel, its depth below the bed of the navigable waters); and

(b) if it is a swing bridge, shall contain such provisions as the Department considers expedient for regulating its operation.

(2) Where a navigable watercourse is to be diverted in pursuance of any such order as is mentioned in Article 4, 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 the order, 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 any such order as is mentioned in Article 4, the Department may divert any part of a navigable watercourse it may also divert any towing path or way adjacent to that part.

(4) Before making any such order as is mentioned in Article 3 which provides for the construction of a bridge over or a tunnel under any navigable waters, the Department shall take into consideration the reasonable requirements of navigation over the waters affected by the order.

(5) Where—

- (a) works for the diversion of a navigable watercourse have been carried out by the Department in accordance with any such order as is mentioned in Article 4; and
- (b) any person has suffered damage in consequence of the works mentioned in sub-paragraph (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 extinguished or interfered with;

then, unless the works were carried out on land, or in the exercise of rights, vested in the Department or its predecessor in title under section 34 of the principal Act, that person shall be entitled to receive from the Department compensation under this paragraph in respect of the damage.

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

*Extinguishment for road purposes of certain public rights over navigable waters and foreshore*

6. The Department may, if it considers it necessary or desirable to do so in connection with any matter mentioned in Article 4 (1) (a), (b) or (c) or (2) (a) by order extinguish—

- (a) any public rights over or in relation to such part of the foreshore as is specified in the order;
- (b) any public right of navigation over such part of any navigable waters (whether the sea, a river or other navigable waters) as is specified in the order.

*Supplementary*

7.—(1) The Schedule shall have effect with respect to the making of an order under Article 3 (1), 4 (1) or 6.

(2) Proceedings under the Schedule may be taken concurrently (so far as practicable) with proceedings required to be taken under—

- (a) section 1 or 3 of (with Schedule 1 to) the principal Act (procedure for making orders relating to trunk roads);
- (b) section 34 of (with Schedule 5 to) that Act (procedure for making vesting orders); or
- (c) section 1 or 10 of (with Schedule 1 to) the Special Roads Act (procedure for making orders relating to special roads).

(3) In relation to an order made, by virtue of Article 3 (2) or 4 (2), under section 3 of the principal Act or section 1 of the Special Roads Act, paragraph 2 of Schedule 1 to each of those Acts shall have effect as if the following—

- (a) a relevant body in whose area any bridge, tunnel, foreshore or navigable watercourse specified in the order is situated;
  - (b) the Secretary of State concerned with navigation; and
  - (c) where the order affects foreshore, the Crown Estate Commissioners,
- were included among the persons to be served with the documents mentioned in that paragraph.

(4) An order under Article 3 (1), 4 (1) or 6 shall, together with such observations by 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.

(5) An order under Article 3 (1), 4 (1) or 6 shall be subject to negative resolution.

(6) In section 34 (1) of the principal Act (acquisition of land) the reference to the functions of the Department under that Act shall include a reference to the functions of the Department under this Order.

#### *Abandonment and stopping-up of roads*

8. For section 17 (1) of the principal Act substitute—

“(1) Where, in relation to any road, the Department is of opinion—

(a) that the road is no longer necessary for the purposes of road traffic; or  
(b) that another road is available which provides, or is capable, if improved, of providing adequate alternative facilities for road traffic, the Department may, subject to subsection (4), make an order in accordance with Schedule 1 authorising the stopping-up or abandonment of the road.”

*N. E. Leigh*

### SCHEDULE

### Article 7.

#### PROCEDURE FOR MAKING ORDERS

1. Before making an order the Department shall publish in the Belfast Gazette and once at least in each of two successive weeks in one or more newspapers circulating in the area in which the bridge, tunnel, foreshore or navigable watercourse or waters or proposed bridge or tunnel to which the order relates is or are situated a notice—

- (a) stating the general effect of the proposed order;
- (b) specifying a place in that area where a copy of a draft of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of not less than thirty days from the date of the last publication of the notice;
- (c) stating that, within that period, any person may by notice to the Department object to the making of the order.

2.—(1) The Department shall, not later than the date on which the notice referred to in paragraph 1 is last published, serve a copy thereof together with a copy of a draft of the order and of any relevant map or plan on—

- (a) a relevant body in whose area any bridge, tunnel, foreshore or navigable watercourse or waters specified in the draft is or are situated;
- (b) in relation to a draft of an order under Article 6 or any order affecting the foreshore, the Crown Estate Commissioners;
- (c) the Secretary of State concerned with navigation.

(2) Where the Department proposes to modify the terms of the draft of the order, the Department shall give and publish, in such manner as appears to it to be appropriate, such additional notices as the Department considers appropriate for informing all persons likely to be adversely affected by the modification.

3.—(1) If, before the expiration of the period referred to in paragraph 1 (b), the Department receives an objection from any person on whom a copy of the notice is required to be served under paragraph 2 (1) or from any other person appearing to it to be affected, it shall, subject to sub-paragraph (2), cause a local inquiry to be held unless the objection is withdrawn.

(2) Unless the objection is made by a person on whom a notice was served under paragraph 2 (1), the Department may dispense with an inquiry if it is satisfied that it is unnecessary to hold one.

4. After considering—

(a) any objections to the proposed order which are not withdrawn;

(b) where a local inquiry is held, the report of the person who held it,  
the Department may make the order either without modifications or subject to such modifications as it thinks fit.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order confers power to construct bridges and tunnels over and under navigable waters in Northern Ireland and to divert navigable watercourses for road purposes; it also authorises certain public rights over navigable waters and the foreshore to be extinguished for road purposes and permits unnecessary roads to be stopped-up or abandoned.