
STATUTORY INSTRUMENTS

1980 No. 1086

Private Streets (Northern Ireland) Order 1980

PART III

ADOPTION OF PRIVATE STREETS AS PUBLIC ROADS

Adoption of streets dealt with under Article 3

7.—(1) A street or part of a street in respect of which the Department has exercised street planning functions, shall not be adopted as a public road unless the street comprises land which the Department, in exercise of its street planning functions, has determined shall be regarded as being comprised in the street for the purposes of this Part and—

- (a) the aggregate length of the frontages of the completed buildings on both sides of the street constitutes at least one-half of that of all the frontages on both sides thereof, and the street or part of a street is joined to a street which is a public road or is likely to become a public road within a reasonable time; or
 - (b) the Department has issued a notice under Article 11 requiring the execution of all works which are reasonably necessary to bring the street into conformity with regulations made under Article 5(1); or
 - (c) the street has been provided in accordance with an agreement under Article 32.
- (2) [^{F1}Subject to paragraph (2A),] where the Department is satisfied that—
- (a) a street has been provided in conformity with a determination under Article 3(1);
 - (b) the street, or part of the street, satisfies the conditions specified in paragraph (1)(a) or (b); and
 - (c) all works which are reasonably necessary to bring the street into conformity with regulations made under Article 5(1) have been executed;

the Department may issue a preliminary certificate to that effect.

[^{F1}(2A) Where a requirement mentioned in Article 3(4A) is attached to a determination given under Article 3(1) in respect of a street, the Department shall not issue a preliminary certificate under paragraph (2) unless the Department is satisfied that that requirement has been complied with.]

(3) Where the Department is satisfied that a street has been properly maintained during a period of one year from the date on which a preliminary certificate was issued in respect of it and that any defects occurring during that period have been made good, the Department may issue a certificate to that effect.

[^{F1}(4) Where—

- (a) a preliminary certificate under paragraph (2) and a certificate under paragraph (3) have been issued in respect of a street; and
- (b) no application under paragraph (4A) has been received by the Department within the period of 28 days beginning on the date on which the certificate under paragraph (3) was issued,

the Department shall on the expiry of that period declare the street to be a public road and the street shall be a public road from the date of the declaration.

(4A) The person to whom a preliminary certificate under paragraph (2) and a certificate under paragraph (3) have been issued in respect of a street may, within the period mentioned in paragraph (4)(b), make application to the Department requesting that the Department should not declare the street to be a public road under this Article.

(4B) Subject to paragraphs (4D) to (4F), on an application made to it under paragraph (4A) in respect of a private street the Department may—

- (a) grant the request in the application and not make any declaration under this Article in respect of the street; or
- (b) refuse the request and declare the street to be a public road;

and the decision of the Department on any such application shall be final.

(4C) Where the Department declares a street to be a public road under paragraph (4B)(b) the street shall be a public road from the date of the declaration.

(4D) Where an application is made to the Department under paragraph (4A) in respect of a private street and the Department is of the opinion that the request in the application should not be granted the Department shall issue notice to that effect to the applicant giving such reasons as it considers appropriate.

(4E) Before determining an application under paragraph (4A), the Department may, or if the applicant so requests within 28 days from the date of the notice under paragraph (4D) shall, afford to him an opportunity of appearing before and being heard by a person appointed for that purpose by the Planning Appeals Commission and considered by it to be qualified in that behalf.

(4F) Where a hearing is held under paragraph (4E), the Department shall consider any recommendations made by the person appointed under that paragraph.]

(5) Where an application is made for a preliminary certificate under paragraph (2) or a certificate under paragraph (3) and the certificate is not issued within 28 days from the day on which that application was made, the certificate shall be deemed to have been refused on the day on which that period expires.

(6) An applicant for a preliminary certificate under paragraph (2) or a certificate under paragraph (3) which is refused or deemed to have been refused may, within the 28 days next following and after serving notice of appeal on the Department, appeal to a court of summary jurisdiction on the ground that the conditions for the issue of the certificate have been fulfilled.

(7) If, on an appeal under paragraph (6), the court is satisfied that such conditions have been fulfilled, it may direct the Department to issue the certificate.

(8) Subject to^{F2} Article 11 of the Roads (Northern Ireland) Order 1993] (provisions as to extraordinary traffic) and any other statutory provision relating to liability for injury or damage to a public road, a person who has been issued with a preliminary certificate under paragraph (2) and with a certificate under paragraph (3) in respect of a street shall be free from all liability for any expenses^{F1} incurred after the date of a declaration under paragraph (4) or (4B)(b)] in carrying out any street works in that street (other than works required to make good any damage caused by any subsequent act on his part of negligence or malfeasance).

F1	1992 NI 19
F2	1993 NI 15

Adoption of streets provided in accordance with an agreement under Article 32

8.—^[F3](1) Subject to^[F3] paragraph (2) and^[F3] Article 7(1), where a street has been provided in accordance with an agreement under Article 32, the Department shall declare the street to be a public road and the street shall be a public road from the date of the declaration.

^[F3](2) Where a requirement mentioned in Article 3(4A) is attached to a determination given under Article 3(1) in respect of a street, the Department shall not declare the street to be a public road under paragraph (1) unless the Department is satisfied that that requirement has been complied with.]

F3 1992 NI 19

^[F4]Adoption of streets on request of, or with consent of, owners or occupiers of adjoining land

9.—(1) This Article shall not apply to any street in respect of which the Department has exercised street planning functions, unless the Department has granted the request in an application under Article 7(4A) in respect of the street.]

(2) Where with respect to a street or part of a street not being a public road—

- (a) the Department is of the opinion that the street should become a public road, and a majority of the owners or occupiers of the land in or adjoining such street consent thereto in writing; or
- (b) a majority of such owners or occupiers request in writing that the street should become a public road and the Department is of the opinion that the request should be granted;

then, if the Department is satisfied that the street is in all respects fit and proper to become a public road, the Department may declare the street to be a public road and the street shall be a public road from the date of the declaration.

(3) Where a street meets the conditions set out in paragraph (2)(a) or (b) but the Department is not satisfied that the street is in all respects fit and proper to become a public road, the Department may, in exceptional circumstances of such a kind as it may determine, declare the street to be a public road, and the street shall be a public road from the date of the declaration.

(4) Where an application is made to the Department to declare a street to be a public road and the Department is of the opinion that the request should not be granted the Department shall issue notice to that effect to the applicant giving such reasons as it considers appropriate.

(5) Before determining an application under this Article, the Department may, or if the applicant so requests within 28 days from the date of the notice under paragraph (4) shall, afford to him an opportunity of appearing before and being heard by a person appointed for that purpose by the Planning Appeals Commission and considered by it to be qualified in that behalf.

(6) Where a hearing is held under paragraph (5), the Department shall consider any recommendations made by the person appointed under that paragraph.

(7) The decision of the Department on any such application shall be final.

F4 1992 NI 19

Vesting and control of drains

10. A drain appertaining to a street, which—

- (a) becomes a public road after the coming into operation of this Order, or
- (b) which became a public road after 12th October 1964,

and is used solely for the purpose of draining streets shall, whether or not it forms part of the street, vest in and be under the control of the Department from the date on which that street becomes, or became, a public road.

[^{F5}Vesting and control of lighting equipment

10A. Any lamps, lamp posts, cables or other equipment installed for the purpose of providing a proper means for lighting a street which becomes a public road after the coming into operation of Article 3 of the Private Streets (Amendment) (Northern Ireland) Order 1992 shall, unless already so vested, vest in and be under the control of the Department from the date on which that street becomes a public road.]

F5 1992 NI 19

Changes to legislation:

There are currently no known outstanding effects for the Private Streets (Northern Ireland) Order 1980, PART III.