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STATUTORY INSTRUMENTS

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**1993 No. 3160**

**The Roads (Northern Ireland) Order 1993**

**PART IV**

**IMPROVEMENT AND SAFETY OF ROADS**

*Improvement of roads*

**General power of improvement**

**43.**—(1) Subject to the provisions of this Order, the Department may carry out any work for the improvement of a road where it appears to the Department expedient to do so for the purposes of facilitating road traffic.

(2) In this Article “improvement” (without prejudice to the generality of that expression) includes—

- (a) the widening, re-aligning and re-shaping of roads; and
- (b) the laying out, planting, maintenance and protection of trees, shrubs and grass margins in and beside roads.

**Street lighting**

**44.**—(1) Where the Department considers that any road should be illuminated or better illuminated, it may provide for—

- (a) the supply of electricity or other means of illumination by any person having power in that behalf;
- (b) the installation of such system of illumination (including lamps, lamp posts, cables, supports for cables and other materials and apparatus) as appears to the Department to be necessary for the purpose; and
- (c) the operation and maintenance of any system of illumination installed under this Article.

(2) Where the Department considers that it is in the public interest for a street or footpath to which the public has access to be illuminated or better illuminated, the powers of the Department under paragraph (1) shall be exercisable in relation to that street or footpath as if it were a road.

(3) The Department may alter or remove any system of illumination installed under paragraph (1) or (2).

(4) The Department may provide for the operation and maintenance of any system of illumination installed under Article 24 of the Roads (Northern Ireland) Order 1980<sup>F1</sup> and may alter or remove any such system.

(5) The Department may, on such terms and conditions as may be agreed between the Department and any other person, provide, in respect of land which the Department in the exercise of its street planning functions under the Private Streets (Northern Ireland) Order 1980<sup>F2</sup> has determined shall be regarded for the purposes of Part III of that Order as being comprised in a street, for—

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- (a) the supply of electricity or other means of illumination by any person having power in that behalf; and
  - (b) the installation of a system of illumination (including lamps, lamp posts, cables, supports for cables and other materials and apparatus).
- (6) For the purposes of, or in connection with, the exercise of its functions under this Article, the Department may obtain from the owner or occupier of any land, on such terms and conditions as may be agreed between the Department and that person, the consent of that person for the Department—
- (a) to install and keep installed on, under or over the land any lamps, lamp posts, cables, supports for cables or other materials or apparatus; and
  - (b) to have access to the land for the purpose of inspecting, repairing, altering, renewing or removing any thing so installed.
- (7) The power to make a vesting order in respect of any land under Article 113 includes power to create and vest in the Department for the purposes of, or in connection with, the exercise of its functions under this Article new rights over land as well as to vest existing rights and, in particular to create and vest in the Department—
- (a) the right to install and keep installed on, under or over any land any lamps, lamp posts, cables, supports for cables or other materials and apparatus; and
  - (b) the right to have access to the land for the purpose of inspecting, repairing, altering, renewing or removing anything so installed.
- (8) In this Article—
- “footpath” means a way over which the public have a right of way on foot only, not being a footway or other part of a road;
- “street” means any street, lane, square, court, alley or passage, not being a road.

**F1** 1980 NI 11  
**F2** 1980 NI 12

### **Drainage of roads**

- 45.**—(1) The Department may, in a road or in land adjacent to or adjoining a road—
- (a) construct and lay road drains;
  - (b) construct and lay drains for the purpose of preventing surface water from flowing on to the road;
  - (c) erect barriers to divert surface water into or through any existing drain.
- (2) The Department may—
- (a) scour, cleanse and keep open road drains;
  - (b) scour, cleanse and keep open drains constructed and laid by the Department under paragraph (1)(b);
  - (c) for the purpose of relieving the flooding of any road, scour, cleanse and keep open any other drain in land adjacent to or adjoining a road.
- (3) The power under paragraph (1)—
- (a) to construct and lay a drain; or
  - (b) to erect barriers to divert surface water into or through any existing drain,
- includes power to discharge water through that drain into any inland waters, whether natural or artificial, or any tidal waters.

(4) If the owner or occupier of any land suffers damage by reason of the exercise by the Department of any power under paragraph (1), (2) or (3), the Department shall pay compensation therefor.

(5) Any question as to whether compensation is payable under paragraph (4) or as to the amount of any compensation so payable shall be determined by the Lands Tribunal.

(6) For the purpose of draining a road or otherwise preventing surface water from flowing on to it, the Department may acquire by agreement or otherwise any drain, or any right of making or of use or other right in or respecting a drain (with or without any materials or things belonging thereto).

(7) Any person who, before the acquisition of a drain under paragraph (6), has acquired a right to use the drain, shall be entitled to use it or any drain substituted for it, to the same extent as he would or might have done had the drain not been acquired by the Department.

(8) Article 113(1) and (2) and Schedule 7 shall apply where under paragraph (6) the Department acquires otherwise than by agreement any drain or any right.

(9) In this Article and Article 46—

“road drain” means a drain the principal purpose of which is to drain a road;

“drain” includes a ditch, cut, culvert, soakaway, dyke or sluice.

#### **Obstruction of, interference with, or discharge of material into, a road drain, etc.**

**46.—**(1) Any person who, without the consent of the Department, obstructs or interferes with—

- (a) a road drain;
- (b) a drain constructed and laid by the Department under Article 45(1)(b); or
- (c) a barrier erected by the Department under Article 45(1)(c),

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person convicted of an offence under paragraph (1) shall within such period as the court may allow—

- (a) remove the obstruction or interference; and
- (b) make good any damage done by him to the drain or barrier;

and if he fails to do so he shall be guilty of a further offence and be liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which that failure continues.

(3) Where—

- (a) a person obstructs or interferes with a drain or barrier in contravention of paragraph (1); and
- (b) the Department considers that by reason of that obstruction or interference there is, or is likely to be, a danger to persons using the road,

then (whether or not proceedings are instituted for an offence under paragraph (1)) the Department may carry out such works of repair or reinstatement as in the opinion of the Department are necessitated by reason of his action and recover from that person any expenses thereby reasonably incurred by it.

(4) Any person who, without the consent of the Department, discharges any solid or liquid matter into—

- (a) a road drain; or
- (b) a drain constructed and laid by the Department under Article 45(1)(b),

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shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Any person convicted of an offence under paragraph (4) in respect of any drain shall within such period as the court may allow—

- (a) cease to discharge any solid or liquid matter into the drain;
- (b) remove any pipe or other thing through or by means of which the discharge in question was made; and
- (c) make good any damage done by him to the drain;

and if he fails to do so he shall be guilty of a further offence and be liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which that failure continues.

(6) Where—

- (a) a person discharges any solid or liquid matter into a drain in contravention of paragraph (4); and
- (b) the Department considers that it is in the public interest to exercise its powers under this paragraph,

then (whether or not proceedings are instituted for an offence under paragraph (4)) the Department may—

- (i) carry out such works as in the opinion of the Department are necessary to prevent any further solid or liquid matter being discharged in contravention of paragraph (4); and
- (ii) recover from that person any expenses thereby reasonably incurred by it.

(7) Where a person—

- (a) has been convicted of an offence under paragraph (1) and becomes liable to prosecution for an offence under paragraph (2); or
- (b) has been convicted of an offence under paragraph (4) and becomes liable to prosecution for an offence under paragraph (5),

the Department may itself do any thing which he has failed to do and recover from that person any expenses thereby reasonably incurred by it.

(8) A consent under paragraph (1) or (4) may be given subject to such conditions as the Department thinks fit and in particular, but without prejudice to the generality of the foregoing, subject to conditions—

- (a) regulating the place and manner in which any matter is to be discharged into a drain;
- (b) prohibiting the discharge of specified matter into a drain or otherwise regulating the kinds of matter which may be discharged into a drain.

(9) Any person who—

- (a) does anything mentioned in paragraph (1) or (4) in pursuance of a consent given under that paragraph; and
- (b) fails to comply with any condition subject to which that consent was given,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) Where it appears to the Department that a person has contravened paragraph (9), then (whether or not proceedings are instituted for an offence under that paragraph) the Department may—

- (a) revoke the consent given to that person under paragraph (1) or (4);

- (b) carry out such works of repair or reinstatement as in the opinion of the Department are necessitated by reason of his action; and
  - (c) recover from that person any expenses thereby reasonably incurred by it.
- (11) Any person aggrieved by—
- (a) the refusal of the Department to give its consent under paragraph (1) or (4); or
  - (b) any condition subject to which any such consent is given,
- may, within 21 days of receiving notice thereof, appeal to the planning appeals commission by notice in writing under this Article.
- (12) Paragraphs (2) and (3) of Article 84 shall apply to an appeal under this Article as they apply to an appeal under that Article.
- (13) Nothing in this Article applies to—
- (a) the discharge into a drain of surface water from a building adjoining a road by means of a gutter in the footway of the road; or
  - (b) anything done in relation to a drain by the owner thereof or by a person exercising a right preserved by Article 45(7).
- (14) In this Article “discharge” includes cause or permit to be discharged.

#### **Filling in of roadside ditches**

- 47.**—(1) If it appears to the Department that a ditch on land adjacent to or adjoining a road constitutes a danger to users of the road, the Department may—
- (a) if it considers the ditch unnecessary for drainage purposes and any occupier of the land known to the Department agrees in writing that it is unnecessary for those purposes, fill it in; or
  - (b) place in the ditch or in land adjacent to or adjoining it, such pipes as the Department considers necessary in substitution for the ditch, and thereafter fill it in.
- (2) If the owner or occupier of any land suffers damage by reason of the exercise by the Department of any power under paragraph (1), the Department shall pay compensation therefor.
- (3) Any question as to whether compensation is payable under this Article or as to the amount of any compensation so payable shall be determined by the Lands Tribunal.

#### *Safety of roads*

#### **Removal of fallen structures, trees, etc.**

- 48.**—(1) Where from any cause—
- (a) any wall, fence or other structure (whether of the same kind as those mentioned or not) erected on land adjoining a road; or
  - (b) any tree, or branch or bough of a tree, growing on land adjoining a road or in a road,
- falls upon or across the road so as to cause danger or obstruction to persons or vehicles using the road, the Department may, without giving notice to the owner or occupier of the land or to any other person, effect the removal of that structure, tree, branch or bough.
- (2) Anything removed from a road by the Department under paragraph (1) may be replaced by it upon the land on which it was erected or grew.
- (3) Where the Department exercises its powers under paragraph (1), it may recover from the owner or occupier of the land any expenses thereby reasonably incurred by it.

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### **Prevention of obstruction to view, etc.**

49. Where the Department considers it necessary, for the prevention of danger arising from obstruction—

- (a) to traffic upon a road, or
- (b) to the view of persons entering or using a road,

to impose restrictions with respect to any land other than restrictions imposed by or under any other provision of this Order, the Department may serve a notice in accordance with Schedule 4.

### **Removal of potentially dangerous trees and hedges**

50. Where the Department is satisfied that any tree or hedge adjoining, adjacent to, or growing on a road—

- (a) is dead, damaged, diseased or insecurely rooted and by reason of its condition is likely to cause danger to persons using the road;
- (b) obstructs or interferes with the light from any public lamp;
- (c) endangers or obstructs the passage of vehicles or pedestrians, or obstructs the view of drivers of vehicles; or
- (d) otherwise prejudices the safety or convenience of persons using the road or prejudices the road,

the Department may serve a notice on the owner of the tree or hedge, or on the occupier of the land on which such tree or hedge is growing, requiring him to remove the tree or hedge or to lop the tree or cut back the hedge to such an extent as will remove the obstruction or remedy any other matter to which the notice relates.

### **Dangerous land adjoining roads**

51. If the Department is of the opinion—

- (a) that a building, wall or other structure is in such a condition as to be dangerous to persons using a road;
- (b) that there is in or on any land adjoining a road an unfenced or inadequately fenced source of danger to persons using the road; or
- (c) that there is on any land adjoining a road any illumination which is a source of danger to persons using the road,

the Department may serve a notice on the owner of the structure or the owner or occupier of the land requiring him to carry out such works of repair, protection, removal, alteration or enclosure as will obviate the danger.

### **Prevention of solid matter being washed on to roads**

52. The Department may serve a notice on the owner or occupier of any land adjoining a road, requiring him to construct and lay such drains, erect such barriers or embankments or do such other works as are necessary to prevent any solid matter from such land from falling upon, or being washed or carried on to, the road, or into any drain, sewer or gully therein, in such quantities as may cause danger or substantial inconvenience to users of the road, or choke up the drain, sewer or gully.

### Prevention of water falling or flowing on to roads

53.—(1) The Department may serve a notice on the owner or occupier of any building adjoining a road requiring him—

- (a) to erect or repair such gutters or downpipes on the building;
- (b) to construct such gutters in the footway of the road; or
- (c) to carry out such other works,

as are necessary to prevent—

- (i) water from the roof or any other part of the building falling upon persons using the road;
- (ii) so far as is reasonably practicable, surface water from the building flowing on to, or over, the road.

(2) Every gutter in the footway of a road shall be so constructed and kept in such good condition and repair by the owner or occupier of any building served by the gutter that it does not constitute a danger or a nuisance to road users.

(3) The Department may serve a notice on the owner or occupier of any building adjoining a road requiring him to carry out such works in relation to a gutter serving that building as are necessary to comply with paragraph (2).

(4) The Department may serve a notice on the owner or occupier of land adjoining a road, requiring him to do such works as are necessary to prevent, so far as is reasonably practicable, surface water from the land flowing onto or over the road.

(5) The following are hereby repealed, namely—

- (a) section 142 of the Belfast Corporation Act 1845<sup>F3</sup>; and
- (b) any other transferred local provision imposing obligations on an owner or occupier of a building in relation to the construction, maintenance or repair of gutters serving the building in footways adjoining the building.

**F3** 1845 c. cxlii

### Removal of barbed wire

54.—(1) Where on any land adjoining a road there is a fence made with barbed wire, or having barbed wire in it, and the wire is, in the opinion of the Department, likely to be a danger to persons or animals using the road, the Department may serve on the occupier of the land a notice requiring him to—

- (a) remove the barbed wire; or
- (b) carry out such works as are necessary to prevent the barbed wire from being a danger to persons or animals using the road.

(2) For the purposes of this Article “barbed wire” means any wire with spikes or jagged projections.

### Removal of projections from buildings

55.—(1) The Department may serve a notice on the owner or occupier of any building requiring him to remove or alter any projection erected or placed against or in front of a building if the projection—

- (a) is, or is likely to be, an obstruction to safe and convenient passage along any road; or

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(b) is, by reason of its being insecurely fixed or of its defective construction or otherwise, a source of danger to persons or vehicles using the road.

(2) In this Article “projection” includes any projecting window, porch, canopy, awning, sign, sign post, sign iron, showboard, gate, door, bar, wall, fence or step, or any other obstruction or projection.

### **Doors, etc. opening onto road**

**56.**—(1) A door, gate or bar shall not, except with the consent of the Department, be so erected on land adjoining a road as to open outwards onto the road.

(2) Where a door, gate or bar is erected in contravention of paragraph (1) the Department may serve a notice on the owner or occupier of the land requiring him to alter the door, gate or bar so that it does not open outwards onto the road.

(3) Any person aggrieved by the refusal of the Department to give its consent under paragraph (1) may, within 21 days of receiving notice thereof, appeal to the planning appeals commission by notice in writing under this Article.

(4) Paragraphs (2) and (3) of Article 84 apply to an appeal under this Article as they apply to an appeal under that Article.

### **Retaining walls**

**57.**—(1) This Article applies to a retaining wall any part of which is within 6 metres of a road and which—

- (a) is at any point of a height of one metre or more above the level of the ground at the boundary of the road nearest that point; or
- (b) serves, or is intended to serve, as a support for earth or other material which supports a road.

(2) No retaining wall, being a wall which when erected will be a retaining wall to which this Article applies, shall be erected otherwise than in accordance with plans, sections and specifications approved by the Department.

(3) Any person who erects a retaining wall in contravention of paragraph (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Where—

- (a) a retaining wall to which this Article applies by virtue of paragraph (1)(a) is in such a condition as to constitute a danger to persons using the road; or
- (b) a retaining wall to which this Article applies by virtue of paragraph (1)(b) is in such a condition as to constitute a danger to the support and stability of a road,

the Department may, by notice served on the owner or occupier of the land on which that wall is situated, require him to carry out such works as will obviate the danger.

(5) Any person aggrieved by the refusal of the Department to give its approval under paragraph (2) may, within 21 days of receiving notice thereof, appeal to the planning appeals commission by notice in writing under this Article.

(6) Paragraphs (2) and (3) of Article 84 apply to an appeal under this Article as they apply to an appeal under that Article.

(7) In this Article “retaining wall” means a wall, not forming part of a permanent building, which serves, or is intended to serve, as a support for earth or other material on one side only.



## Notices under Articles 50 to 57 and appeals

**58.**—(1) This Article applies to notices served under any of Articles 50 to 57.

(2) A notice shall—

- (a) describe the works to be carried out;
- (b) require the person upon whom it is served to carry out those works within the specified period; and
- (c) require that person within that period to do such other things necessary for or connected with the carrying out of those works as may be specified in the notice.

(3) Any person upon whom a notice is served who is aggrieved by any of its requirements may appeal within 21 days of its service to a court of summary jurisdiction.

(4) Subject to any order made on appeal, if a person upon whom a notice is served fails to comply with any of its requirements—

- (a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale, and if after conviction the failure continues he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 2 on the standard scale for each day on which the failure continues;
- (b) the Department may execute such works as are necessary to comply with the requirements of the notice and may recover from that person any expenses thereby reasonably incurred by it.

(5) Notice of the right of appeal under paragraph (3) shall be given in the notice.

(6) In this Article “specified period” means such period, being not less than 21 days from the service of the notice, as the Department specifies in the notice.

## Removal of nuisances

**59.**—(1) Where any thing is placed on a road so as to constitute a nuisance, the Department may by notice require the person who placed it there to remove it immediately and if he fails to comply with the notice the Department may make a complaint to a court of summary jurisdiction for a removal and disposal order under this Article.

(2) Where the Department considers that any thing placed on a road without lawful authority constitutes a danger to persons using the road the Department may remove the thing and may make a complaint to a court of summary jurisdiction for a disposal order under this Article.

(3) A court of summary jurisdiction may, on a complaint made under this Article, make an order authorising the Department either to remove the thing in question and dispose of it or, as the case may be, to dispose of the thing in question.

(4) Where in accordance with an order under paragraph (3) any thing is disposed of by sale, the expenses of removal and sale shall be defrayed out of the proceeds thereof and the balance of the proceeds (if any) shall be given to the owner if known and if not shall be applied in the same manner as is provided for with respect to fines by section 20 of the Administration of Justice Act (Northern Ireland) 1954<sup>F4</sup>.

(5) Where in accordance with an order under paragraph (3) the Department disposes of any thing—

- (a) by sale and the proceeds are not sufficient to defray the Department's expenses; or
- (b) in some manner other than by sale,

the Department may recover from the person who placed that thing on the road any expenses reasonably incurred by it in removing and disposing of the thing.

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(6) For the purposes of this Article a thing may be treated as having been placed on a road notwithstanding that it is on wheels.

**F4** 1954 c. 9 (N.I.)

### **Damage caused to road by excavations, etc. on adjoining land**

**60.** Where a road is damaged by or in consequence of any excavation or other works on land adjoining the road, the Department may make good the damage and recover from the owner or occupier of the land any expenses thereby reasonably incurred by it.

*Miscellaneous powers of Department as to structures, works etc. in or under road*

### **Placing of structures in a road**

**61.**—(1) Article 5 of the Social Need (Northern Ireland) Order 1986<sup>F5</sup> shall be renumbered as paragraph (1) of that Article and after that paragraph there shall be added the following paragraphs—

“(2) In the exercise of its powers under this Article the Department may carry out works involving the placing of any structure in a road maintained by it, but shall not so exercise those powers as—

- (a) to obstruct or prevent the passage of vehicles or of the public on foot along the road;
- (b) to obstruct or prevent normal access to premises adjoining the road;
- (c) to prevent any person from having access to any works of his under, in, on, over, along or across the road.

(3) The Department may sell, let or otherwise dispose of any structure placed by it in a road under this Article to any other person.”

(2) In Article 101 of the Planning Order after paragraph (2) there shall be inserted the following paragraph—

“(2A) The Department may sell, let or otherwise dispose of any trading kiosk placed by it in a road under this Article to any other person.”.

**F5** 1986 NI 14

### **Trading kiosks**

**62.**—(1) This Article applies to any trading kiosk which—

- (a) having been placed in a road by the Department in the exercise of its powers under Article 5 of the Social Need (Northern Ireland) Order 1986 is sold by the Department to another person under paragraph (3) of that Article; or
- (b) having been placed in a road by the Department or a district council in the exercise of its powers under Article 101 of the Planning Order, is sold by the Department or council to another person under paragraph (2A) or (5) of that Article.

(2) Where a trading kiosk to which this Article applies is present in a road, the owner of that kiosk shall, unless there is in force a licence under this Article authorising its presence in that road, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (3) Where—
- (a) a person is convicted of an offence under paragraph (2); and
  - (b) he does not, within such period as the court may allow, remove the trading kiosk in question and make good any damage to the road,
- then the Department may itself—
- (i) remove that trading kiosk and dispose of it in such manner as the Department thinks fit; and
  - (ii) make good any damage to the road.
- (4) The Department may by a licence issued under this Article to the owner of a trading kiosk to which this Article applies authorise the presence of that trading kiosk in a road and in a position specified in the licence.
- (5) The Department may—
- (a) issue a licence under this Article to the owner of a trading kiosk and insert in the licence a provision prohibiting assignment of the licence; or
  - (b) issue such a licence to the owner of a trading kiosk and his successors in title, the licence, unless withdrawn or surrendered, to be transferred with the ownership of the trading kiosk;
- and references in this Article to the licensee are references to the person who is for the time being entitled to the benefit of a licence under this Article.
- (6) A licence under this Article shall be issued subject to such conditions as the Department thinks fit.
- (7) Without prejudice to the generality of paragraph (6), a licence under this Article may be issued subject to conditions—
- (a) regulating the maintenance, repair and alteration of the trading kiosk to which the licence relates;
  - (b) requiring the licensee to give the Department not less than 6 weeks notice of his intention to cease using or abandon that trading kiosk.
- (8) The Department may by notice served on the licensee withdraw a licence issued under this Article—
- (a) on the expiration of such period as may be specified in the notice, being a period of not less than 7 days beginning with the date of service of the notice on the licensee, if—
    - (i) any condition subject to which the licence was issued is contravened by the licensee; or
    - (ii) the Department becomes aware that the licensee intends to cease using or abandon the trading kiosk;
  - (b) on the expiration of such period as may be so specified, being a period of not less than 3 months beginning with that date, if—
    - (i) the Department considers the withdrawal of the licence is necessary for the purpose of the exercise of its functions under this Order; or
    - (ii) in the case of a licence relating to a trading kiosk mentioned in paragraph (1)(b), an order under Article 100 of the Planning Order ceases to apply in relation to the road on which the kiosk is present.
- (9) Unless withdrawn or surrendered by the licensee, a licence under this Article shall remain in force for such period as may be specified therein.
- (10) Where a licence under this Article expires or is withdrawn or surrendered—

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- (a) the Department may require the last licensee, within such period as the Department may specify, to remove the trading kiosk to which the licence relates and make good any damage to the road; and
- (b) if the last licensee fails to comply with any such requirement the Department may itself—
  - (i) remove that trading kiosk and dispose of it in such manner as the Department thinks fit; and
  - (ii) make good any damage to the road.

(11) The licensee or (in the case of a licence which has expired or been withdrawn or surrendered) the last licensee shall indemnify the Department against any claim in respect of injury, damage or loss arising out of—

- (a) the presence in a road of the trading kiosk to which the licence relates; or
- (b) the carrying out by any person of any works required under paragraph (10),

other than a claim in respect of injury, damage or loss which is attributable to the negligence of the Department.

(12) In paragraphs (10) and (11) “the last licensee” means the person who, immediately before the expiration, withdrawal or surrender of the licence, was the licensee or, if that person has died, his personal representative.

(13) Where any trading kiosk is disposed of by sale under paragraph (3)(i) or (10)(b)(i) the expenses of removal and sale and of making good any damage to the road shall be defrayed out of the proceeds thereof and the balance of the proceeds (if any) shall be applied in the same manner as is provided for with respect to fines by section 20 of the Administration of Justice Act (Northern Ireland) 1954<sup>F6</sup>.

- (14) Where the Department disposes of any trading kiosk under paragraph (3)(i) or (10)(b)(i)—
  - (a) by sale and the proceeds are not sufficient to defray the Department's expenses; or
  - (b) in some manner other than by sale,

the Department may recover from the owner of the trading kiosk any expenses reasonably incurred by it in removing and disposing of the trading kiosk and making good any damage to the road.

**F6** 1954 c. 9 (N.I.)

### **Cattle-grids**

**63.**—(1) The Department may, if it is satisfied that it is expedient to do so, provide and maintain a cattle-grid in a road or partly in a road and partly in adjoining land.

(2) Where the Department provides a cattle-grid under this Article it shall also provide facilities for the passage under proper control of animals and all other traffic unable to pass over the cattle-grid, being traffic entitled by law to use the road in which the grid is placed.

(3) A cattle-grid and any facilities provided by the Department under this Article shall, when completed, vest in and be maintainable by the Department.

(4) The Department may alter or improve a cattle-grid or facilities provided under this Article.

(5) The Department may enter into an agreement with any person for the making by him of a contribution (by a single payment or periodical payments) of such amount as may be specified in the agreement towards the expenses of the Department in providing and maintaining a cattle-grid under this Article.

(6) An agreement under paragraph (5) may include such incidental and consequential provisions as appear to the parties to be necessary, including provisions for the repayment of, if the cattle-grid is later removed, a specified proportion of a contribution towards the installation of the cattle-grid.

(7) The Department may, in determining whether or not to provide a cattle-grid, have regard to the extent to which persons who will receive special benefit from it are willing to enter into agreements under paragraph (5).

(8) In this Article “cattle-grid” means a device intended to prevent the passage of animals, or animals of a particular description, but to allow the passage of all or some other traffic, and includes any fence or other works necessary for securing the efficient operation of the device.

### **Shelters, rails, barriers, etc.**

**64.**—(1) The Department may erect or permit to be erected on any road—

- (a) shelters for the protection from the weather of persons waiting to enter public service vehicles;
- (b) rails or other barriers for the regulation of the priority of such persons;
- (c) posts denoting stopping places of public service vehicles;

and may remove anything so erected.

(2) In exercising its functions under paragraph (1), the Department shall have regard to the prevention of danger to persons entering or using the road.

(3) The Department may maintain anything erected under this Article.

### **Road humps and other traffic calming works**

**65.**—(1) Subject to this Article, the Department may construct—

- (a) road humps; and
- (b) other traffic calming works,

on any road and remove any works so constructed by it.

(2) Where, in exercise of the power conferred by paragraph (1), the Department proposes to construct any works on a road, the Department shall publish in at least one newspaper circulating in the locality in which the road is situated, and place at appropriate points on that road, a notice—

- (a) stating the nature, dimensions and location of the proposed works, and
- (b) specifying the address to which and the period (not being less than 30 days from the date of publication of the notice) within which objections to the proposal may be made to the Department.

(3) The Department shall consider any objections sent to it in accordance with a notice under paragraph (2) and may, if it thinks fit, hold a public inquiry.

(4) The Department may by regulations make such provision in relation to the construction, maintenance and removal of works mentioned in paragraph (1) as appear to it to be necessary or expedient in the interests of safety and the free movement of traffic, and may in particular—

- (a) provide that works shall be constructed only in roads of such descriptions and in such circumstances as may be prescribed by the regulations;
- (b) impose requirements as to—
  - (i) the nature, dimensions, location and spacing of works;
  - (ii) the placing of signs of such type or character as may be so prescribed;
  - (iii) the carrying out and maintenance of other ancillary or consequential works.

*Status: Point in time view as at 01/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Roads (Northern Ireland) Order 1993, PART IV. (See end of Document for details)*

(5) Works constructed under paragraph (1) which conform to regulations made under paragraph (4) shall not be treated as an obstruction to the road, but as part of the road, so that in particular—

- (a) the Department's obligation to maintain the road; and
- (b) the obligation of any person having power to break open the road, to make good any damage or otherwise reinstate the road,

extend to maintaining or, as the case may be, making good any damage to or otherwise reinstating the works.

(6) In this Article—

“motor vehicle” has the same meaning as in the<sup>[F7]</sup> Road Traffic Regulation (Northern Ireland) Order 1997];

“road hump” means an artificial hump in or on the surface of the road which is designed to control the speed of vehicles, and references to a road hump include references to any other works (including signs or lighting) required in connection with such a hump;

“traffic calming works”, in relation to a road, means works affecting the movement of vehicular and other traffic for the purpose of promoting safety or preserving or improving the environment through which the road runs.

**F7** 1997 NI 2

#### <sup>[F8]</sup>**Equipment for detection of traffic offences**

**65A.** The Department may install and maintain on or near a road structures and equipment for the detection of traffic offences.]

**F8** 1997 NI 2

#### *Power of district council to erect shelters and toilets on or under road*

#### **Erection of shelters and toilets by district council**

**66.**—(1) A district council may, with the consent of the Department, erect on or under any road within the district of the council—

- (a) shelters for the protection from the weather of persons waiting to enter public service vehicles;
- (b) shelters for the use and convenience of taxi drivers and such other persons as the council may permit to use the shelter;
- (c) public toilets.

(2) A district council may make byelaws regulating the conduct of persons using shelters provided under paragraph (1)(b) and public toilets provided under paragraph (1)(c) and may charge such fees for, and impose such terms and conditions on, the use of such shelters and toilets as the council thinks fit.

(3) A district council may maintain anything erected by it under this Article and may remove anything so erected.

**Status:**

Point in time view as at 01/04/2007.

**Changes to legislation:**

There are currently no known outstanding effects for the The Roads (Northern Ireland) Order 1993, PART IV.