

## SCHEDULES

### SCHEDULE 1 **N.I.**

Article 16(2) and (3).

#### CLASSES OF TRAFFIC FOR PURPOSES OF SPECIAL ROADS

##### **Class I **N.I.****

1. Motor tractors, heavy motor cars, motor cars and motor-cycles whereof the cylinder capacity of the engine is not less than 50 cubic centimetres, and trailers drawn thereby, which comply with general regulations as to construction and use made under Article 28 of the Road Traffic Order and in the case of which the following conditions are satisfied—

- (i) that the whole weight of the vehicle is transmitted to the road surface by means of wheels;
- (ii) that all wheels of the vehicle are equipped with pneumatic tyres;
- (iii) that the vehicle is not controlled by a pedestrian;
- (iv) in the case of a motor vehicle it is so constructed as to be capable of attaining a speed of 25 miles per hour on the level under its own power, when unladen and not drawing a trailer; and
- (v) that the vehicle is not a vehicle mentioned in paragraph 2 of Part I of Schedule 3 to the Vehicles (Excise) Act 1971<sup>F1</sup>.

<b>F1</b> 1971 c. 10
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##### **Class II **N.I.****

2. Motor vehicles and trailers, the use of which for or in connection with the conveyance of abnormal indivisible loads is authorised by an order made under Article 29(3) of the Road Traffic Order.

3. Heavy and light locomotives when being used for or in connection with the conveyance of abnormal indivisible loads.

4. Motor vehicles and trailers constructed for naval, military, air force or other defence purposes, the use of which is authorised by an order under Article 29(3) of the Road Traffic Order.

##### **Class III **N.I.****

5. Motor vehicles controlled by pedestrians.

##### **Class IV **N.I.****

6. All motor vehicles (other than invalid carriages and motor-cycles whereof the cylinder capacity of the engine is less than 50 cubic centimetres) not comprised in Class I, Class II or Class III.

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The Roads (Northern Ireland) Order 1993. (See end of Document for details)

**Class V** **N.I.**

7. Vehicles drawn by animals.

**Class VI** **N.I.**

8. Vehicles (other than pedal-cycles, perambulators, push-chairs and other forms of baby carriages) drawn or propelled by pedestrians.

**Class VII** **N.I.**

9. Pedal-cycles.

**Class VIII** **N.I.**

10. Animals ridden, led or driven.

**Class IX** **N.I.**

11. Pedestrians, perambulators, push-chairs and other forms of baby carriages and dogs held on a lead.

**Class X** **N.I.**

12. Motor-cycles whereof the cylinder capacity of the engine is less than 50 cubic centimetres.

**Class XI** **N.I.**

13. Invalid carriages.

14. In this Schedule—

“abnormal indivisible load” means a load which—

- (a) cannot without undue expense or undue risk of damage be divided into two or more loads for conveyance on a road; and
- (b) owing to its dimensions or weight can only be carried by motor vehicles or trailers the use of which on roads is lawful only by reason of an order made under Article 29(3) of the Road Traffic Order;

“invalid carriages” means mechanically propelled vehicles the weight of which unladen does not exceed 5 hundredweight and which are specially designed and constructed, and not merely adapted, for the use of persons suffering from some physical defect or disability and are used in accordance with conditions prescribed by regulations made under the Road Traffic Order; and

any expression, other than “invalid carriages”, defined for the purposes of the Road Traffic Order has the same meaning as in that Order.

SCHEDULE 2 **N.I.**

Article 27(2).

SUPPLEMENTARY PROVISIONS AS TO TERMINATION OF CONCESSION

Introductory

1. The provisions of this Schedule apply in relation to the transfer of property, rights and liabilities to the Department on the termination of a concession agreement (referred to below as “the ending of the concession”).

Property to vest free from security rights

2.—(1) Property vesting in the Department shall do so free from any mortgage, charge, lien or other security to which it was subject immediately before the ending of the concession.

(2) This does not affect the liability secured.

Recovery of property taken in pursuance of legal process

3.—(1) Where before the ending of the concession possession of any property vesting in the Department has been taken in pursuance of any legal process, the Department may recover it from any person in possession of it without being required to discharge the liability in respect of which the process was issued.

(2) This does not affect the liability in respect of which the process was issued.

Validity of previous discharge of liabilities

4. Where a liability has been discharged before the ending of the concession which if it had subsisted immediately before the ending of the concession would have fallen to be transferred to the Department, nothing in the Insolvency (Northern Ireland) Order 1989<sup>F2</sup>

- (a) affects the validity of anything done by the concessionaire or any other person in discharging the liability;
- (b) authorises a court to make an order affecting the property of, or imposing an obligation on, any person in consequence of or in connection with the receipt by him or by any other person of a payment made, property transferred or other benefit provided by the concessionaire or any other person in discharging that liability; or
- (c) shall be treated as giving rise to a trust affecting money or property so transferred.

**F2** 1989 NI 19

Property subject to covenants, conditions or restrictions

5. Except as provided by paragraph 2, property vesting in the Department shall be held by the Department subject to all covenants, conditions and restrictions subject to which the property was held by the concessionaire.

Transfer of agreements, etc.

6.—(1) Subject to the concession agreement and to paragraph 2, all agreements and other transactions entered into or effected by the concessionaire and subsisting immediately before the ending of the concession, in so far as they relate to property, rights or liabilities transferred to the Department shall have effect with the substitution of the Department for the concessionaire.

(2) Accordingly—

- (a) such an agreement or transaction may be enforced by or against the Department; and

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- (b) references to the concessionaire in an agreement (whether or not in writing) and in a deed, bond or other instrument or document, so far as relating to the property, rights or liabilities mentioned above shall be taken after the ending of the concession as referring to the Department.

### Legal or other proceedings

7.—(1) Subject to the concession agreement, all legal or other proceedings begun before the ending of the concession and relating to property, rights or liabilities transferred to the Department, other than proceedings for enforcing a security from which the property is released by virtue of paragraph 2, may be carried on with the substitution of the Department for the concessionaire.

- (2) Such proceedings may be amended in such manner as may be necessary for that purpose.

### Transfer of employees

8. For the purposes of the [<sup>F3</sup>Transfer of Undertakings (Protection of Employment) Regulations 2006], or any regulations replacing those regulations, the concessionaire shall be treated as transferring to the Department an undertaking which, if a new concessionaire is appointed, the Department shall be treated as then transferring to the new concessionaire.

**F3** Words in **Sch. 2 para. 8** substituted (6.4.2006) by **Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246)**, regs. 1(2), 20, **Sch. 2 para 1(f)** (with reg. 21(1))

## SCHEDULE 3 **N.I.**

Article 28(3).

### PROCEDURE IN CONNECTION WITH TOLL ORDERS

#### Publicity for proposals

1.—(1) Where the Department proposes to make a toll order, it shall prepare a draft of the order and shall publish in at least one local newspaper circulating in the area in which the proposed special road is to be situated a notice—

- (a) stating the general effect of the proposed order;
- (b) specifying a place in that area where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period of not less than 30 days from the date of the publication of the notice; and
- (c) stating that, within that period, any person may by notice to the Department object to the making of the order.

(2) Where the special road to which the toll order relates is to be subject to a concession, the Department shall make available for inspection with the copy of the draft order a statement containing such information as the Department considers appropriate with respect to the concessionaire and the concession agreement.

The notice under sub-paragraph (1) shall indicate that such a statement will be so available for inspection.

(3) Before or after the end of the period specified in the notice in pursuance of sub-paragraph (1), the Department may by a further notice published in the same manner substitute a longer period for that specified in the first notice.

## Making of objections

2.—(1) A person who objects to the making of a toll order shall include in the notice of objection a statement of the grounds of objection.

(2) If that is not done, the Department may disregard the objection.

## Local inquiry

3.—(1) If an objection is received by the Department within the period specified for making objections, and is not withdrawn, then the Department shall cause a local inquiry to be held unless it is satisfied that in the circumstances of the case it is unnecessary.

(2) The period specified for making objections means the period specified in the notice under paragraph 1(1) or any longer period substituted by a further notice under paragraph 1(3).

## Making or confirmation of order

4.—(1) The Department, after considering—

- (a) any objections which are not withdrawn; and
- (b) where a local inquiry is held, the report of the person who held the inquiry,

may make the order either without modification or subject to such modifications as it thinks fit.

(2) Where it proposes to make the order subject to modifications which will in its opinion make a substantial change in the order, the Department shall—

- (a) notify any person who appears to it to be likely to be affected by the proposed modifications;
- (b) give that person an opportunity of making representations with respect to the modifications within such reasonable period as it may specify; and
- (c) consider any representations made to it within that period with respect to the proposed modifications.

## Assembly procedure

5.—(1) Except as provided by sub-paragraph (2), a toll order shall be subject to negative resolution.

(2) A toll order shall be subject to affirmative resolution where—

- (a) the proposed special road to which the order relates includes in its proposed route any existing road; and
- (b) the toll order authorises the charging of tolls for the use of that existing road or any part of it,

unless the Department is satisfied as regards all classes of traffic entitled to use the existing road that another reasonably convenient route free of toll is available, or will be provided before the date on which the toll order will come into operation, and certifies accordingly.

(3) Where the Department proposes to give such a certificate, it shall—

- (a) give public notice of its intention to do so;
- (b) afford an opportunity to all persons interested to make representations and objections; and
- (c) cause a public local inquiry to be held if it appears to it to be expedient to do so, having regard to representations or objections made,

and before deciding whether to give the certificate the Department shall consider any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry.

(4) As soon as may be after giving a certificate, the Department shall publish in the Belfast Gazette, and in such other manner as it thinks best for informing persons affected, a notice stating that the certificate has been given.

SCHEDULE 4 **N.I.**

Article 49.

## PREVENTION OF OBSTRUCTION TO VIEW, ETC.

1.—(1) Notice under Article 49 may be served—

- (a) upon the owner or occupier of the land directing him—
  - (i) to remove any building or structure whether permanent or temporary, the removal of which is in the opinion of the Department expedient for the prevention of any such danger as is mentioned in that Article;
  - (ii) to provide or improve any means of access to any building or structure;
  - (iii) to provide or improve any accommodation for vehicles standing or waiting for any purpose connected with the user of any building or structure;
- (b) upon the owner or occupier of the land directing him to alter the height or character of any wall, fence, hoarding, tree or hedge thereon so as to cause it to conform with any requirements specified in the notice; or
- (c) upon every owner, occupier or lessee of the land restraining him, either absolutely or subject to such conditions as may be specified in the notice, from permitting any building, wall, fence, hoarding, tree or hedge to be erected or planted on the land.

(2) There shall be annexed to any notice served under Article 49 a plan showing the land to which the notice relates; and notice of the right of objection shall be given in the notice.

2. Any restrictions imposed by a notice served under Article 49 shall be registered pursuant to Part X of the Land Registration Act (Northern Ireland) 1970<sup>F4</sup> and shall remain in force until the notice is withdrawn by the Department and the registration is cancelled in accordance with the provisions of that Part, and any such restrictions shall, while in force, be binding upon any successor in title to the owner, occupier, or lessee of the land to which they relate.

**F4** 1970 c. 18 (N.I.)

3.—(1) If any person upon whom a notice has been served under Article 49 objects to complying with any requirement of the notice or objects to any restriction imposed thereby, he may, within 21 days of receiving the notice, give notice in writing to the Department stating his objection and the grounds thereof and requiring the matter in dispute to be heard and determined by a barrister or solicitor of not less than 10 years' standing, practising in Northern Ireland, to be appointed by the Lord Chief Justice.

(2) A person so appointed shall for the purpose of such hearing have all the powers conferred on an arbitrator by<sup>F5</sup> Part I of the Arbitration Act 1996]

(3) In determining any question whether a notice shall be withdrawn as respects a requirement or restriction objected to, the arbitrator shall have power to order that the requirement or restriction shall have effect subject to such modifications (if any) as the arbitrator may direct.

**F5** 1996 c.23

4. Any person upon whom a notice is served under Article 49 shall have power, notwithstanding anything in any conveyance or in any lease or other instrument or agreement, to do all such things as may be necessary for complying with the requirements of the notice.

5.—(1) Where notice has been served upon any person under Article 49 the Department may, with the consent of that person, do on his behalf anything necessary for complying with the requirements of the notice.

(2) Where any such person, within 21 days after the service upon him of the notice, signifies in writing to the Department his assent to the doing by the Department on his behalf of any such thing as aforesaid, such person shall not be liable to prosecution for an offence under paragraph 6.

6. Subject to the provisions of this Schedule, if any person upon whom a notice has been served under Article 49 contravenes the notice, he shall, without prejudice to any other proceedings which may be taken against him, be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

7. Where a person convicted of an offence under paragraph 6 continues to contravene the notice after the end of such period beginning on the date of that conviction as may be specified by the court—

- (a) he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day following the end of that period on which the contravention continues; and
- (b) the Department may do anything necessary for complying with the requirements of the notice.

8.—(1) Any person upon whom a notice is served under Article 49 shall be entitled to recover from the Department any expenses reasonably incurred by him in carrying out any directions contained in the notice.

(2) Any persons sustaining loss in direct consequence of any requirement of a notice served under Article 49, or any person who proves that his property is injuriously affected by restrictions imposed by any such notice, shall, if he makes a claim within six months after the service of the notice, be entitled to recover from the Department compensation for the loss or injury sustained.

(3) If any question arises whether compensation is payable under this provision, or as to the amount of any compensation so payable, the question shall be referred to and determined by the Lands Tribunal.

9. Nothing in Article 49 or this Schedule shall apply with respect to any building or other structure belonging to a railway undertaking or to the owners, trustees or conservators acting under powers conferred by any statutory provision of any canal, inland navigation, dock or harbour, where the building or other structure forms part of, or is necessary for the maintenance of, their railway, canal, inland navigation, dock or harbour.

10. Article 49 and this Schedule shall apply to stacks of turf, hay, corn or other produce, wood piles, wooden sheds and other similar temporary erections in like manner as they apply to a fence or hedge.

#### PROCEDURE FOR MAKING ORDERS UNDER ARTICLE 69(1)

1. Where the Department proposes to make an order under Article 69(1), it shall publish in at least one newspaper circulating in the area in which the land is situated a notice—

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- (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 30 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 inform it of the grounds upon which he objects 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 published, serve a copy thereof together with a copy of a draft of the order and of any relevant map or plan on the owner and the occupier of land affected by the order.

(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.** If it appears to the Department, when preparing an order, that a new means of access to any land is likely to have to be provided by it to take the place of a means of access to be stopped-up under the order, then the Department shall indicate in the map or plan referred to in the order the proposed route of that new means of access, and shall serve on the owner and occupier of the land which will be required for the provision of that new means of access (if different from the owner and occupier referred to in paragraph 2(1)) a copy of the notice and the other documents referred to in paragraph 1(b).

**4.** 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 3 or from any other person appearing to it to be affected, it may cause a local inquiry to be held.

**5.** 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.

## SCHEDULE 6 **N.I.**

Article 105(4) and (5).

### TIDAL WORKS

**1.** Where the Department constructs, alters or extends any tidal work in contravention of paragraph (3) of Article 105 or of any condition imposed under that paragraph, the Secretary of State may by notice in writing require the Department at its own expense to remove the work and to restore the site of the work to the condition in which it was before the contravention.

**2.—(1)** Where the Department abandons any tidal work, or allows it to fall into disrepair, the Secretary of State may by notice in writing require the Department at its own expense—

- (a) to repair and restore the work;
- (b) to remove the work and to restore the land on which it is constructed to the condition in which the land was before the work was constructed.

(2) Where—



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- (a) the Department abandons any work consisting of a tidal work and of other work or allows a work so consisting to fall into disrepair; and
  - (b) the Secretary of State is satisfied that any part of the work which is not a tidal work is in such a condition as to interfere with or to cause reasonable apprehension that it may interfere with, navigation or public rights over the foreshore;
- the Secretary of State may include that part of the work in a notice under sub-paragraph (1).

**3.** Where any tidal work constructed by the Department is damaged or decays, the Department shall—

- (a) forthwith notify the Commissioners of Irish Lights;
- (b) lay down such buoys, exhibit such lights and take such other steps to prevent any danger to navigation, as those Commissioners may specify.

**4.—(1)** The Secretary of State may cause a survey and examination to be made—

- (a) of any tidal work; and
- (b) of the land upon which it is proposed to construct any such work.

(2) The cost of any survey and examination under sub-paragraph (1) shall be met by the Department.

**5.—(1)** The Department shall, while a tidal work is being constructed, altered or extended—

- (a) exhibit, at or near the work, every night from sunset to sunrise such lights as the Secretary of State may specify;
  - (b) take such steps to prevent any danger to navigation as the Secretary of State may specify.
- (2) The Department shall, in relation to any tidal work, after the work is completed—
- (a) exhibit every night from sunset to sunrise such lights as the Commissioners of Irish Lights may specify, at such places as may be so specified;
  - (b) take such steps to prevent any danger to navigation as those Commissioners may specify.

**6.** It shall be the duty of the Department to comply with any notice served on it under this Schedule.

## SCHEDULE 7 **N.I.**

Article 113(2).

### MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 113(2)

- 1.** References to the Ministry or council shall be construed as references to the Department within the meaning of this Order.
- 2.** References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.
- 3.** Omit paragraph 1 of that Schedule.
- 4.** In paragraph 2 of that Schedule—
  - (a) for the words from “Notice of application” to “directs” substitute the words “Where the Department proposes to acquire land otherwise than by agreement, notice of its intention to do so”;

- (b) in sub-paragraph (c) for the words “as may be prescribed.” substitute the words “as the Department considers fit”;
  - (c) after sub-paragraph (c) add the words “and such notice shall state the time within which objections to the proposal may be made to the Department”.
5. In paragraph 3—
- (a) in sub-paragraph (1)(b) for the words from “unless no representations” to “or vexatious nature”, substitute “if it appears to the Department necessary to do so” and in head (ii) of that sub-paragraph for the word “refuse” substitute the words “decide not”; and
  - (b) in sub-paragraph (2) omit the words “the council and” and “or refusing”.
6. In paragraph 4 omit the words from “and may provide” onwards.
7. In paragraph 5—
- (a) in sub-paragraph (1)(a) omit the words “in the prescribed form and manner” and for the words from “, having given notice” to the end, substitute the words “has given notice to the Department of his objection to the making of the vesting order”;
  - (b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;
  - (c) in sub-paragraph (1)(d) omit the words “in the prescribed form”;
  - (d) in sub-paragraph (2) for the words “as may be prescribed” substitute the words “as the Department considers fit”.
8. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” substitute the words “Consolidated Fund” and for the words “out of the Compensation Fund” substitute the words “made by the Department”.
9. In paragraph 10 for sub-paragraph (3) substitute—
- “(2A) Where a notice is served by any person on the Department under sub-paragraph (2), the Department may serve on that person a counter notice, stating that for the reasons specified the Department is not willing to acquire the remainder of the house, building or factory.
- (3) Where a notice is served on the Department under sub-paragraph (2) then, notwithstanding that the Department has served a counter notice under sub-paragraph (2A), the Department shall acquire the remainder of the house, building or factory unless—
- (a) the Lands Tribunal determines that the acquisition of the part thereof acquired by means of the vesting order has not caused material detriment to the house, building or factory; or
  - (b) the person who served the notice under sub-paragraph (2) withdraws the notice in accordance with sub-paragraph (3A).
- (3A) A person who has served a notice under sub-paragraph (2) in relation to the remainder of a house, building or factory may withdraw that notice at any time before the amount to be paid for the remainder has been agreed with the Department or determined by the Lands Tribunal or at any time before the end of 6 weeks beginning with the date on which that amount is so agreed or determined.” .
10. In paragraph 11(3) omit the words “in the prescribed form”.
11. In paragraph 12—
- (a) in sub-paragraph (1) omit the words “such” and “as may be prescribed”;
  - (b) in sub-paragraph (2) for the words from “clerk” to “directs” substitute the words “Department as correct, and publish”.

12. In paragraph 14(1) omit the words “in the prescribed form”.
13. In paragraph 15(1) for the words “in the prescribed form” substitute the words “in such form as may be approved by the Department”.
14. Omit paragraph 19.
15. Omit paragraph 20(2).

SCHEDULE 8 **N.I.**

Article 133(1).

PROCEDURE FOR MAKING ORDERS UNDER  
ARTICLES 4(1), 5(1), 6, 14(1), 15(1), 18(1) AND 68(1)

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 road, bridge, tunnel, foreshore, land or navigable watercourse to which the order relates is, or is to be, 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 30 days from the date of the last publication of the notice; and
- (c) stating that, within that period, any person may, by notice to the Department, inform it of the grounds upon which he objects 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 road, bridge, tunnel, foreshore, land or navigable watercourse to which the order relates is, or is to be, situated;
- (b) in relation to an order under Article 6 or any order affecting the foreshore, the Crown Estate Commissioners;
- (c) in relation to an order under Article 4(1), 5(1) or 6, the Secretary of State concerned with navigation;
- (d) in relation to an order under Article 68(1), the owner of any cables, wires, mains, pipes or other apparatus placed along, across, over or under any road to which the order applies.

(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) In this paragraph “relevant body” means—

- (a) in the case of an order under Article 4(1), 5(1) or 6—
  - (i) the Commissioners of Irish Lights,
  - (ii) a district council,
  - (iii) a harbour authority as defined in the Harbours Act (Northern Ireland) 1970<sup>F6</sup>,
  - (iv) the [<sup>F7</sup>Department of Agriculture, Environment and Rural Affairs] ,
  - (v) the Foyle Fisheries Commission,

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(b) in any other case, a district council.

**F6** 1970 c. 1 (N.I.)

**F7** Words in Sch. 8 para. 2(3)(a)(iv) substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), [Sch. 6 para. 21](#) (with art. 9(2))

3. Where the proposed order provides for the abandonment or stopping-up of any road, the Department shall, not later than the date on which the notice referred to in paragraph 1 is last published, cause a copy of that notice to be displayed in a prominent position on that part of the road which is proposed to be abandoned or stopped-up.

4.—(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.

5. After considering—

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

6. If it appears to the Department that in any order to which this Schedule applies the description of any road, bridge, tunnel, foreshore, land or navigable watercourse is in any respect incorrect or insufficiently clear, the Department may by order make such modifications in the provisions of the first-mentioned order as may be necessary for correcting or clarifying such description and the provisions of this Schedule shall not apply to such an order, but the Department shall publish notice of the making of the order in one or more than one newspaper circulating in the area to which the order relates.

## SCHEDULE 9 **N.I.**

Article 134(1).

### SAVING PROVISIONS

[<sup>F8</sup>Electronic communications apparatus]

**F8** 2003 c. 21

1. Subject to paragraph 2, nothing in this Order or in any order made under it shall affect any rights conferred by or in accordance with the [<sup>F9</sup> electronic communications code] on the operator of [<sup>F9</sup> an electronic communications code network] or apply to any [<sup>F9</sup> electronic communications apparatus] kept installed for the purposes of [<sup>F9</sup> any such network].

**F9** 2003 c. 21

2.—(1) Where in pursuance of an order under Article 68 any road is stopped-up or abandoned and, immediately before that order comes into force there is under, in, upon, over, along or across

the road any <sup>F10</sup> electronic communications apparatus] kept installed for the purposes of <sup>F10</sup> an electronic communications code network], the operator of <sup>F10</sup> that network] shall have the same powers in respect of that apparatus as if the order had not come into force; but the Department or any person in whom the site of the road is vested shall be entitled to require the alteration of the apparatus.

(2) <sup>F11</sup> Paragraph <sup>F12</sup>108(2)] of Schedule 3A to the Communications Act 2003 (the electronic communications code)] (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of sub-paragraph (1) as it applies for the purposes of the code.

(3) <sup>F13</sup> Part 6 of the electronic communications code (rights to require removal of apparatus)] shall apply in relation to any entitlement conferred by sub-paragraph (1) to require the alteration, moving or replacement of any apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.

**F10** 2003 c. 21

**F11** Words in Sch. 9 para. 2(2) substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\), s. 118\(6\), Sch. 3 para. 34\(2\)](#); S.I. 2017/1286, reg. 2(d)

**F12** Word in Sch. 9 para. 2(2) substituted (28.12.2017 immediately after Digital Economy Act 2017 (c. 30), Sch. 3 comes into force) by [The Communications Act 2003 and the Digital Economy Act 2017 \(Consequential Amendments to Primary Legislation\) Regulations 2017 \(S.I. 2017/1285\), reg. 1\(1\)\(2\), Sch. 1 para. 29\(2\)](#)

**F13** Words in Sch. 9 para. 2(3) substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\), s. 118\(6\), Sch. 3 para. 34\(3\)](#); S.I. 2017/1286, reg. 2(d)

<sup>F14</sup>3. <sup>F15</sup>Part 10] of the<sup>F16</sup> electronic communications code] (which provides a procedure for certain cases where works involve the alteration of<sup>F16</sup> electronic communications apparatus)] shall apply—

- (a) to the Department for the purposes of any work authorised to be carried out under this Order; and
- (b) without prejudice to the provisions of the Street Works (Northern Ireland) Order 1995 relating to major road works, major bridge works or major transport works, to any person to whom a licence is issued under Article 76 for the purposes of any work authorised by that licence.]

**F14** 1995 NI 19

**F15** Words in Sch. 9 para. 3 substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\), s. 118\(6\), Sch. 3 para. 34\(4\)](#); S.I. 2017/1286, reg. 2(d)

**F16** 2003 c. 21

#### Preservation of certain savings in Roads (Northern Ireland) Order 1980

4. The repeal by this Order of Schedule 7 to the Roads (Northern Ireland) Order 1980<sup>F17</sup> does not affect the operation of the savings in paragraphs 5 to 7 of that Schedule in so far as they remain capable of having effect.

**F17** 1980 NI 11

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

N.I.

*Schedule 10—Amendments*

N.I.

*Schedule 11—Repeals*

**Changes to legislation:**

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