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## EXPLANATORY NOTE

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

This Order brings into operation on 18th November 2001 Articles 11, 12, 13(1) to (3), 14, 15, 16(1) and (3), 17, 19(1), (2), (4), (5) and (6), 20(1) and (3), 21, 23, 24, 29, 41(1), (2), (5), (6) and (7), 42, 47, 48 and 51 of the Street Works (Northern Ireland) Order 1995.

Article 11 makes provision for the granting of a street works licence by the street authority to enable a person not having a statutory right to place and maintain apparatus in a street to gain authority to do so.

Article 12 makes it an offence for a person other than the street authority to execute street works otherwise than in pursuance of a statutory right or a street works licence and provides the necessary powers to enable the street authority to have the apparatus removed and the street reinstated. Paragraph (3) lists certain works to which the offence provision does not apply.

Article 13(1) to (3) places a requirement on the Department to keep a street works register and empowers the Department to make regulations prescribing the information to be contained in the register, including its manner and form, and the information which is to be regarded as restricted. Subject to certain conditions regarding restricted information, the Department is required to make the register available for inspection, at all reasonable hours and free of charge.

Article 14 requires an undertaker proposing to execute street works, in such cases as the Department may prescribe, to give advance notice of the works to the street authority, to comply with any requirements prescribed by the Department or imposed by the street authority for the purposes of co-ordinating the works with any other works proposed to be carried out in the street and makes it an offence to fail to comply with his duties under this Article.

Article 15 requires an undertaker proposing to execute certain street works to give advance notice of the works and makes it an offence to begin to execute such works in contravention of this Article.

Article 16(1) and (3) enables a street authority to direct the times of working in certain cases and makes it an offence to fail to comply with such a direction.

Article 17 makes provision for the giving of notice for emergency works and makes it an offence to fail to give such notice.

Article 19(1), (2), (4), (5) and (6) requires a street authority to use its best endeavours to co-ordinate works of all kinds in streets for which it is responsible and empowers the Department, in cases where it appears to it that a street manager is not properly discharging his duty of co-ordination, to direct the manager to supply it with information to enable it to decide whether that is the case and, if so, what action to take, or to take such steps as the Department considers appropriate for the purposes of discharging that duty.

Article 20(1) and (3) requires an undertaker executing street works to co-operate with the street authority and with other undertakers and makes it an offence to fail to comply.

Article 21 requires an undertaker placing apparatus in a protected street to obtain the consent of the street authority, except in the case of the renewal of existing apparatus or works done in pursuance of a street works licence unless, in the latter case, the licence was granted before the street became a protected street.

Article 23 makes provision for the designation of streets as having special engineering difficulties and requires the settlement of a plan and section in accordance with Schedule 2 for street works in a street so designated.

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Article 24 empowers the Department to make regulations prescribing the criteria for designating a street as traffic-sensitive, the procedure for making or withdrawing a designation and the information to be made available by a street authority regarding streets for the time being so designated by them.

Article 29 requires an undertaker executing street works that are likely to affect another person's apparatus in the street, to give that person facilities for monitoring the execution of the works, to comply with any requirement made by him for the protection of the apparatus or securing access to it and makes it an offence to fail to comply with the requirements under this Article.

Article 41(1) and (2) requires an undertaker having apparatus in the street to keep the apparatus maintained and in efficient working order and to afford the authorities concerned facilities for ascertaining whether the apparatus is so maintained. Paragraphs (5), (6) and (7) apply the provisions of the Street Works (Northern Ireland) Order 1995 to works executed by a relevant authority under Article 41(3) or (4) as if they were works executed by the undertaker; indemnify the authority concerned in respect of the costs incurred in doing the work; require the authority concerned to give notice of the works to any other relevant authority; and provide that nothing in Article 41(3) or (4) shall be construed as excluding any other means open to the relevant authority of securing the undertaker's compliance with his duties under paragraph (1).

Article 42 provides a liability on an undertaker to compensate the street authority and any other relevant authority for damage or loss caused as a result of the execution of street works or any explosion, ignition, discharge or other event in the undertaker's apparatus. It also requires the undertaker to compensate any other person having apparatus in the street for similar loss or damage to apparatus belonging to them.

Article 47 requires an undertaker proposing to execute street works affecting the structure of a bridge, other than works in streets with special engineering difficulties, to consult the bridge authority, give it facilities for monitoring the execution of the works, comply with any requirement made by it for the protection of the bridge or securing access to it and makes it an offence to fail to comply with such requirements.

Article 48 requires an undertaker proposing to execute street works affecting a public sewer to consult the Department. Paragraph (2) provides that Article 29 (provisions likely to affect other apparatus in the street) shall not apply, by virtue of Article 9(2) in relation to works likely to affect a public sewer if, or to the extent that, Schedule 2 (works in streets with special engineering difficulties) applies.

Article 51 requires an undertaker proposing to execute street works at a railway level crossing or affecting a tramway to give advance notice of the works to the transport authority, comply with any reasonable requirements made by it for securing the safety of those persons carrying out the works, or for reducing interference with traffic on the railway or tramway, and makes it an offence to fail to comply with the notice requirements.

Schedule 1 contains the procedures to be followed for the grant of, operation or withdrawal of a street works licence under Article 11. Paragraph (9) provides a right of appeal in certain cases to the Planning Appeals Commission against the refusal of the Department to grant a licence or against any terms or conditions attached to such a licence. The street authority is empowered to charge a fee for granting the licence and an annual fee for administering it.

Schedule 2 contains the procedures to be followed when street works are to be executed in a street designated by the street authority under Article 23 as having special engineering difficulties.

Schedule 3, paragraphs 1, 10 to 23, 25, 27, 30 and 32, makes consequential amendments to the Land Powers (Defence) Act 1958 ([1958 c. 30](#)), the Planning (Northern Ireland) Order 1991 (S.I. [1991/1220 \(N.I. 11\)](#)), the Electricity (Northern Ireland) Order 1992 (S.I. [1992/231 \(N.I. 1\)](#)) and the Roads (Northern Ireland) Order 1993 (S.I. [1993/3160 \(N.I. 15\)](#)).

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Schedule 4 repeals provisions relating to the Towns Improvement Clauses Act 1847 ([1847 c. 34](#)), the Telecommunications Act 1984 ([1984 c. 12](#)), the New Roads and Street Works Act 1991 ([1991 c. 22](#)), the Electricity (Northern Ireland) Order 1992 and the Roads (Northern Ireland) Order 1993.